

July 24, 2025

# The GENIUS Act and the Future of Stablecoins

GIBSON DUNN

# Today's Presenters



**Jeffrey L. Steiner**

Partner , Washington, D.C.

[jsteiner@gibsondunn.com](mailto:jsteiner@gibsondunn.com)

T: +1 202.887.3632



**Jason J. Cabral**

Partner, New York

[jcabral@gibsondunn.com](mailto:jcabral@gibsondunn.com)

T: +1 212.351.6267



**Michelle M. Kirschner**

Partner, London

[mkirschner@gibsondunn.com](mailto:mkirschner@gibsondunn.com)

T: +44 20 7071 4212



**Osman Nawaz**

Partner, New York

[onawaz@gibsondunn.com](mailto:onawaz@gibsondunn.com)

T: +1 212.351.3940

# TABLE OF CONTENTS

- 
- 01** Overview of Landscape and GENIUS Act
- 
- 02** Payment Stablecoins and Permitted Issuers
- 
- 03** Regulatory Authorities
- 
- 04** Looking Ahead
-

# OVERVIEW OF LANDSCAPE AND GENIUS ACT

01

# Overview of Landscape

## United States Policy on Digital Asset Regulation

*“President Trump promised to make the United States the crypto capital of the planet.”*

– Fact Sheet: President Donald J. Trump Establishes the Strategic Bitcoin Reserve and U.S. Digital Asset Stockpile (January 23, 2025)

*“The digital asset industry plays a crucial role in innovation and economic development in the United States, as well our Nation’s international leadership. It is therefore the policy of my Administration to support the responsible growth and use of digital assets, blockchain technology, and related technologies across all sectors of the economy . . . .”*

– President Trump (January 23, 2025)

*“Digital assets are the future, and we must ensure America is at the forefront.”*

– Senator Tim Scott (July 22, 2025)

*“I hope before the end of the summer, the American people will have clear rules of the road for digital assets to protect consumers and entrepreneurs who want to be in this new, dynamic fintech business.”*

– Senator Tim Scott (July 22, 2025)

# Overview of Landscape

## Crypto Week: July 14-18

- The U.S. House of Representatives announced the week of July 14 as “Crypto Week.”

The **Anti-CBDC Surveillance State Act** would prevent the Federal Reserve from issuing a central bank digital currency without congressional approval and forbids federal agencies from exploring their development. The House passed the Anti-CBDC Surveillance State Act on July 17, 2025 by a vote of 219-210.

The **CLARITY Act** would provide a regulatory framework for digital assets and related transactions, establishing clear jurisdictional lines between the CFTC and SEC. The House passed the CLARITY Act on July 17, 2025 by a vote of 294-134.

The **GENIUS Act** establishes a regulatory framework for stablecoins. The Senate passed the GENIUS Act on June 17, 2025 by a vote of 68 to 30, and the House passed it on July 17, 2025 by a vote of 308 to 122. **President Trump signed the GENIUS Act into law on July 18, 2025.**

# Overview of GENIUS Act

The GENIUS Act is the first digital asset legislation passed in the United States and establishes a framework for the regulation of payment stablecoins.

- A **stablecoin** is a type of digital asset designed to maintain a stable value by pegging the value to a stable underlying asset (e.g., USD).
- A **payment stablecoin** is a digital asset that is, or is designed to be, used as a means of payment or settlement for which the issuer has obligations to convert and maintain the value of the digital asset.
  - It does not include a digital asset that is a national currency, a deposit, or a security.
- The GENIUS Act will take effect on the **earlier** of:

18 months after enactment  
(January 18, 2027)

or

120 days after final regulations from primary  
Federal payment stablecoin regulators

# Overview of GENIUS Act

## The GENIUS Act grants primary authority and oversight of payment stablecoins to the following regulators:



Determines criteria for compliance of foreign payment stablecoin issuers, may provide certain safe harbors, and promulgates regulations in several areas to establish a process for licensing, examination and supervision of permitted payment stablecoin issuers (e.g., issuance, sanctions, State-level regulatory regime standards, reciprocity for foreign payment stablecoin issuers). Required to conduct certain studies.



Oversees and may impose restrictions on State qualified stablecoin issuers and promulgates anti-tying and enforcement regulations.



May resolve insolvency proceedings and required to conduct a study on non-payment stablecoins.



# Overview of GENIUS Act

The Genius Act grants primary authority and oversight of stablecoins to the following regulators:



Promulgates issuance and enforcement regulations, oversees registrations of foreign payment stablecoin issuers, may help resolve insolvency proceedings, and required to conduct a study on non-payment stablecoins.



Reviews suspicious activity reports submitted by payment stablecoin issuers and issues guidance and rules on innovative techniques that regulated financial institutions use to detect illicit activity and money laundering involving digital assets.

The Act also establishes requirements for and oversight authority to **primary Federal payment stablecoin regulators** and **State payment stablecoin regulators**.

# **PAYMENT STABLECOINS AND PERMITTED ISSUERS**

02

## Payment Stablecoins Covered Under the GENIUS Act

- **Stablecoins covered under the GENIUS Act include any digital asset that is, or is designed to be, used as a means of payment or settlement, and the issuer of which:**

Is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of monetary value.

And

Represents that such issuer will maintain, or create the reasonable expectation that it will maintain, a stable value tied to a fixed amount of monetary value.

- Payment stablecoins under the GENIUS Act do not include digital assets that are a national currency, a deposit, or a security.
- Payment stablecoins are not securities or commodities and are not permitted to pay holders yield or interest solely in connection with the holding, use, or retention of such payment stablecoins.

## Permitted Payment Stablecoin Issuers

**Under the GENIUS Act, only “permitted payment stablecoin issuer” may issue payment stablecoins in the U.S.:**

1. A subsidiary of insured depository institutions (IDIs)
2. Federal qualified payment stablecoin issuers, which include the following OCC approved entities:
  - non-bank entities (other than State-qualified payment stablecoin issuers)
  - uninsured national banks
  - federal branches of foreign banks
3. State qualified payment stablecoin issuers provided that the relevant State’s oversight framework aligns with the certification requirements under the Act

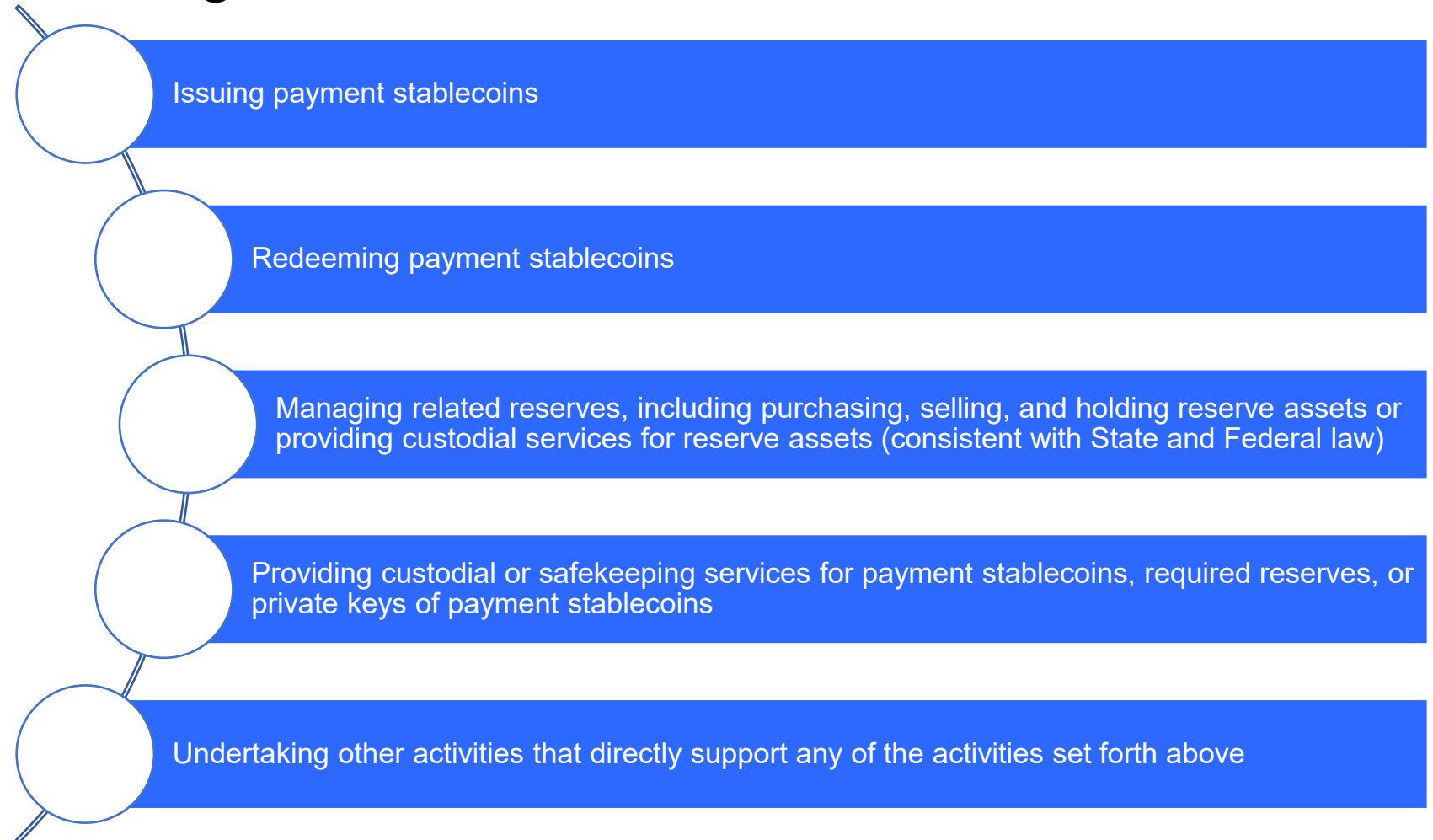
## Permitted Payment Stablecoin Issuers

**Public companies that are not predominantly engaged in one or more “financial” activities are generally prohibited from issuing a payment stablecoin.**

- The general prohibition also applies to wholly or majority-owned subsidiaries.
- “Financial” activities include activities (1) identified in Section 4(k) of the Bank Holding Company Act of 1956 and (2) permitted for permitted payment stablecoin issuers and digital asset service providers under the Act.
- **The SCRC can grant exceptions** upon a unanimous vote with certain specified findings regarding risks to the U.S. banking system or financial stability, and compliance with data use and anti-tying provisions.
- The GENIUS Act’s general exclusion of non-financial public companies differs from the CLARITY Act, which critics caution could allow public companies to side-step the SEC and securities disclosure requirements.

# Permitted Payment Stablecoin Issuers

## Permitted payment stablecoins issuers may engage in the following activities:



## Interest on Stablecoins

**Permitted payment stablecoin issuers cannot pay interest on stablecoins.**

- This prohibition is broad.
- It includes any form of interest or yield, whether paid in cash, tokens, or other consideration.
- The prohibition is triggered if the interest is paid solely in connection with holders' use, retention, or holding of payment stablecoins.

# Permitted Payment Stablecoin Issuers

## Reserve-related requirements for payment stablecoin issuers include:

1:1 Reserves	Must hold reserves at least equal to the total value of outstanding payment stablecoins.
High Quality	I.e., cash, bank deposits and short-term, low-risk securities like U.S. Treasuries.
Segregated	Reserves cannot be commingled with assets of the custodian.
Limited Dual Use	No rehypothecation. Reserves can be used to satisfy certain margin obligations and certain activity associated with custodial services and redemptions.

Payment stablecoin issuers must file monthly reports on the composition of reserves that are examined by third-party auditors. Large issuers must also submit to regulators and make publicly available annual audited financial statements.



# Permitted Payment Stablecoin Issuers

Other requirements for payment stablecoin issuers include:

## AML / Sanctions

Must comply with U.S. sanctions laws and Bank Secrecy Act:

- Transaction monitoring;
- File suspicious activity reports with FinCEN; and
- Customer due diligence, etc.

## Other Risk Management Requirements

- Diversification of the reserve portfolio;
- Capital and liquidity requirements; and
- Stress testing.

## Permitted Payment Stablecoin Issuers

**Payment stablecoins that are *not* issued by a permitted payment stablecoin issuer cannot be:**

Treated as cash or cash equivalent for accounting purposes.

Eligible as cash or cash equivalent margin or collateral for:

- broker-dealers,
- swap dealers, and
- other CFTC and SEC intermediaries.

Accepted as a settlement asset to facilitate wholesale payments between banking organizations.

# Treatment of foreign payment stablecoin issuers (1)

- Must be a permitted payment stablecoin issuer to “issue a payment stablecoin in the United States.”
- A payment stablecoin issued by a foreign payment stablecoin issuer cannot be traded on U.S. custodial trading platforms unless:
  - the foreign payment stablecoin issuer satisfies a safe harbor to be established by the Treasury Secretary; OR
  - the issuer:
    - complies with lawful orders to seize, freeze, burn or prevent the transfer of outstanding stablecoins;
    - is subject to a “comparable” regulatory regime, as determined by the Treasury Secretary upon a recommendation by each of the members of the Stablecoin Certification Review Committee;
    - registers with the OCC and becomes subject to OCC oversight;
    - holds reserves in U.S. financial institutions sufficient to meet liquidity demands of U.S. customers; and
    - is not domiciled and regulated in a jurisdiction subject to comprehensive U.S. economic sanctions or determined by the Treasury Secretary to be a jurisdiction of primary money laundering concern.

## Treatment of foreign payment stablecoin issuers (2)

- A foreign payment stablecoin shall not be:
  - treated as cash or as cash equivalent for accounting purposes;
  - eligible as cash or as cash equivalent margin and collateral for SEC- and CTFC-regulated intermediaries; or
  - acceptable as a settlement asset to facilitate wholesale payments between banking organizations or by a payment infrastructure to facilitate exchange and settlement among banking organizations.
- Issues for foreign payment stablecoin issuers / DASPs:
  - Areas of convergence and divergence amongst the regulatory regimes promulgated around the world, *e.g.*, EU, UK, U.S., Hong Kong, Singapore, etc.
    - Challenges of building global business
  - Technology build to comply with lawful orders to seize, freeze, burn or prevent the transfer of outstanding stablecoins
  - “Comparable” regulatory regimes
  - Fungibility of multi-issuer stablecoins

# Digital Asset Service Provider Limitations

## Limitations on Digital Asset Service Providers

- Digital asset service providers are **prohibited from offering or selling payment stablecoins to U.S. persons**, unless issued by a permitted stablecoin issuer.
  - This prohibition applies regardless of whether the issuer is domestic or foreign.
- Digital asset service providers are **prohibited from offering, selling, or making available** payment stablecoins in the U.S. from foreign payment stablecoin issuers, absent the conditions on the prior slide.
- These prohibitions begin to apply three years after enactment (July 18, 2028).
- **These prohibitions apply extraterritorially**: the prohibitions apply if the offer or sale involves a person located in the U.S., regardless of where the service provider is located.
- The Treasury Secretary **may issue limited safe harbors** for:
  - de minimus volumes of transactions; or
  - unusual and exigent circumstances.

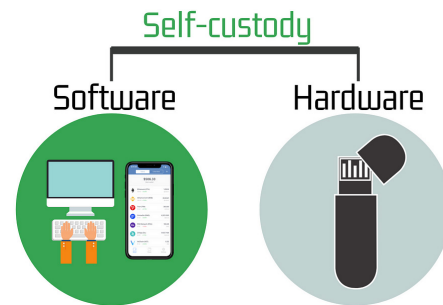
# Decentralized Protocols

- Decentralized protocols are *not* prohibited from offering certain payment stablecoins.
  - Decentralized protocols are **explicitly excluded** from the definition of “digital asset service provider.”
    - Treasury is tasked with studying and providing legislative recommendations on the scope of this term and its application to DeFi.
    - FinCEN is tasked with issuing guidance on risk management standards for DeFi protocols.
  - As such, DeFi is **outside the scope** of the prohibitions on the offer or sale of payment stablecoins in the secondary market .
  - DeFi protocols like **smart contracts and DAOs** are not subject to the restrictions regarding offering or facilitating the use of payment stablecoins.
- In practice, otherwise impermissible coins can **continue to be traded on decentralized exchanges** that would be unavailable on centralized exchanges.

## Peer-to-Peer Transfers

The GENIUS Act does *not* regulate peer-to-peer transfers or self-custody of payment stablecoins:

- The Act expressly does *not* regulate:
  - The direct transfer of digital assets between 2 individuals acting on their own behalf without the involvement of an intermediary
  - An individual's own custody of digital assets via software or hardware wallets.



# REGULATORY AUTHORITIES

03



## SCRC and Other Federal Regulators

The **GENIUS Act** creates the **Stablecoin Certification Review Committee (SCRC)**.



*Secretary of the Treasury  
(Chair)*



*Chair of the Federal  
Reserve\**



*Chair of the FDIC*

- **The SCRC is tasked with the following:**
  - Reviewing certifications from States that State-level regulatory regimes meet the criteria for substantial similarity;
  - Granting approval for a non-financial services public companies to issue payment stablecoins; and
  - Providing additional guidance.

## SCRC and Other Federal Regulators

The Act directs the Treasury Secretary and primary Federal payment stablecoin regulators to engage in rulemaking, issue reports, and conduct further studies.

The Secretary of the Treasury has rulemaking authority over:

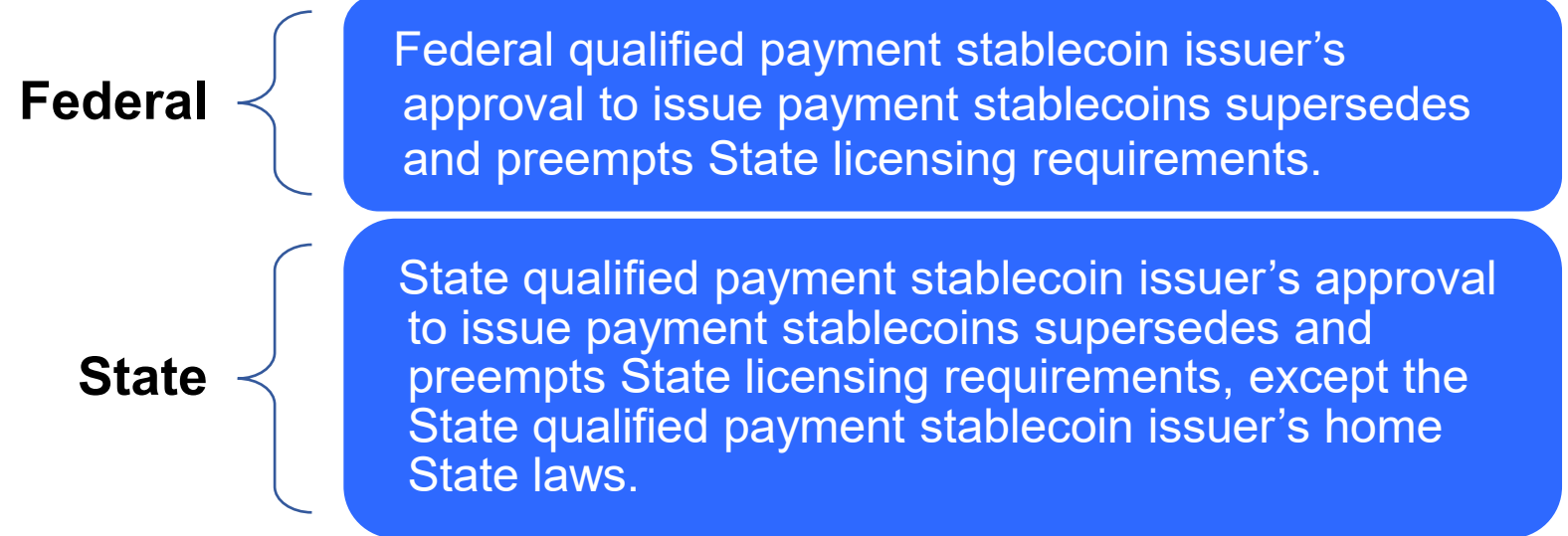
- Application of the BSA and sanctions laws to issuers.
- Establishing broad-based principles for assessing whether a State-level regulatory regime is substantially similar.

Primary Federal payment stablecoin regulators have rulemaking authority over:

- Capital rules and liquidity.
- Standards to become a permitted payment stablecoin issuer.
- Commingling of funds.

# State Licensing Laws

- **Permitted payment stablecoin issuers benefit from preemption of State licensing laws:**



- Regardless of the path to become a permitted payment stablecoin issuer, State licensing laws preemption is a distinct feature of the GENIUS Act's regulatory framework.

## State Licensing Laws

Permitted payment stablecoin issuers do *not* benefit from preemption of State consumer protection laws:

State consumer protection laws are not broadly preempted by the GENIUS Act.

- **One notable exception:** consumer protection State laws are applicable to out-of-State *State qualified payment stablecoin issuers* to the same extent those same laws would apply to out-of-State *Federal qualified payment stablecoin issuers*.

# LOOKING AHEAD

04

## Looking Ahead

The GENIUS Act will **not take immediate effect** and includes a **three-year safe harbor** for digital asset service providers:

- **More regulations ahead:** the Act directs the Treasury Secretary, Federal regulators, and State regulators to issue additional regulations following notice and comment rulemaking.

We anticipate a lengthy rulemaking process before final regulations are fully phased in.

There will be opportunities to engage in advocacy and the rulemaking process with Federal and State regulators.

- Regulations to be promulgated by **July 18, 2026**, one year following the GENIUS Act's enactment.



# GIBSON DUNN

Attorney Advertising: These materials were prepared for general informational purposes only based on information available at the time of publication and are not intended as, do not constitute, and should not be relied upon as, legal advice or a legal opinion on any specific facts or circumstances. Gibson Dunn (and its affiliates, attorneys, and employees) shall not have any liability in connection with any use of these materials. The sharing of these materials does not establish an attorney-client relationship with the recipient and should not be relied upon as an alternative for advice from qualified counsel. Please note that facts and circumstances may vary, and prior results do not guarantee a similar outcome.