



October 19, 2026

U.S. Department of the Treasury
Attention: Office of General Counsel
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: *GENIUS Act Regulations on Payment Stablecoin Issuance, Offer, and Sale*

The Conference of State Bank Supervisors (“CSBS”)¹, the Money Transmitter Regulators Association (MTRA), the National Association of State Credit Union Supervisors (“NASCUS”)², and the National Conference of State Legislatures (“NCSL”) (collectively “the state organizations”) provide the following comments on the Department of the Treasury’s (“Treasury”) notice of proposed rulemaking implementing GENIUS Act prohibitions and limitations on payment stablecoin issuance, as well as on the offer and sale of payment stablecoins by a digital asset service provider (“DASP”).³ The proposal would also establish a safe harbor for payment stablecoin issuers seeking approval from a federal payment stablecoin regulator as of the GENIUS Act effective date (“effective date”).

I. Treasury should implement safe harbors that permit payment stablecoin issuers to operate under qualifying state regimes as of the effective date.

Treasury should establish regulatory safe harbors that implement the GENIUS Act’s clear intent to preserve an important role for state regulation of payment stablecoin issuers. From their inception, U.S. dollar-denominated stablecoin markets have developed and grown under the regulation and supervision of states. Until the effective date, stablecoin issuance by United States companies remains primarily licensed and regulated by states. For Treasury to finalize this proposal in a way that reflects Congressional intent, it must allow issuers to choose from the full range of regimes contemplated by the GENIUS Act, including those reflecting this depth of state experience, without the risk of business disruption or uncertainty.

¹ CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories. The views presented in this letter may not reflect the policy of individual states.

² NASCUS is the professional association of the nation’s forty-five state and territorial credit union regulatory agencies that charter and supervise over 1,800 state credit unions. NASCUS membership includes state regulatory agencies, state chartered and federally chartered credit unions, and other important stakeholders in the state system. State-chartered credit unions hold approximately half of the \$2.4 trillion assets in the credit union system and are proud to represent nearly half of the 145 million members. The remaining six states lack state-chartered credit unions.

³ Department of the Treasury, Notice of Proposed Rulemaking, [GENIUS Act Regulations on Payment Stablecoin Issuance, Offer, and Sale](#), 91 Fed. Reg. 53368 (Aug. 18, 2026) (hereinafter “GENIUS Act Section 3 Proposal”).



- a. *Issuers should receive a safe harbor to operate under a state regime that the state payment stablecoin regulator has certified as substantially similar as of the effective date.*

Treasury should provide a safe harbor for issuers seeking to operate under substantially similar state stablecoin regimes while those regimes are pending approval before the Stablecoin Certification Review Committee (“SCRC”). This safe harbor would resolve a source of uncertainty inherent in the statutory scheme: the gap in timing between a state payment stablecoin regulator certifying the state regime as substantially similar and the SCRC approving that regime. Issuers, including those already operating lawfully under existing state regulatory frameworks, may not wish to bear the risk of a state’s certification being denied by the SCRC or simply may not wish to wait until a state regime is approved by the SCRC to start issuing payment stablecoins when a federal safe harbor is available. Issuers may choose the federal pathway to avoid uncertainty, even if they would prefer to operate under a state regime. A safe harbor for issuers that wish to operate under a certified, but not-yet-approved, substantially similar state regime would remove this uncertainty, permitting these issuers to start operating under their preferred regime as of the effective date, aligned with Treasury’s proposal to grant a safe harbor to pending federal applicants.⁴

1. The gap between a state certifying its regime as substantially similar and the SCRC approving the certification creates uncertainty for issuers.

The SCRC approval process for state regimes creates uncertainty for prospective state qualified issuers, especially those that already issue stablecoins under pre-GENIUS Act state regimes. Under the GENIUS Act, issuers may opt for regulation under a state regime if it is substantially similar to the federal regulatory framework.⁵ The text of the statute is clear that, although Treasury establishes the principles for substantial similarity,⁶ it is up to a state to review its regime according to those principles⁷ and certify to the SCRC that the regime is substantially similar.⁸

The statute directs the SCRC to review a state’s certification of substantial similarity, but under a different standard: whether a state regime meets or exceeds the standards and requirements of GENIUS Act Section 4(a). This provision confirms that the state, not the SCRC, determines whether a state regime is substantially similar. Critically, this means that an issuer operating under a state regime that has certified that it is substantially similar as of or after the effective date could continue to operate in accordance with the GENIUS Act, even before the SCRC approves the state regulator’s certification.

Although the SCRC’s role is not to evaluate whether a state regime is substantially similar, an SCRC denial may still be interpreted to mean that the state regime is not substantially similar. That is because

⁴ See *id.* at 53386.

⁵ GENIUS Act 4(c)(1), 12 U.S.C. 5903(c)(1).

⁶ GENIUS Act 4(c)(2), 12 U.S.C. 5903(c)(2).

⁷ GENIUS Act 4(c)(3), 12 U.S.C. 5903(c)(3).

⁸ GENIUS Act 4(c)(4)(A), 12 U.S.C. 5903(c)(4)(A).



Treasury's proposed principles for determining substantial similarity ("the principles") would require, as one condition of being substantially similar, that a state regime meets or exceeds the standards and requirements of GENIUS Act 4(a).⁹ That requirement suggests that the SCRC can review and reject one aspect of a state's certification of substantial similarity. Under the statute, this should not affect the timing for when an issuer may start to operate under a state regime, which, under the Act, occurs at the time of the state's certification. In practice, however, an SCRC denial could contradict part of the state's certification.

Under the statute, the legal effect of a denial is unclear. It is clear, however, that Treasury has the authority to determine whether an issuer is offering stablecoins in compliance with GENIUS Act Section 3(a) and recommend enforcement action. So, an issuer could face significant risk operating under a state regime that has been denied by the SCRC, which is chaired by the Secretary of the Treasury. For instance, the issuer could be required to cease issuing stablecoins until it obtains approval under a different state or federal regime. Depending on whether Treasury interprets an SCRC denial as retroactively contradicting the state certification, payment stablecoins issued before an SCRC denial would potentially cease to be GENIUS Act compliant as of the denial date, with especially disruptive consequences for an issuer's business and for stablecoin markets.

The opportunity for a state regime to obtain SCRC approval before the effective date could eliminate that uncertainty. Unfortunately, delays in finalizing the principles for substantial similarity, as well as the federal regulatory framework,¹⁰ likely eliminate this avenue.

2. Creating a safe harbor for state issuers before the SCRC approves the state regime would eliminate uncertainty and create parity with the federal regime.

Leaving this uncertainty in place exposes issuers to the risk of having to abruptly shutter their business and holders of the payment stablecoin to a potential rapid loss of value. Meanwhile, a federal alternative exists with a safe harbor that permits an issuer to seamlessly operate as of the effective date. This disparity may push existing issuers to instead pursue approval as a federally qualified payment stablecoin issuer by the Office of the Comptroller of the Currency ("OCC"), even if, all things being equal, they would prefer to keep working with an existing state regulator or a state regulatory regime.

It would be consistent with the purposes of the GENIUS Act for Treasury to maintain parity between state and federal pathways by adding a limited safe harbor from GENIUS Act Section 3(a) for issuers

⁹ Department of the Treasury, Proposal, [GENIUS Act Broad-Based Principles for Determining Whether a State-Level Regulatory Regime Is Substantially Similar to the Federal Regulatory Framework](#), Proposed § 1521.2(b)(1), 91 Fed. Reg. 16844, 16864 (Apr. 3, 2026). Treasury also acknowledges in this release that the SCRC's review is a distinct standard for determining whether or not a state regime is substantially similar to the federal regulatory framework. *Id.* at 16848.

¹⁰ The GENIUS Act required all implementation rulemaking to be promulgated by July 18, 2026. As of October 19, 2026, most of the rules that define both the principles for substantial similarity and the federal regulatory framework itself have not been finalized.



approved or seeking approval under state regimes that are in place and certified as substantially similar until the state's regime is approved by the SCRC. The safe harbor should extend to the subsequent 180-day period that a state may cure its certification following a denial by the SCRC.¹¹

The safe harbor could have a similar structure to the one offered to prospective federal issuers, granting a safe harbor for them to issue while the SCRC reviews the state's certification and while the state cures any deficiencies identified in the review, as long as the state permits the issuer to operate during that period. This safe harbor will ensure that issuers retain the choices that the GENIUS Act intended with respect to regulatory and supervisory pathways.

- b. Due to delays in federal rulemaking, Treasury should also establish a safe harbor for issuers seeking to operate under state regimes that will be implemented within one year of the GENIUS effective date.*

Other issuers that would like to pursue a state pathway may be prevented from doing so because delays in finalizing the federal rules are preventing their preferred state from establishing its own framework. The federal regulatory framework and principles for substantial similarity are not yet final, despite a statutory deadline of July 18, 2026.¹² Some states are waiting to review the finalized principles and framework before allocating legislative and regulatory resources to finalizing their own regimes. Because state legislatures often only meet for part of the year and the principles are not yet finalized, states that have waited will likely not be able to establish their own regimes until after the effective date. Issuers may be forced to choose between waiting to operate under the regime of a state with which they have an existing and ongoing relationship or being permitted to operate immediately as of the effective date by taking the federal path.

The SCRC's application procedures recognize that states may know they plan to establish a regime before the regime is final and provides for a conditional certification.¹³ It would be consistent with the purpose of the GENIUS Act for Treasury to grant a limited safe harbor from GENIUS Act Section 3(a) to issuers seeking to opt into a state regime if the state has filed a conditional certification with the SCRC. Consistent with the 1-year timeline for initial certification of a state regime provided in GENIUS Act Section 4(c)(4)(A), a safe harbor should be available to an issuer where:

- a state payment stablecoin regulator informs the SCRC in its conditional certification that it expects to submit a final certification of substantial similarity no later than January 18, 2028;
- the issuer complies with all GENIUS Act requirements and meets the requirements for issuing stablecoins under the state's existing rules for stablecoin issuers; and

¹¹ GENIUS Act 4(c)(4)(C)(i), 12 U.S.C. 5903(c)(4)(C)(i)

¹² See 12 U.S.C. 5913.

¹³ Department of the Treasury, Interim Final Rule, [Forms and Procedures for Review of State Certifications by the Stablecoin Certification Review Committee](#), 91 Fed. Reg. 61688 (Sept. 30, 2026) (hereinafter "SCRC Procedures").



- the state permits the issuer to continue to issue stablecoins while it finalizes and certifies its substantially similar regime.

This safe harbor could cease to operate for issuers if a state indicates to the SCRC that it will not actually submit a certification by January 18, 2028. Such a safe harbor would strike a balance between preserving the choice of regime embodied in the GENIUS Act and ensuring issuers operate under the Act's requirements with appropriate supervision and regulation.

II. Treasury should institute a safe harbor for state qualified issuers whose state regime is not recertified by the Stablecoin Certification Review Committee.

In addition to establishing safe harbors as states seek an initial certification from the SCRC, Treasury should add a regulatory safe harbor for issuers operating under state regimes that have had a recertification denied by the SCRC. States are required to submit an annual recertification of substantial similarity to the SCRC, which may only be denied if the state regime has materially changed since the prior certification or there has been a significant change in circumstances.¹⁴

A safe harbor would permit states to respond to market developments by making material changes to their already certified framework.¹⁵ Without such a safe harbor, states could be locked into an initially certified regime, to avoid the risk of a denial by the SCRC disrupting existing issuers. This lock-in could prevent changes that would facilitate emerging or proposed business models, potentially ceding the market to foreign issuers. That result risks stifling innovation. It would be consistent with the goals of the GENIUS Act to offer a safe harbor to issuers in a state whose recertification was initially denied due to such a change while the state updates its framework and resubmits its recertification.

III. The final rule should remind digital asset service providers that Treasury location definitions and safe harbors regarding offer or sale of payment stablecoins do not preempt state law or regulatory requirements.

The proposal would establish regulations defining when a digital asset service provider ("DASP") is offering or selling a payment stablecoin to a person located in the United States, as well as when they may rely on the representations of a foreign issuer.¹⁶ These rules would appropriately establish requirements for GENIUS Act compliance by DASPs.¹⁷

¹⁴ 12 U.S.C. 5903(c)(5)(B); *id.*

¹⁵ Another risk for state issuers is that certain changes in federal law, regulation, or interpretation may render the state regulatory regime no longer substantially similar to the federal framework. Treasury's proposed solution, which gives states two years to update their regulatory regimes in such contexts is an acceptable method for addressing this concern. See SCRC Procedures, *supra* note 13 at 61702 (proposed 1522.10(f)(3)).

¹⁶ See GENIUS Act Section 3 Proposal, *supra* note 2 at 53390 (proposed § 1523.3).

¹⁷ Treasury should consider providing additional definition and clarity regarding the parameters of Section 3's extraterritorial effect, especially for financial institutions that have limited or ancillary involvement in the transaction.



To the extent that state laws license and regulate DASP activities, they may impose additional restrictions or conditions on the sale or offer of payment stablecoins by DASPs licensed or chartered in the state. Such additional requirements would not conflict with Treasury's rule or the GENIUS Act if the state restricts or conditions activity that would be otherwise permissible for a DASP under the GENIUS Act. To help ensure that DASPs remain in compliance with all applicable requirements, Treasury should reiterate in its final rule that the GENIUS Act does not establish a comprehensive regulatory framework for DASPs and that relevant state laws will continue to apply.

Conclusion

It would be consistent with the purposes of the GENIUS Act for Treasury to establish safe harbors for issuers that wish to operate under a state regime during the period following the GENIUS Act effective date. Such safe harbors would help ensure that issuers have the choice of regime that Congress intended. Treasury should also establish a safe harbor when the SCRC denies recertification, to protect the ability of states to update their laws to support innovation in the stablecoin market. The state organizations appreciate Treasury's continued support for the state system and look forward to working together on GENIUS Act implementation.

Sincerely,

Conference of State Bank Supervisors

Money Transmitter Regulators Association

National Association of State Credit Union Supervisors

National Conference of State Legislatures