Submitted via Federal E-Rulemaking Portal

June 2, 2026

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

Re: GENIUS Act Broad-Based Principles for Determining Whether a State-Level Regulatory Regime Is Substantially Similar to the Federal Regulatory Framework (RIN 1505-AC90)

To Whom It May Concern,

The Independent Community Bankers of America[1] ("ICBA") and its members appreciate the opportunity to engage with the Treasury Department ("Treasury") by commenting on this Notice of Proposed Rulemaking ("Proposal") as it and other federal regulators implement the Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS Act" or "Act").[2] Through the Proposal, Treasury intends to create final principles for ensuring the state-level regulatory regimes governing State qualified payment stablecoin issuers are "substantially similar to the Federal regulatory framework" (the "Principles").[3]

Community banks are principally chartered by state banking regulators and are subject to regulation and supervision by the same regulators that will be promulgating the state-level regulatory regimes against which Treasury's Principles will be applied. These institutions know first-hand how knowledgeable state regulators can be about local conditions and how protective state regulators can be of financial institutions' customers. ICBA's comments reflect this experience.

[1] The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at https://www.icba.org/.
[2] GENIUS Act, Pub. L. 119-25, 139 Stat. 419 (2025), codified at 12 U.S.C. §§ 5901-5916.
[3] 12 U.S.C. § 5903(c).

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This letter makes several overarching comments, as well as offering responses to the more specific points responding to Treasury's questions.

First, Treasury's proposal to divide regulatory requirements between those that must be uniform and those for which state-calibration is permissible is inappropriate. For all facets of payment stablecoin regulation, Treasury should ensure that state-level regulatory regimes "meet or exceed" the federal framework in terms of protections offered to holders of payment stablecoins and to financial stability. Uniformity should not be required.

Second, Treasury incorrectly limits itself to the requirements in section 4(a) of the GENIUS Act for determining substantial similarity. The regulatory framework proposed by the Office of the Comptroller of the Currency ("OCC") would impose regulations on federal qualified payment stablecoin issuers that are broader in subject matter than what section 4(a) requires, including provisions relating to, *inter alia*, issuers' misrepresentation of insured status in marketing materials (section 4(e) of the Act); limitations on issuers employing officers or directors that have been convicted of certain felonies (section 4(f) of the Act); and supervision and enforcement (section 6 of the Act). Moreover, a future OCC may add additional policies against which state-level regulatory regimes should be compared.

Third, Treasury should require the Stablecoin Certification Review Committee to periodically recertify state-level regulatory regimes so as to ensure substantial similarity over time as state and federal regulatory regimes change.

Finally, ICBA and its members are concerned that Treasury proposes to establish the OCC's payment stablecoin regulatory framework as the basis for comparing state regulatory frameworks even as the OCC's proposal is unfinalized. The OCC could make significant changes to the final regulations that could impact not only this proposal, but also other GENIUS-related proposals that remain in open comment periods or have yet to be published. To that end, our comments reflect our current understanding of the proposals as they exist today; however, ICBA and its members may seek to raise additional concerns about Treasury's proposed Principles once the OCC releases its final regulations. This issue underscores the need for collaboration across all agencies seeking to implement the GENIUS Act in order to avoid conflicting or unclear requirements,

I. Scope, Applicability, and Definitions (Proposed § 1521.1)

1. Substantial similarity should ensure state-level regulatory regimes "meet or exceed" the federal framework in terms of safety and soundness, consumer protection, and financial stability in all regards.

ICBA disagrees with Treasury's decision to distinguish regulatory requirements between those that require uniformity between the federal regulatory framework and state-level

regulatory regimes and those for which state-calibration is permissible. Although Congress gave states the authority to set particular standards, section 4(c) of the GENIUS Act requires all standards applicable to permissible payment stablecoin issuers to be "substantially similar." Treasury should interpret that mandate as ensuring that state-level standards meet or exceed the protections offered by the federal regulatory framework in terms of safety and soundness of payment stablecoin issuers, consumer protection (i.e., owners of payment stablecoins), and financial stability for all regulatory requirements—the principal goals behind Congress's enactment of the GENIUS Act in the first place.[4]

The locus of this interpretation is Congress's decision in the GENIUS Act to adopt an approach akin to the dual banking system for permitted payment stablecoin issuers. Under the dual banking system, banks may elect to be chartered by any of the fifty states or the OCC, but those that opt for state charters are generally subject to additional regulation and oversight by the Federal Reserve Board ("FRB") or the Federal Deposit Insurance Corporation ("FDIC") that may be more restrictive than those imposed by state banking commissioners. Unlike other industries in which state-by-state licensure is required, federal law permits both OCC- and state-chartered institutions subject to federal oversight to operate on a nationwide basis. Federal regulation therefore acts as a floor, allowing state regulators to impose heightened regulations as they see fit while providing standards below which state-chartered banks may not fall.

Treasury should adopt an interpretation of substantial similarity that borrows from the dual banking system. Because Congress has not created a dual-licensure system for any other industry, its decision in the GENIUS Act to allow permitted payment stablecoin issuers to obtain licenses by states or the federal government and operate nationwide demonstrates its intent that the dual banking system be adapted for stablecoins. Congress could have required all permitted payment stablecoin issuers to obtain federal licenses, could have required permitted payment stablecoin issuers to obtain licenses from every state in which they operate, or could have authorized federal regulators to set standards for all issuers regardless of their licensing authority, but it did not.

In short, Treasury's Principles should ensure that the federal framework is the regulatory floor in terms of safety and soundness, consumer protection, and financial stability in all regards, while permitting states to go higher. Requiring pure uniformity for various regulatory requirements, as Treasury has proposed, abandons the benefits of the dual banking system that Congress has enacted into the GENIUS Act in favor of a one-size-fits-all approach.

[4] 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, 16845 (Apr. 3, 2026) (recognizing "the safety and soundness, financial stability, and consumer protection purposes of the Act").

2. The terms "federal regulatory framework" and "state-level regulatory regime" should include statutes and legally-binding rules and orders. It should exclude non-binding interpretations.

Because only payment stablecoin issuers that are not insured depository institutions (or subsidiaries thereof) will be subject to the state-level regulatory regimes considered by these Principles, the appropriate "federal regulatory framework" for substantial similarity comparisons is the alternative available to these institutions. This framework includes the rules promulgated by the OCC applicable to such institutions (as well as FinCEN's rules governing application of the Bank Secrecy Act and sanctions laws and the FRB's limitations on tying). It would be inappropriate for any of the federal frameworks for bank subsidiaries to be considered the "federal regulatory framework," though ICBA encourages the OCC to learn from these other regulators' experiences.

That said, Treasury's proposed definition is not appropriately scoped. The "federal regulatory framework" should be composed of the GENIUS Act, federal rules that have been promulgated pursuant to the Act subject to notice-and-comment processes, and orders that accompany decisions in adjudications that interpret the Act and federal rules. Whereas the Proposal would include in the definition "interpretations" of the Act issued by the OCC, FinCEN, and the FRB that are published in the *Federal Register*, only interpretations that are legally binding should be considered a part of the framework; that is, interpretive rules and policy statements that are published in the *Federal Register* but are not legally binding on federal qualified payment stablecoin issuers should not be included. This is particularly appropriate in the post-*Loper Bright* legal environment in which courts are not to defer to regulators' nonbinding interpretations of binding law.[5]

Unlike the definition of "federal regulatory framework," the proposed definition of "state-level regulatory regime" is appropriately scoped because it includes only those legally-binding rules and orders that are enforceable against state qualified payment stablecoin issuers. ICBA cautions, however, that the Stablecoin Certification Review Committee must come to understand what agency actions are enforceable under each state's administrative law framework, which may be different from the federal framework.

3. State-level regulatory regimes need not include regulations applicable to foreign issuers.

In Question 6, Treasury asks whether its final Principles should require state-level regulatory regimes to include rules applicable to foreign payment stablecoin issuers. ICBA supports the right of states to include prohibitions on foreign, unregistered issuers from operating within their jurisdictions, but does not think that such prohibitions should be required for substantial similarity purposes.

[5] *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) ("courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous").

Section 18 of the GENIUS Act authorizes foreign payment stablecoin issuers to operate within the United States if they are, *inter alia*, registered with the OCC and are subject to regulation and supervision by a foreign regulator under a regulatory regime that "is comparable" to that created by the Act. This section preempts all state laws that would otherwise regulate authorized foreign issuers, leaving to states only the space to regulate *un*authorized foreign issuers (i.e., issuers that the Act prohibits from operating in the United States anyway). That is, the GENIUS Act limits state regulation of foreign issuers to prohibiting unauthorized issuers' operations within their borders.

ICBA supports the right of states to include prohibitions on unauthorized foreign issuers operating within their borders, such that state regulators and prosecutors are given the legal authority to bring enforcement actions at their discretion rather than relying on the federal government to do so. Nevertheless, not all states may wish to authorize regulators and prosecutors' use of limited resources to do this policing. Accordingly, Treasury should not require the inclusion of such restrictions for purposes of determining substantial similarity.

II. Overall Broad-Based Principles (Proposed § 1521.2)

1. Treasury's Principles must look beyond regulations required by section 4(a) of the GENIUS Act.

Treasury's Proposal principally looks to section 4(a) of the GENIUS Act to identify those regulatory requirements that the Stablecoin Certification Review Committee will compare to determine substantial similarly between state-level regulatory regimes and the federal regulatory framework. Relying on section 4(a) is too narrow, and Treasury's Principles should look to all facets of the federal regime, including all regulations the OCC imposes on federal qualified payment stablecoin issuers.

As an initial matter, the framework proposed by the OCC contains important provisions that do not stem from section 4(a) of the Act but nevertheless should be included in state-level regulatory regimes.[6] For example, the OCC's proposal includes requirements related to issuers' misrepresentation of insured status in marketing materials, which is required by section 4(e) of the Act;[7] limitations on issuers' officers or directors convicted of certain felonies, which is required by section 4(f) of the Act;[8] and supervision and enforcement, which are required by section 6 of the Act.[9] Substantial similarity between the federal regulatory framework and state-level regulatory regimes should require state regimes to include similar provisions.

[6] *See* Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency, 91 Fed. Reg. 10202 (Mar. 2, 2026).
[7] Proposed 12 C.F.R. § 15.10(c)(3).
[8] Proposed 12 C.F.R. § 15.30(c)(2).
[9] Proposed 12 C.F.R. § 15.14.

Moreover, it is easy to imagine the OCC's framework expanding beyond what the agency recently proposed. The OCC's proposal asks questions about various potential policies for which its proposed rules (if finalized as proposed) would not cover but the final version could. For example, the OCC's proposal asked whether permitted payment stablecoin issuers should be required to provide disclosures stating that stablecoins are not legal tender nor subject to deposit insurance.[10] If the OCC does ultimately require such affirmative disclosures, the GENIUS Act's requirement of substantial similarity between federal and state frameworks should necessarily require state regimes to include affirmative disclosures as well. It is also imaginable that the OCC could in the future expand its regulatory framework to include, for example, interoperability standards developed pursuant to section 12 of the GENIUS Act,[11] interpretations of the Act's prohibitions on offers and sales included in section 3,[12] and interpretations of the applicability of Gramm-Leach-Bliley Act's privacy provisions.[13]

Accordingly, the Principles should include all parts of the "federal regulatory framework," and not only those provisions stemming from section 4(a) of the GENIUS Act.

2. *The proposed "meet or exceed" standard must require state-level regimes to be at least as "stringent and protective" of safety and soundness, owners of payment stablecoins, and financial stability as the federal regulatory framework.*

ICBA supports Treasury's proposed "meet or exceed" standard for interpreting substantial similarity, and agrees with Treasury that state law provisions should be considered as meeting or exceeding the federal framework when they are at least "as stringent and protective" as comparable federal provisions—though, as described above, Treasury should adopt the standard for all facets of permitted payment stablecoin issuer regulation and not only those for which Treasury has deemed state-calibration permissible. Treasury should make clear in its Principles, however, that this stringency and protectiveness standard refers to the protection of those who own payment stablecoins, as well as the stability of the financial system.

3. *State-level regulatory regimes should be periodically reauthorized.*

ICBA recognizes that both the federal regulatory framework and state-level regulatory regimes are highly likely to change over time. A state's regime may change in such a manner that it can no longer be considered "substantially similar" to the federal framework, or a federal regulator may promulgate regulations that cause State regimes to fall out of substantial similarity. Yet, the Stablecoin Certification Review Committee will evaluate substantial similarity at the time of certification only. In addition, although

[10] 91 Fed. Reg. 10202, 10253 ("Question 42: Should permitted payment stablecoin issuers be required to provide disclosures stating that stablecoins are not legal tender, issued by the United States, or guaranteed or approved by the United States?").
[11] 12 U.S.C. § 5912.
[12] *Id.* § 5902(b).
[13] 15 U.S.C. Ch. 94 Subch. I.

the Proposal presupposes that states may incorporate federal rules by reference for some regulatory requirements,[14] some states require the incorporation of federal text by reference to be static rather than dynamic; that is, legislatures may incorporate standards by identifying their "published on" date of their edition, rather than allowing incorporated text to change over time without new legislative enactments.[15] In such states, discrepancies between the state-level regulatory regime and the federal regulatory framework may occur as the federal framework is updated.

To ensure that the state and federal frameworks do not lack substantial similarity for considerable periods of time, ICBA encourages Treasury to require each state-level regime to be recertified periodically (i.e., every three or five years) to ensure substantial similarity. If Treasury does believe such periodic recertifications are appropriate, it should authorize the Stablecoin Certification Review Committee to rescind its prior certifications.

III. Broad-Based Principles for Uniform Requirements Under Section 4(a) of the Act (Proposed § 1521.3)

1. All regulatory requirements for which Treasury has proposed uniformity should allow for state calibration.

As discussed above, Treasury should not adopt Principles that require uniformity for various regulatory requirements, as doing so would abandon the benefits of the dual banking system. Instead, Treasury should permit state calibration that ensures state-level requirements meet or exceed the federal regulatory framework. Indeed, ICBA can foresee State regulators meeting and exceeding the proposed federal regulatory framework for at least six different regulatory requirements:

- *Reserve Assets* – Whereas the OCC has proposed rules that would allow federal qualified permitted payment stablecoin issuers to place reserves in all the asset classes authorized by the GENIUS Act, states could set more restrictive rules, such as prohibiting repurchase agreements.

- *Redemption* – Whereas the OCC has proposed requiring the public disclosure of federal qualified payment stablecoin issuers' redemption policies with limited conditions on what must be included in those policies, states could set more substantive rules governing state issuers' redemption policies.

[14] *See, e.g.*, 91 Fed. Reg. 16844, 16851 ("States may find it more efficient to incorporate the uniform requirements by reference.").
[15] *See, e.g.*, NE Code § 8-3005(b) ("A digital asset depository institution shall establish and maintain programs for compliance with the federal Bank Secrecy Act, in accordance with 12 C.F.R. 208.63, as the act and rule existed on January 1, 2025.").

- *Limitations on Permitted Activities* – States could prohibit state issuers from engaging in certain activities the OCC determines directly support the activities enumerated in the GENIUS Act.

- *Audits* – States could require independent audits on a regular basis for all issuers, and not just those with more than $50,000,000,000 in consolidated total outstanding issuance.

- *Prohibition on Paying Yield* – Whereas the OCC has proposed prohibiting federal issuers from paying interest or yield to the holders of payment stablecoins (with limited exceptions), a state could prohibit state issuers from paying interest or yield to the owners of payment stablecoins as well, or prohibit state issuers from entering into contracts with intermediaries that otherwise offer staking or activity-based rewards.

- *Limits on Public Companies Issuing Stablecoins* – States could prohibit certain types of public companies from issuing payment stablecoins that the federal framework otherwise permits.

Some of these decisions may be interpreted as contrary to the GENIUS Act; for example, because the Act requires permitted payment stablecoin issuers with more than $50,000,000,000 in consolidated total outstanding issuance (with exceptions) to prepare audited financial statements, Treasury might interpret this provision as prohibiting state-level regulatory regimes from requiring statements of issuers with lower outstanding issuance levels.[16] However, such a reading would conflict with the Constitution's anticommandeering principle, which "withhold[s] from Congress the power to issue orders directly to the States."[17] States must be permitted to enact the regulatory regimes they think best, and state-level regulatory regimes that adopted regulatory requirements in line with one or all of these suggestions would be just as protective of safety and soundness, consumers, and financial stability as the federal regulatory framework (assuming adoption of the OCC's rules as proposed), if not more so. Treasury's Principles should permit states to make such decisions.

2. Treasury should create a unified application process between states, the OCC, and the Stablecoin Certification Review Committee.

Because the GENIUS Act requires nonfinancial public companies that wish to become stablecoin issuers to obtain approval from both the Stablecoin Certification Review Committee and a licensing authority (*i.e.*, the OCC or the state regulator), ICBA supports the development of a unified application process that allows for a single application, along the lines of the *Interagency Charter and Federal Deposit Insurance Application*.[18]

[16] 12 U.S.C. § 5903(a)(10(A)(i).
[17] Murphy v. Nat'l Collegiate Athletic Ass'n, 584 U.S. 453, 470 (2018).
[18] *See* Interagency Charter and Federal Deposit Insurance Application, https://www.fdic.gov/formsdocuments/f6200-05.pdf.

IV. Broad-Based Principles for State-Calibrated Requirements Under Section 4(a) of the Act (Proposed § 1521.4)

1. The OCC's reserve asset framework should serve as a federal baseline that states may meet or exceed by imposing additional limits on permissible reserve assets.

Treasury's Proposal provides that "State-level regulatory regime[s] may allow … reserve assets … only if such assets have been approved by the OCC as similarly liquid Federal Government-issued assets."[19] ICBA agrees with this principle, with caveats. Because the alternative to state licensing for permitted payment stablecoin issuers is licensure by the OCC, states should not be permitted to allow a reserve asset the OCC has not approved, even if a federal regulator other than the OCC has approved it for depository institution subsidiaries.

Treasury should make clear the OCC's proposed list of permissible assets is the outer limit of permissible reserve assets and that states may narrow the list of permissible reserve assets if they wish. States should not be required to allow all reserve assets approved by the OCC, insofar as allowing a more limited set of reserve assets would be protective of consumers.

2. The Principles should permit states to require quicker redemptions and more fulsome information disclosures than the OCC.

Treasury has proposed that state-level regulatory regimes may set "discretionary limitations on timely redemption … so long as those limitations are" appropriately disclosed and consistent with the Act. ICBA agrees with this language, though notes that a "meet or exceed" standard would require states to impose redemption speeds that meet the OCC's proposed settlement window of two business days, while permitting them to require redemption windows that are shorter.[20] To the extent that the OCC's (or Board's) rules include limitations on timely redemption for financial stability purposes, Treasury's Principles should ensure states' rules include those limitations as well, either directly or through incorporation by reference.

Treasury's Principles must ensure that state-level regulatory regimes include the same disclosure information as required by the federal regulatory framework, including the same format for ease of comparison. To the extent states decide to require state qualified payment stablecoin issuers provide consumers with additional information, that information can be appended to the end of the OCC-prescribed format.

[19] Proposed 12 C.F.R. § 1521.4(a).
[20] Proposed 12 C.F.R. § 15.12(b)(1)(i).

3. The Principles should permit states to limit rehypothecation to a greater extent than the federal regulatory framework.

Limitations on rehypothecation of assets are of vital importance to insuring that payment stablecoin issuers are able to meet redemption demands when they face runs. To that end, ICBA believes that issuers' ability to engage in rehypothecation of reserve assets should be as narrow as possible, and that the rules finalized by the OCC for federal qualified payment stablecoin issuers should be the outer limit for state-level regulatory regimes. To that end, if the OCC narrows permissible rehypothecation beyond what the GENIUS Act already permits, states should be required to adopt that limitation. To the extent that states wish to impose more stringent restrictions on rehypothecation than the OCC, they should be permitted to do so.

Similarly, the OCC's approval of the use of repurchase agreements should again be the outer limit for state-level regimes. To the extent states decide to pre-approve the use of such agreements, they should be limited to the types of agreements approved by the OCC.

4. The Principles should permit states to require additional information disclosures related to monthly reports.

ICBA supports rigorous transparency requirements for payment stablecoin reserves. Only meaningful, frequent disclosures to the public will ensure payment stablecoin issuers keep their tokens overcollateralized. Monthly reports should be made public to ensure transparency across the sector, similar to the regular cadence of bank and securities issuer reporting (*e.g.*, Call Report, 10-Q filings).

ICBA does not believe that the Principles should limit states to requiring only the information regarding monthly reports required by the federal framework; states should be permitted to require additional disclosures. For example, because the GENIUS Act requires issuers to have monthly certifications examined by a registered public accounting firm,[21] states could require those accounting firms to approve of the certifications and require issuers to make those certifications public.

Treasury asks whether states should be required to adopt the form required by the federal regulatory framework. As with other disclosures, ICBA believes that states should be required to adopt the format adopted by the OCC for ease of comparison. To the extent states decide to require monthly report certifications to include information beyond what the OCC requires, that information can be appended to the end of the OCC-prescribed format. In addition, states should be permitted to require additional certifications beyond what is required by the federal regulatory framework.

[21] *See* 12 U.S.C. § 5903(a)(3)(A).

5. State capitalization requirements should be just as high as federal requirements.

Capitalization requirements are key to ensuring that any fragility on the part of permitted payment stablecoin issuers does not affect their stablecoins or cause them to run. For that reason, ICBA supports the Proposal's requirement that state-level regulatory regimes impose minimum capitalization levels that are at least as high as those required by the federal regulatory framework.

Because states may wish to enact alternate frameworks for determining required capitalization levels, Treasury's Principles should permit states to enact such alternate frameworks so long as they adopt a dual-stack approach, similar to that required by the Collins Amendment for bank capital. The Collins Amendment requires bank holding companies to have capitalization levels that are at least as stringent as those applicable to insured depository institutions; accordingly, bank holding companies' binding capitalization requirements were the higher of two different approaches.[22] A state could meet or exceed the federal regulatory framework by requiring payment stablecoin issuers to adopt the higher of the state's approach and the federal approach.

ICBA supports Treasury's proposed requirement that state-level regulatory regimes require issuers to maintain processes assessing their overall capital adequacy in relation to their business model and risk profile. To the extent Treasury permits state frameworks to allow stablecoin issuers to engage in a broader variety of activities than the OCC—which it should not, as previously discussed—Treasury should adopt a Principle requiring the Stablecoin Certification Review Committee to determine whether a state's process for assessing capital for each particular activity is protective of holders of its payment stablecoins and financial stability.

ICBA also believes that the Principles should require state-level regimes to have operational backstops, presuming the federal regulatory framework adopts backstops as well. A state's backstop should be at least as protective as those required by the federal framework.

6. The Principles should permit states to impose unique reserve asset diversification requirements.

ICBA believes it imperative that states' risk management frameworks be designed to contain systemic risk, protect the banking system, and avoid destabilizing incentives that could undermine the deposit-funding lending system to a greater extent than the federal regulatory framework. For community bankers, it is imperative that state-level regulatory regimes be implemented in manners that preserve financial stability and local lending, prevent regulatory arbitrage, and ensure that the risks posed by payment stablecoin issuers remain with those issuers, rather than be transmitted directly or indirectly to insured depository institutions or the bank-funded Deposit Insurance Fund.

[22] *See id.* § 5371.

States should, therefore, be permitted to impose requirements on reserve assets that are more restrictive than that required by the federal regulatory framework if doing so will better protect consumers, financial stability, and the traditional banking system. Whereas the OCC has proposed requiring each federal issuer to maintain "at least 10 percent of its reserve assets as deposits or insured shares payable upon demand or money standing to the credit of an account with a Federal Reserve Bank,"[23] states should be permitted to require state qualified payment stablecoin issuers to hold a higher proportion of reserves in bank deposits and a lower proportion in T-bills and overnight repurchase agreements than the federal regulatory framework. Such a decision is in line with actions taken by the Treasury Secretary to include "economic growth" and "economic security"—both of which necessarily require community bank lending—as important to financial stability.[24]

7. The Principles should permit states to limit permissible activities.

ICBA has deep concerns regarding Treasury's proposed language regarding principles for permissible activities. The GENIUS Act authorizes payment stablecoin issuers to issue and redeem payment stablecoins, manage payment stablecoin reserves, provide custodial and safekeeping services for payment stablecoins, and "undertake other activities that directly support" the others.[25] As the OCC has correctly noted, section 4(a)(7)(B) of the Act *does not* constitute an independent authorization for stablecoin issuers to engage in digital asset service provider activities.[26] To that end, the language in Treasury's Proposal specifying that state-level regulatory regimes may permit state qualified payment stablecoin issuers to engage in digital asset service provider activities and activities incidental thereto (proposed § 1521.4(h)(2)(i)(B)) is inappropriate and should not be included in the final Principles.

In determining which activities comprise the "other activities" that are permitted of payment stablecoin issuers, states should not be permitted to authorize activities beyond what the OCC has authorized. Such a limitation would be roughly equivalent to how the FDI Act generally restricts insured state banks to the activities permissible for national banks.[27] Moreover, to the extent that a state wishes to limit its payment stablecoin issuers to payment and settlement activities, or any other narrower set of activities than what the OCC authorizes of federal issuers, that state should be permitted to do so.

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[23] 91 Fed. Reg. 10202, 10216.
[24] FINANCIAL STABILITY OVERSIGHT COUNCIL, ANNUAL REPORT at 4 (2025), https://home.treasury.gov/system/files/261/FSOC2025AnnualReport.pdf.
[25] 12 U.S.C. § 5903(a)(7)(A)(v).
[26] *See* 91 Fed. Reg. 10202, 10211 ("[T]o the extent that a permitted payment stablecoin issuer seeks to engage in 'digital asset service provider activities' or 'activities incidental thereto,' the activity must be independently authorized under another source of applicable law.").
[27] *See* 12 U.S.C. § 1831a(a)(1) (providing that "an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank," with limited exceptions).

Finally, ICBA does not believe that the Principles should require state-level regulatory regimes to authorize state qualified payment stablecoin issuers to engage in the activities detailed in section 16 of the Act. If a state does not wish to authorize state-chartered depository institutions to engage in money transmission or custodial activities, Treasury should not require it to do so.

V. Other Provisions of the GENIUS Act (Proposed § 1521.5)

1. Transition to Federal Oversight

The challenge of transitioning financial institutions between regulatory portfolios is a well-documented weakness in U.S. banking regulation, and the collapse of Silicon Valley Bank (SVB) stands as one of its most consequential examples. SVB's rapid asset growth from $71 billion to over $211 billion between 2019 and 2021 necessitated its transition from the Federal Reserve Board's Regional Banking Organization portfolio to the Large and Foreign Banking Organization portfolio in February 2021.[28] Yet, this transition was deeply mismanaged, resulting in what regulators described as a "cliff effect" with the transition lacking a defined plan and process.

To that end, ICBA agrees with Treasury that its Principles should require state-level regulatory regimes to include provisions governing the transition of state qualified payment stablecoin issuers to the federal regulatory framework, and states' rules should require provisions for joint supervision with the OCC during the transition period. The Stablecoin Certification Review Committee should ensure not just that each state's rules are "substantially similar" to the OCC's as it applies to transitional supervision, but that state and federal rules work together to ensure effective oversight.

2. Applications and Licensing

When the Stablecoin Certification Review Committee endeavors to determine substantial similarity between the federal regulatory framework and any state frameworks, it should consider the state regulator's capacity to appropriately consider applications. With the substantial similarity test, Congress endeavored to ensure that state regulatory frameworks could not be used as an arbitrage around the federal regulatory regime, meaning that state regulators' capacity to evaluate payment stablecoin issuers' applications (and, in the next section, to supervise and regulate issuers) necessarily must be considered.

To undertake such an evaluation, the Committee can solicit information at the time it is deciding substantial similarity—from the regulator being considered and from the public—to determine a state's capacity to effectively evaluate applications. Treasury

[28] *See* BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, REVIEW OF THE FEDERAL RESERVE'S SUPERVISION AND REGULATION OF SILICON VALLEY BANK 8 (Apr. 2023), https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf ("The supervision of SVBFG was complicated by the transition of SVBFG, due to its rapid growth in assets, from the RBO portfolio to the LFBO portfolio within the Federal Reserve supervisory structure in February 2021.").

need not establish certain metrics or articulate discrete methods of evaluating state capacity in its Principles.

ICBA also agrees with Treasury that the Principles should require state-level regulatory regimes to establish frameworks for accepting applications from potential state qualified payment stablecoin issuers that enables state regulators to consider, at minimum, the same factors the OCC considered when it accepts applications from potential federal issuers.[29] To that end, state frameworks should require collection of at least all the information required by the OCC, but states should be permitted to require collection of additional information as well.

3. Supervision and Enforcement

All regulatory regimes require enforcement capabilities. Without the ability to enforce regulations or effectively supervise the activities of state qualified payment stablecoin issuers, a state's regulations are simply words on paper. To that end, ICBA agrees that the Principles must require state-level regulatory regimes to provide each state's payment stablecoin regulator with the same sorts of appropriate authorities as federal law grants the OCC to license, supervise, examine, obtain reports, impose conditions, and initiate and ensure compliance with enforcement actions.

Similarly, and as with the applications and licensing subsection above, ICBA believes Treasury should take into consideration regulatory capacity when considering whether a state's regulatory regime is "substantially similar" to the federal framework. Although Treasury need not articulate in its Principles exactly how the Stablecoin Certification Review Committee should evaluate state capacity, the Committee will easily be able to do so. It could evaluate, for example, the percentage of employees that are knowledgeable about the risks of stablecoin issuances and operations or whether state regulators have continuing education requirements. The Committee should also look to the past practices of states' regulators, including their practices with regulating depository institutions or (in the case of stablecoin regulatory regime recertifications) past practices with enforcing payment stablecoin frameworks. As above, the Committee can solicit information at the time it is deciding substantial similarity from the regulator and from the public.

4. Custody

ICBA agrees with Treasury that state-level regulatory regimes must regulate the custody of payment stablecoin reserves.[30] However, the Principles should permit each state to require protections for reserve assets that are more stringent than those provided by the federal regulatory framework. For example, states should be permitted to entirely prohibit comingling of consumer and issuer assets, notwithstanding the exceptions contained in section 10(c)(2) of the Act.

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[29] *See* 12 U.S.C. § 5904(c).
[30] *See generally id.* § 5909.

VI. Additional State Requirements (Proposed § 1521.6)

1. Federalism concerns abound in Treasury's Proposal.

As noted previously, the GENIUS Act raises significant questions regarding the interplay between the state and federal governments. Scholars have raised questions about the extent to which the GENIUS Act violates the U.S. Constitution's anticommandeering principle, noting that the statute's "architecture makes genuine regulatory autonomy largely illusory."[31] Courts have previously upheld statutes requiring cooperative federalism in which "States design their own implementation plans subject to objective federal floors," whereas the GENIUS Act is structured such that "the federal ceiling and floor collapse into one."[32]

To that end, although ICBA agrees with Treasury that the Principles should not prohibit states from imposing on state qualified stablecoin issuers restrictions or requirements beyond those included in GENIUS Act, the proposed language providing that "such restrictions or requirements [must] not conflict with any provision of the GENIUS Act, this part, or other applicable Federal law" does not allow for the flexibility the Tenth Amendment to the Constitution provides to the states.[33] States should be permitted to design regulatory frameworks that are more protective of the owners of payment stablecoins and financial stability than the federal regulatory framework. That is, the GENIUS Act and federal regulators' rules should be an outer bound for permissible regulatory frameworks, with states being able to constrain activities or regulations further.

2. Treasury should issue guidance on preemption, but not in these Principles.

Relatedly, Treasury asks whether it should provide guidance on preemption of state law by the GENIUS Act and federal regulation. ICBA supports the promulgation of such guidance, but it need not be contained in these Principles—especially insofar as the issue is still developing.

VII. Conclusion

ICBA appreciates the opportunity to provide detailed feedback to Treasury. If you have any questions about the comments provided in this letter, please reach out to Brian

[31] Richard Fair, *The Future of Monetary Federalism: Rethinking Supremacy in the Stablecoin Era*, AM. U. BUS. L. REV. at 47, (forthcoming 2026).
[32] *Id.* at 48.
[33] Proposed 12 C.F.R. § 1521.6(a)(1).

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