FDIC Unveils Application Process for Stablecoin Issuers Under the GENIUS Act

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Banks interested in issuing stablecoins or otherwise operating in a manner which may require licensure (as described below) should now consider the requirements to satisfy their obligations under the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act. This is especially important as it relates to application and incorporating controls and processes required of permitted payment stablecoin issuers.

In connection with the GENIUS Act, signed into law by President Trump on July 18, 2025, the Federal Deposit Insurance Corporation (FDIC) issued a proposal through a notice of rulemaking in December 2025 to implement the FDIC application provisions under the GENIUS Act. The GENIUS Act sets forth a process by which FDIC-supervised insured depository institutions can establish subsidiaries that intend to operate as "permitted payment stablecoins issuers" (PPSI). Further, it describes how such subsidiaries can obtain PPSI designation while establishing a regulatory framework within which such subsidiaries must operate.

Pursuant to the GENIUS Act, "payment stablecoins" are digital assets (1) that are, or are designed to be, used as a means of payment or settlement, (2) the issuer of which is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, and (3) the issuer represents or creates the reasonable expectation that it will maintain a stable value relative to a fixed amount of monetary value. Payment stablecoins are not a national currency, deposit, or security. Approval and admission as a PPSI will be required for any person to:

- Issue a payment stablecoin in the United States;
- Offer or sell a payment stablecoin to a person in the United States, unless the payment stablecoin is issued by a permitted payment stablecoin issuer; or

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- Offer, sell, or otherwise make available in the United States a payment stablecoin issued by a foreign payment stablecoin issuer, unless the foreign payment stablecoin issuer has the technological capability to comply—and will comply—with the terms of any lawful order and any reciprocal arrangement pursuant to section 18 of the GENIUS Act.

The notice provides a framework which (1) specifies the content that PPSI applicants must disclose to the FDIC, (2) sets forth the standards under which the FDIC will evaluate applications, and (3) highlights the review and approval framework used by the FDIC.

Application Contents

The GENUIS Act sets forth factors the FDIC is intended to use in assessing whether to accept an applicant as a PPSI, which is mirrored by the FDIC rulemaking notice in large part.

Applicants must disclose the following items for the FDIC's consideration:

- **Description of the proposed stablecoin and activities:** Applicants must disclose the features of the proposed stablecoin, any issuance/redemption mechanics, roles of the bank and subsidiary, third-party involvement, approach to maintaining stable value, and any incidental or digital asset service provider activities. With respect to the proposed stablecoin's value, applicants should also provide a discussion on whether there is a reasonable expectation for the proposed stablecoin to maintain its value, including through the disclosure of planned applicant-provided sources of strength, applicant guarantees, and/or intercompany agreements.
- **Financial information for the subsidiary:** Applicants must share their planned capital and liquidity structure, reserve asset composition and asset management plan (including any tokenized reserves), and three-year financial projections.
- **Governance and control:** Applicants are asked to disclose ownership and control structure, organizing documents,

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proposed directors, officers, and principal shareholders, and make additional disclosures regarding specified felony convictions for proposed directors and officers.

- **Policies, procedures, and customer agreements:** Applicants must share certain policies and agreements they propose adopting and/or entering into—each of which accounts stablecoin issuer. Such other required materials include policies related to custody and safekeeping, segregation of customer and reserve assets, recordkeeping requirements, reconciliation and transaction processing (on/off-chain), and Bank Secrecy Act (BSA) Countering the Financing of Terrorism and sanctions compliance.
- **Auditor engagement:** Applicants must also include an engagement letter with a registered public accounting firm for examination and certification of monthly reserve reports.

Evaluation Standards

The FDIC, through its review of materials submitted by applicants, shall consider certain evaluation standards to confirm whether admission as a PPSI is appropriate. In particular, the FDIC will consider:

- Applicant's ability to meet GENIUS Act section 4 requirements related to maintaining identifiable 1:1 reserves in permitted asset classes, as well as the applicant's ability to make monthly reserve disclosures on its website and submit to the FDIC monthly certified reports examined by a public accounting firm.
- Applicant's ability to comply with forthcoming FDIC regulations, including those related to capital, liquidity, reserve asset diversification, and operational/compliance/IT risk management (including BSA and sanctions compliance).
- Ensuring applicants' activities related to stablecoins include only issuing/redeeming stablecoins, managing reserves, providing custodial/safekeeping services, and engaging in supporting activities related to the foregoing and certain digital asset service provider activities. Section 4 of the

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Genius Act prohibits pledging/rehypothecating/reusing reserve assets (subject to limited exceptions).

- Applicant's management and integrity, specifically considering if directors, officers, or other persons involved in such activities include specified felony convictions, as well as making general assessments of competence, experience, integrity, compliance record, and ability to satisfy commitments/conditions.
- Whether an applicant redemption policy is clear, conspicuous, and can be effectuated in a manner which allows for the timely redemption of stablecoins. With respect to each of the forgoing, the FDIC will also determine whether there are plain language fee disclosures and that the Applicant shall adhere to the prohibition on changing fees without at least 7 days' prior notice to consumers.

The FDIC also included in the rulemaking notice that it will consider other factors but has provided no additional enumerated factors at this time.

Process for Application

The FDIC notice provides that applicants must submit materials, and unless the FDIC provides comment stating that the application is insufficient, it shall be deemed to be substantially complete 30 days following its submission. Unless the FDIC provides feedback that the application is insufficient within 30 days of submission, it shall approve or deny the application not later than 120 days after receiving the substantially complete application.

Considerations

Banks that desire to create a subsidiary for the purpose of becoming a PPSI should consider various factors under current regulatory expectations. These factors may include, but are not limited to, how the new subsidiary will impact the bank's strategic plan; whether third parties will be vetted under current due diligence processes; if the bank has the requisite knowledge to issue stablecoin at the subsidiary or the knowledge must be

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obtained as a new resource; and how functionality will impact fees and customer disclosures.

For more information about the GENIUS Act and the evolving regulatory framework for cryptocurrencies, please contact the authors or any attorney with the firm's **Data, Digital Assets, and Technology Practice**.

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