



June 8, 2026

Jennifer M. Jones, Deputy Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, DC 20429  
RIN 3064-AG19

Re: *GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions*

The Conference of State Bank Supervisors (“CSBS”)<sup>1</sup> provides the following comments on the Federal Deposit Insurance Corporation’s (“FDIC”) notice of proposed rulemaking implementing the Guiding and Establishing National Innovation for U.S. Stablecoins (“GENIUS”) Act.<sup>2</sup> The proposal implements GENIUS Act requirements for payment stablecoin issuers under the FDIC’s jurisdiction and certain related activities.

Under the GENIUS Act, the FDIC is the primary federal payment stablecoin regulator for issuers that are subsidiaries of state-chartered non-member insured depository institutions (“IDIs”). CSBS supports implementation of the GENIUS Act framework in a manner reflecting the legal status of state-chartered IDIs and the GENIUS Act’s express recognition of the importance of state supervision in promoting financial stability and consumer protection.

The FDIC should implement its authority over issuers with recognition of the broader context within which state-chartered IDIs operate. Beyond the inherent authority of a state with respect to its chartered institutions, the GENIUS Act explicitly preserves a state’s authority over the state-chartered IDIs that have a stablecoin issuer subsidiary and state authority to supervise the subsidiary.<sup>3</sup> The FDIC’s final rules and its ongoing supervision of issuers should recognize this principle.

**I. The FDIC should coordinate its regulation and supervision of issuers with state oversight of parent IDIs and issuers.**

The FDIC should implement its regulations for stablecoin issuers to avoid conflict with requirements that states set to govern the activities of their parent state-chartered IDIs. As chartering authorities in a dual banking system, states have the inherent authority to authorize both the creation of a subsidiary and to regulate the activities conducted by a state-chartered IDI and its subsidiary. As part of its responsibility to promote the continued safe and sound operation of a state-chartered IDI parent, the relevant chartering

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<sup>1</sup> CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

<sup>2</sup> FDIC, Notice of Proposed Rulemaking, [GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions](#), 91 Fed. Reg. 18534 (Apr. 10, 2026).

<sup>3</sup> See 12 U.S.C. § 5904(h).

authority must be free to review the scope of the subsidiary's activities and to ensure that it has implemented adequate prudential and risk management processes.

To respect the inherent role of states as chartering authority, the FDIC should be clear that it does not intend to preempt state requirements for parent state-chartered IDIs, including those related to their management of and interaction with their stablecoin issuer subsidiaries. Section 5(h) of the GENIUS Act specifically preserves the authority of a state to regulate an IDI chartered in the state. The FDIC should reaffirm this principle in its regulations.

Along with preserving state regulation of IDIs, the GENIUS Act specifically authorizes state supervision of FDIC-supervised issuers. To facilitate state-level supervision, the FDIC should coordinate supervision and share information with states using similar methods to those used for joint supervision of FDIC-supervised IDIs. Such coordination would be best facilitated via clear communication with states about the FDIC's expected supervisory coordination, sharing of examination manuals, job aids, or testing protocols that will be used to examine issuers, and access to vendor information necessary for oversight of third-party risk management by state-chartered IDIs and their issuer subsidiaries.

Effective state coordination will also help the FDIC meet its statutory obligation to avoid duplication and consider burden on issuers as part of its supervisory process.<sup>4</sup> Such coordination will be especially important for minimizing burden on issuers who are subsidiaries of small community banks, either individually or as part of a consortium. The FDIC should work with states to develop scaled supervisory processes for these institutions in a way that reduces burden on both issuers and parent IDIs.

## **II. The FDIC should revise its capital requirements to reflect the size of an issuer's balance sheet, the composition of its assets, and its authorized digital asset service provider activities.**

The FDIC should adopt a capital requirement tied to a percentage of outstanding issuance or reserve asset value. Section 4(a) of the GENIUS Act requires the FDIC to propose capital requirements tailored to the business model and risk profile of issuers. The FDIC's current approach departs from established state requirements for issuers that have worked well to date, lacks a necessary deduction for intangible assets from regulatory capital, and does not adequately account for risks arising from digital asset service provider activities. It should adjust its approach to better align with existing state capital frameworks, which have kept stablecoin markets stable without imposing burdensome capital requirements.

- a. The FDIC should adopt a capital approach calibrated based on outstanding issuance or reserve assets.*

The FDIC's proposed approach to capital does not provide an objective methodology, instead listing a variety of factors that it will consider in setting both *de novo* and ongoing requirements.<sup>5</sup> In contrast, state regimes often treat stablecoins as stored value and apply money transmitter capital requirements

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<sup>4</sup> 12 U.S.C. § 5906(a)(4).

<sup>5</sup> FDIC, *supra* note 2, at 18552-53.



based on the size of the issuer's balance sheet or their outstanding issuance.<sup>6</sup> The FDIC does not consider this existing market standard or explain its departure from that standard.

State requirements for *de novo* and ongoing issuance create a clear and objective floor, while remaining tailored for ongoing operations. For example, a hypothetical stablecoin issuer with \$45 billion in stablecoin issuance would be required to maintain approximately \$250 million in capital under the state money transmission licensing regime.<sup>7</sup> The capital ratio requirement deployed by the states can be interpreted as necessary for ongoing operations and meet the FDIC's expectation that issuer capital requirements will be "relatively low."<sup>8</sup> The state-mandated requirement for this hypothetical issuer amounts to less than a 0.5% capital ratio. This capital requirement would be sufficient to absorb a 1.25% loss on a \$20 billion short-term Treasury portfolio, which is consistent with a meaningful but plausible interest rate shock triggered by a stress event, particularly in a period where multiple issuers may be liquidating Treasury holdings to meet redemption requests.

The risk of an issuer's undercapitalization scales with its issuance activity, which is why state frameworks generally require capital to adjust as issuance activity grows.<sup>9</sup> The absence of a defined floor or clear calibration methodology creates a risk that capital would not scale with issuance activity, leading to undercapitalization as issuers expand. A 1% reduction in the value of reserve assets will lead to bigger absolute losses at a large issuer than at a small issuer with similar reserve diversification. Scaling capital requirements will offset this dynamic and protect issuers.

Given the lack of a federal insurance backstop, appropriately calibrated capital requirements sufficient to allow ongoing operations will help prevent the need for emergency measures during stress scenarios and maintain confidence in the stablecoin market. Reserve asset valuations are most likely to fall during financial stress, which is also when holders may seek to rapidly redeem stablecoins for cash. Selling pressure can drive reserve asset prices down further, triggering a fire sale dynamic in safe assets that then affects other issuers' reserve valuations, with big issuers having a larger gap between their par and fair value reserve valuations. A properly calibrated capital regime based on issuance activity will help ensure larger issuers can maintain ongoing operations during periods of financial stress that affect issuers of all sizes.

*b. The FDIC should require issuers to deduct intangible assets from regulatory capital.*

The proposed capital requirements are further weakened by the proposed rule's lack of deductions from regulatory capital for goodwill and other intangible assets. Treating goodwill and intangible assets in this

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<sup>6</sup> See Conference of State Bank Supervisors, Money Transmission Modernization Act § 10.01 (2021) ("MTMA").

<sup>7</sup> See *id.* Many states today regulate stablecoin issuance as stored value, which requires issuers to be licensed as money transmitters. The MTMA requires money transmitters to maintain tangible net worth that scales with their total assets. Licensees must maintain 3% of total assets for the first \$100 million, 2 percent of assets for \$100 million to \$1 billion, and 0.5 percent for assets over \$1 billion.

<sup>8</sup> See FDIC, *supra* note 2, at 18553.

<sup>9</sup> See, e.g., N.Y. Comp. Codes R. & Regs. 23 § 200.8 ; Wyo. Stat. § 13-12-106.

manner departs from general regulatory best practices with respect to capital and from the MTMA's tangible net worth capital requirements, which govern many stablecoin issuers today.<sup>10</sup>

The failure to exclude intangible assets is especially problematic because parent IDIs must deduct intangible assets from regulatory capital and the issuer subsidiary must be deconsolidated from the parent for regulatory capital purposes. This treatment could create an incentive to shift intangible assets to an issuer subsidiary to maximize the capital benefit they provide. To maintain parity and avoid regulatory arbitrage, the FDIC should require issuers to deduct intangible assets from their regulatory capital calculations, same as their parents.<sup>11</sup>

The FDIC acknowledges that intangible assets may exhibit valuation volatility, so it would rely on an operational backstop of highly liquid assets and supervisory calibration to mitigate those risks.<sup>12</sup> That approach is insufficient. Intangible assets cannot be relied upon to readily absorb losses or meet redemption demands during stress periods. There is no justification for including them as part of the regulatory capital calculation. Including these assets in regulatory capital would overstate an issuer's financial resilience and weaken the FDIC's ability to assess whether an issuer can satisfy its obligations under the GENIUS Act. Deducting intangible assets ensures that capital measures reflect actual loss-absorbing capacity and supports a more reliable supervisory framework.

- c. The FDIC should more explicitly calibrate capital requirements for issuers engaged in digital asset service provider activities and require them to comply with any applicable state law capital requirements.*

If the FDIC permits issuers to engage in digital asset service provider activities authorized under state law, it should ensure that those activities are subject to capital requirements commensurate with their risk. Heightened capital requirements for such issuers are necessary to prevent regulatory arbitrage. While the proposed rule recognizes that capital should reflect the complexity of an issuer's activities, it does not establish a clear methodology for calibrating additional capital as issuers expand into digital asset service provider activity.<sup>13</sup> In contrast, banks, brokers, and other financial institutions that can also engage in these and similar activities are subject to heightened capital requirements at both the state and federal level. The FDIC should preserve a level playing field.

In addition, because FDIC-supervised issuers must obtain authorization to engage in digital asset service provider activities by state law, they should maintain capital no less than that required by the chartering authority for similarly situated institutions. As discussed above, the FDIC must preserve the inherent role of the chartering authority in this circumstance. State capital requirements account for risk of losses from digital asset service provider activities which may be subject to credit, market, and operational risks in excess of those faced by issuers that do not engage in those activities. Calibrating capital requirements

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<sup>10</sup> See MTMA, *supra* note 6.

<sup>11</sup> FDIC *supra* note 2 at 18555 (Question 99).

<sup>12</sup> *Id.* at 18552.

<sup>13</sup> *Id.* at 10238.



to riskier activities will reduce the risk of a run on the reserve assets if the digital asset service provider activities lead to significant losses and erode available capital.

### **III. The FDIC should coordinate its interpretation of Section 16(a) of the GENIUS Act with other regulators to create consistent and appropriate limits for issuer activities.**

Federal stablecoin regulators must coordinate issuance of regulations implementing the GENIUS Act.<sup>14</sup> Unfortunately, lack of coordination has created a sharp divergence between the Office of the Comptroller of the Currency's ("OCC") and FDIC's interpretations of the GENIUS Act's limitations on issuer activities. FDIC-proposed Section 350.3 appropriately limits the activities of issuers to those listed in Section 4(a)(7) and to directly supporting activities enumerated in Section 16(b). This FDIC provision sets appropriate and sensible limits that reflect the limited capital and liquidity requirements for issuers, which are tailored to their business model.

The OCC, by contrast, would significantly expand the activities certain issuers may engage in via its unmoored interpretation of GENIUS Act Section 16(a). The OCC's proposed regulations would implement this provision via a rule of construction that permits national trust charters that issue stablecoins to also engage in the operations of a trust company and any related activities.<sup>15</sup> Section 4(a)(7) of the GENIUS Act simply does not permit this broader set of activities. The OCC has already failed to define the scope of permissible nonfiduciary trust activities in its recent rulemaking on National Bank Chartering.<sup>16</sup> Now, the OCC proposes to create a regulatory framework where a stablecoin issuer can potentially engage in a broad range of risky financial activities, while subject to capital and liquidity requirements intended for the much narrower issuer business model authorized in the GENIUS Act.

As discussed in CSBS's and MTRA's joint comment on the OCC's implementation proposal, the OCC's proposed interpretation is incompatible with the text and structure of the GENIUS Act.<sup>17</sup> It would create unacceptable and un contemplated risks for the stablecoin market in a way that would make a nationwide regulatory regime unworkable. Beyond these financial stability and consumer protection risks, it would also provide a competitive advantage to national trust charters over other types of issuers, both state and federal — an advantage that Congress did not authorize and, in fact, specifically precluded.

The FDIC's interpretation of Section 16(a) reflects a more reasonable approach consistent with GENIUS Act limits designed to protect reserve assets and financial stability. The Treasury Department proposed a slightly different reading of how Section 16(a) affects the activities in which issuers can engage, but it takes a similar, appropriately restrained approach to that proposed by the FDIC.<sup>18</sup> Federal regulators and

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<sup>14</sup> 12 U.S.C. § 5903(h)(2).

<sup>15</sup> OCC, Notice of Proposed Rulemaking, [Implementing the GENIUS Act](#), 91 Fed. Reg. 10202, 10288 (Mar. 2, 2026) (Proposed Section 15.10(c)).

<sup>16</sup> OCC, Final Rule, [National Bank Chartering](#), 91 Fed. Reg. 9977 (Mar. 2, 2026); *see also* CSBS, Comment Letter re: [OCC National Bank Chartering](#) (Feb. 23, 2026).

<sup>17</sup> *See* CSBS, Comment Letter re: [OCC Implementing the GENIUS Act](#) (May 1, 2026).

<sup>18</sup> *See* Department of the Treasury, Notice of Proposed Rulemaking, [GENIUS Act Broad-Based Principles for Determining Whether a State-Level Regulatory Regime Is Substantially Similar to the Federal Regulatory Framework](#), 91 Fed. Reg. 16844, 16857 (Apr. 3, 2026).



Treasury should coordinate and align on a single reading of Section 16(a) that conforms to the clear limits of the GENIUS Act.

#### **IV. The FDIC should provide more guidance and clarity regarding the development and use of tokenized deposits by IDIs.**

The proposal appropriately confirms that the technology or recordkeeping an IDI uses to record a deposit liability does not affect whether the liability constitutes a deposit or the applicability of deposit insurance.<sup>19</sup> The proposal also asks whether the FDIC should provide additional treatment of tokenized deposits outside of the deposit insurance context.<sup>20</sup> It should.

As CSBS highlighted in a letter to the FDIC, OCC, and Federal Reserve Board (“FRB”) last fall, banks would greatly benefit from additional regulatory clarity and supervisory guidance that addresses emerging questions or risks associated with recording and managing deposit liabilities using distributed ledger technologies (“DLT”).<sup>21</sup>

State supervisors are continuing to field questions from state-chartered banks that are interested in exploring deposit tokenization projects, primarily through consortium models with other banks or by leveraging third-party vendors. These institutions consistently state that joint guidance is critical before they move forward with the significant investments associated with such projects.<sup>22</sup>

The FDIC should coordinate with other federal banking agencies and state supervisors to clarify the regulatory treatment of and supervisory expectations for tokenized deposits, with clear operational guidance addressing at least the following key areas:

- **Deposit Insurance Coverage, Classification & Recordkeeping**
  - Provide expectations for deposit account records on DLTs, reconciliation between on- and off-chain deposit liabilities, and other ledgering, accounting, and recordkeeping requirements to facilitate accurate financial reporting and deposit insurance claim processing.
  - Clarify how deposit insurance should be characterized when advertising and marketing tokenized deposits products.
- **BSA/AML/OFAC Compliance**
  - Clarify how banks should meet customer identification, transaction monitoring, and sanctions screening obligations in the tokenized deposits context.
- **DLT Types & Network Structures**
  - Specify risk management expectations and supervisory considerations for various DLT types (*i.e.*, private vs. public/permissioned vs. permissionless blockchains), as well as the conditions under which each may be used.

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<sup>19</sup> See FDIC *supra* note 2 at 18569 (proposed § 330.3(k)).

<sup>20</sup> *Id.* at 18561 (Question 132).

<sup>21</sup> CSBS, Letter re: [Guidance on Tokenized Deposits](#) (Nov. 4, 2025).

<sup>22</sup> See, *e.g.*, Independent Bankers Association of Texas, Letter re: [Request for Interagency Coordination, Community Bank Tokenized Deposit Supervisory Framework](#) (Apr. 28, 2026).



- Address regulatory treatment of non-IDI tokenized deposit network or consortia participants, such as entities managing or facilitating transactions on a shared ledger.
- **Liquidity Risk Monitoring & Management**
  - Provide updated liquidity risk monitoring and management expectations that account for the risks of always-on, 24/7 redemption, including for purposes of the Liquidity Coverage Ratio, internal liquidity stress tests, and contingency funding plans.
- **Programmable Payments**
  - Describe supervisory expectations for banks embedding smart contract functionality into tokenized deposits, including operational risk, legal enforceability, and consumer protection concerns.
- **Cybersecurity, Operational Resilience & Third-Party Oversight**
  - Clarify expectations for cyber and operational risk management of DLT systems, including backup and off-chain ledgers.
  - Provide tailored third-party vendor risk management expectations for DLT infrastructure providers.
- **Consumer Protection & Disclosure Expectations**
  - Clarify whether any different or new consumer disclosures are expected for these products and how existing consumer protections for payments and electronic funds transfers will apply to DLT systems and transactions.
- **Tailored Supervisory Framework**
  - Establish proportionate governance expectations and tiered examination standards which recognize that supervisory expectations developed for large global banks may create structural barriers to entry for community banks.

Regulatory and supervisory guidance will provide much needed clarity for banks as they consider how and whether to pursue deposit tokenization projects. The agencies should prioritize issuing such guidance in coordination with state supervisors to help banks responsibly leverage DLT technologies for deposits, unlocking new capabilities and efficiencies for their customers in the process.

## **Conclusion**

CSBS appreciates the FDIC's efforts to implement the GENIUS Act for subsidiaries of state-chartered non-member insured depository institutions and looks forward to working together closely to finalize this rulemaking in a way that respects and strengthens the United States dual banking framework.

Sincerely,

Brandon Milhorn  
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