



October 19, 2026

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

Re: Response to Notice of Proposed Rulemaking on GENIUS Act Regulations on
Payment Stablecoins

Dear Department of the Treasury,

On behalf of the American Fintech Council (AFC),¹ I submit this comment letter in response to the Department of the Treasury's notice of proposed rulemaking implementing Section 3 of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act) (Proposed Rulemaking).² AFC appreciates Treasury's efforts to translate the Act's issuance and distribution requirements into a coherent framework that protects U.S. market participants while preserving lawful payment innovation.

AFC is a standards-based organization and the largest and most diverse trade association representing financial technology companies and innovative banks. On behalf of more than 150 member companies and partners, AFC promotes a transparent, inclusive, and customer-centric financial system by supporting responsible innovation in financial services and encouraging sound public policy. Our membership includes banks, payments companies, digital asset firms, custody and infrastructure providers, and compliance technology companies whose activities implicate different aspects of payment stablecoin issuance and distribution.

The impact of this rule will broadly determine not only where issuance may occur, but also whether exchanges, custodians, liquidity providers, and other intermediaries can distinguish permissible activity from conduct that creates legal exposure. As such, the finalized workable framework should attach legal consequences to substantive control and the actual location and purpose of a transaction, rather than to technical processes or attenuated participation in a payment chain. AFC offers the following policy recommendations to enable the creation of framework that includes administrable boundaries, preserves meaningful compliance obligations, and avoids unnecessarily restricting legitimate cross-border activity.

I. AFC Supports Objective Issuance and Territorial Standards that Provides Certainty Without Restricting Legitimate Cross-Border Activity

¹ American Fintech Council's (AFC) membership spans banks, non-bank lenders, payments providers, EWA providers, loan servicers, credit bureaus, and personal financial management companies.

² U.S. Department of the Treasury, "GENIUS Act Regulations on Payment Stablecoin Issuance, Offer, and Sale," *Federal Register* 91, no. 158 (August 18, 2026): 53368–53391.

As a key policy objective, Treasury should retain a transaction-specific approach to determining whether a payment stablecoin has been issued in the United States. The relevant inquiry should be whether the issuer is located in the United States or knowingly directs the initial transfer of an issued payment stablecoin to a person located here. For an offshore issuer, subsequent independent transfers between third parties should not retroactively transform an otherwise lawful offshore issuance into domestic issuance. Given this, Treasury should consider clarifying that reasonable, documented location controls are sufficient to establish a reliable basis for determining the location of the initial recipient, without requiring an issuer to guarantee the token's eventual destination across an open network.

Equally important, the definition of issuance should turn on the creation or transfer of an enforceable payment stablecoin claim to a person acting for his or her own account. Minting into an issuer-controlled treasury wallet, moving tokens between wallets under common beneficial control, or placing tokens with an agent that holds them exclusively for the issuer should not, standing alone, constitute issuance. Conversely, an issuer should not be able to avoid the rule merely by retaining technical control after it has conferred an enforceable redemption claim on an independent purchaser. Treasury should articulate these distinctions in the operative text of proposed Section 1523.1, rather than leaving market participants to vaguely infer them.

AFC further encourages Treasury to provide greater clarity regarding the treatment of common payment stablecoin transactions, including the conversion of fiat currency into payment stablecoins, the redemption of payment stablecoins for fiat currency, and transfers between digital wallets. In particular, the final rule should distinguish transactions that create or transfer enforceable redemption rights to independent third parties from movements that merely change the location or custody of an existing payment stablecoin without altering its beneficial ownership. For example, transfers between wallets controlled by the same individual or entity should not independently constitute new issuances or distributions solely because the underlying blockchain records a transfer between distinct wallet addresses. Similarly, Treasury should clarify when on-ramping and off-ramping activities constitute issuance, redemption, or secondary-market transactions, particularly where exchanges or other intermediaries facilitate these activities without assuming the underlying redemption obligation. These distinctions would provide greater certainty to financial institutions and fintech companies while reducing the potential for duplicative regulatory treatment of economically equivalent transactions.

At the same time, AFC recognizes the importance of ensuring that these distinctions do not create opportunities for regulatory arbitrage or abusive transaction activity. Treasury should consider providing illustrative guidance addressing arrangements in which repeated transfers, circular transactions, or coordinated movements between commonly controlled wallets are structured to artificially generate transaction volume, obtain duplicative incentives, or circumvent applicable regulatory obligations. Such guidance should focus on the economic substance and purpose of the activity rather than the number of recorded blockchain transactions, preserving appropriate flexibility for legitimate internal transfers while discouraging arrangements designed primarily to exploit differences in regulatory treatment.

This functional standard is particularly important for blockchain migrations and settlement architecture. A one-for-one migration that extinguishes or immobilizes the original token, preserves the same obligor and redemption rights, and creates no additional outstanding claim should ordinarily be treated as a continuation of the existing obligation. A wrapped or bridged instrument that creates an independent redemption obligation, introduces a different obligor, or expands the aggregate claims against reserve assets would warrant a separate issuance analysis. The decisive factors should be legal recourse, responsibility for the underlying redemption obligation, control of reserves, and whether a new claim has been created or an existing claim has been extinguished, rather than whether a particular smart contract employs mint-and-burn mechanics.

Relatedly, AFC recommends that Treasury clarify the legal treatment of payment stablecoin redemption and burning activities where the extinguishment of tokens does not occur simultaneously with the settlement of the corresponding fiat currency obligation. Although a payment stablecoin may be burned or otherwise removed from circulation upon initiation of a redemption, the underlying movement of funds through traditional banking and payment systems may remain subject to processing delays, intraday liquidity constraints, or settlement failures. The final rule should clarify that the technical destruction of a token does not, standing alone, determine whether the issuer's outstanding redemption obligation has been satisfied, particularly where the corresponding funds have not yet been received by the redeeming party. AFC further encourages Treasury to coordinate with the appropriate federal and state payment stablecoin regulators regarding the treatment of unsettled redemption obligations, the availability of adequate liquidity during settlement periods, and the allocation of responsibility in the event of an issuer's insolvency or receivership. Such coordination would help ensure that regulatory expectations reflect the differences between on-chain transaction finality and the settlement of underlying monetary obligations without creating unnecessary or duplicative requirements.

Relatedly, in response to Questions 23 through 25, AFC encourages Treasury to clarify that an affiliate of a permitted payment stablecoin issuer should not be deemed an additional issuer solely because it performs contracted issuance-related functions or provides a secondary guarantee of the issuer's redemption obligations. Such arrangements may include contracted minting, redemption processing, settlement services, committed liquidity support, and secondary redemption guarantees, subject to applicable banking laws and prudential requirements.

This clarification is particularly important to facilitate the use of payment stablecoins in institutional clearing and settlement arrangements, including arrangements involving qualifying liquidity resources under CFTC Regulation 39.33(c)(3), where enforceable, prearranged funding arrangements may be necessary to ensure timely access to liquidity. Treasury should distinguish these arrangements from unaffiliated white-label structures, independent commercial guarantees, or arrangements designed to obscure the identity of the actual issuer or circumvent applicable regulatory requirements. A secondary guarantee supporting the issuer's redemption obligations should not, standing alone, constitute a separate issuance or cause the affiliated institution to be treated as an additional issuer.

Separate from these affiliated arrangements, AFC also encourages Treasury to clarify how the proposed definition of an issuer applies to white-label payment stablecoin arrangements in which

one entity provides the underlying issuance infrastructure while another markets or distributes the stablecoin under its own branding. The final rule should recognize that the use of a third party's branding, standing alone, should not automatically cause that party to be treated as the issuer where another identifiable entity retains the legal redemption obligation and responsibility for maintaining the stablecoin's value. Instead, issuer status should generally be determined by the allocation of substantive legal obligations, including responsibility for redemption, reserve management, and representations concerning the stablecoin's value. Where contractual arrangements divide these responsibilities among multiple entities, Treasury should clarify the circumstances under which a branding or distribution partner may assume issuer obligations or otherwise be considered a "knowing participant" in an unlawful issuance. Greater clarity would allow financial institutions and fintech companies to structure white-label arrangements with clearly defined responsibilities while preserving appropriate accountability for consumer protection and regulatory compliance.

These distinctions regarding issuer responsibility, including the treatment of affiliated service arrangements and white-label structures, should also inform Treasury's approach to third parties participating in payment stablecoin activities. In particular, Treasury should distinguish commercial participation in an unlawful issuance from the neutral provision of infrastructure. Proposed Section 1523.2(d) identifies market making, distribution, and coordination as potential participation, but those activities can also occur in a lawful secondary market or as routine technical services. The final rule should specify that criminal liability under Section 3(f) requires the statutory element of knowing participation and a demonstrable connection to the unlawful issuance. A third party that provides ordinary custody, software, settlement, or liquidity services without directing the unlawful initial distribution should not be deemed a "knowing participant" solely because its services are used in a broader transaction.

II. AFC Supports Clear Intermediary Obligations and Offshore Transaction Safeguards that Preserve Lawful Market Access

Digital asset service providers would benefit greatly from being provided an objective means of identifying the products they may make available to U.S. customers. Treasury should establish a publicly accessible, regularly updated mechanism identifying permitted payment stablecoin issuers (PPSIs) and foreign issuers that satisfy applicable statutory conditions, with clear effective dates for changes in status. A provider that reasonably relies on current official information, undertakes proportionate product diligence, and acts promptly upon notice of a material change should not face retrospective liability for an issuer-status determination it could not independently verify.

Consequently, the final rule should distinguish affirmative U.S.-directed distribution from genuinely offshore activity. AFC recommends an offshore transaction safe harbor conditioned on reasonable verification that the customer is outside the United States, the absence of directed U.S. selling efforts, documented controls against circumvention, and prompt remediation when those controls identify an improper transaction. Treasury may draw on the territorial principles of Regulation S without importing its securities-specific distribution periods or other features unsuited to payment instruments. The mere accessibility of a foreign entity's website from the United States, absent affirmative solicitation directed toward U.S. persons or completed

transactions with persons located in the United States, should not be sufficient to disqualify the entity from the safe harbor. This approach would preserve Treasury's ability to address deliberate evasion while providing a practical compliance path for providers operating across jurisdictions. Treasury should also clarify that location is assessed at the time of the relevant offer or sale, subject to reasonable red flags, rather than through an open-ended obligation to monitor every subsequent transfer. An unsolicited inquiry should not automatically constitute prohibited solicitation, although a provider that proceeds to offer or sell to a person known to be located in the United States remains subject to the applicable restrictions.

Implementation should reflect the Act's distinct statutory commencement dates. Providers should have clear guidance distinguishing the foreign-issuer requirements that apply upon the Act's effective date from the broader restriction under Section 3(b)(1), which becomes applicable on July 18, 2028. Treasury should avoid applying the later restriction prematurely through interpretations of offer, sale, or participation. Published examples addressing customer travel, intermediated transactions, and a change in issuer status would help providers modify controls without interrupting otherwise lawful payments.

III. AFC Supports Risk-Based Foreign Issuer Verification that Facilitates Compliance With Lawful Orders and Reciprocal Arrangements

The final foreign-issuer framework should place primary responsibility for technical capability and compliance with lawful orders on the issuer that controls the relevant token architecture. A digital asset service provider can assess a foreign issuer's representations and available evidence, but ordinarily cannot independently test every feature of a third party's smart contracts, governance arrangements, or ability to respond to an order in every jurisdiction. Treasury should therefore establish a rebuttable reliance mechanism based on a written issuer attestation, identification of responsible compliance contacts, a description of relevant control capabilities, and risk-based review of credible contrary information.

Due diligence should be calibrated to the provider's relationship with the issuer and the information reasonably available to it. Direct listing arrangements may justify contractual undertakings, periodic certifications, and documented escalation procedures. A provider with no contractual relationship should be permitted to rely on official registration or certification information and other credible public disclosures unless material red flags warrant additional inquiry. The final rule should specify that a provider loses the benefit of reliance when it knows of a material false statement or disregards credible evidence of noncompliance, rather than treating every hypothetical technical vulnerability as constructive knowledge.

Treasury should also distinguish the ability to comply with a lawful order from a requirement to exercise unrestricted unilateral control over every token or transaction. Depending on the architecture and the terms of an order, compliant mechanisms may include freezing specified assets, blocking transfers, or coordinating with qualified custodians and other entities. Any requirement to implement a particular technological method should be grounded in the statutory obligation and demonstrated operational necessity. Where reciprocal arrangements govern foreign issuers, Treasury should publish accessible summaries of the applicable arrangements and clarify which compliance representations providers may reasonably rely upon.

AFC further encourages Treasury to coordinate with the Financial Accounting Standards Board (FASB) and the appropriate federal payment stablecoin regulators to promote consistency between the GENIUS Act’s regulatory framework and evolving accounting standards applicable to payment stablecoins. In August 2026, FASB issued a proposed Accounting Standards Update intended to clarify whether certain digital assets may qualify as cash equivalents under existing accounting standards.³ Although accounting treatment under Section 3(g) of the GENIUS Act falls outside the scope of the present rulemaking, greater clarity regarding the relationship between applicable accounting standards and regulatory definitions would help financial institutions and fintech companies assess the treatment of payment stablecoins across their operations. In particular, AFC encourages Treasury to clarify, through appropriate interagency coordination, that accounting classifications do not independently determine whether an entity constitutes a payment stablecoin issuer, whether a token has been issued or redeemed, or whether applicable statutory obligations have been satisfied. Such coordination would reduce the risk of inconsistent interpretations while preserving the distinct purposes of accounting and regulatory requirements.

Taken together, these recommendations would preserve clear accountability while allowing compliance systems to be evaluated according to their effectiveness rather than prescribed organizational or technological form. Treasury should continue coordinating interpretive guidance with the OCC, FinCEN, OFAC, and relevant state regulators to avoid materially inconsistent descriptions of an issuer’s regulatory status or compliance obligations. Where appropriate, such coordination should also account for developments in accounting standards to promote greater consistency without extending regulatory requirements beyond their statutory scope.

IV. AFC Supports Preserving Statutory Exemptions and Tailored Safe Harbors that Protect Self-Custody and Operational Continuity

The final rule should give full effect to the Act’s express protections for direct transfers between individuals acting on their own behalf, qualifying transfers between an individual’s U.S. and foreign accounts offered by the same parent company, and transactions using self-custody software or hardware wallets. These protections should not be narrowed by treating the mere development or distribution of noncustodial software as the compensated provision of custody or transfer services. Where a person does not take possession of customer assets, exercise discretionary control over a transaction, or otherwise perform a covered service, the rule should not presume intermediary status based solely on the software’s technical capabilities.

Treasury should supplement these statutory protections with targeted interpretive safe harbors for bona fide internal treasury movements, custody transfers that do not change beneficial ownership, issuer-directed recovery of stolen assets, and technical migrations that do not create additional payment claims. These examples should be conditioned on documented transaction purpose and appropriate controls against circumvention. A carefully bounded safe harbor would

³ Financial Accounting Standards Board, “Classification of Certain Digital Assets as Cash Equivalents,” accessed October 18, 2026, <https://fasb.org/projects/current-projects/classification-of-certain-digital-assets-as-cash-equivalents-423255>.

allow firms to correct operational failures and maintain resilient infrastructure without treating every remedial on-chain movement as a new distribution event.

AFC emphasizes that the effectiveness of these safe harbors will depend upon clear eligibility criteria and sufficiently detailed implementation guidance. Without objective standards, financial institutions and fintech companies may face uncertainty regarding their responsibilities when processing transactions involving multiple wallet addresses, third-party service providers, delayed settlement, or changes in beneficial ownership. Treasury should therefore provide illustrative examples distinguishing ordinary operational activity from arrangements that present heightened risks of circumvention, duplicative claims, or transaction manipulation. Such guidance should recognize reasonable, risk-based controls, including documented transaction purposes, appropriate verification of beneficial ownership where relevant, and procedures for identifying material inconsistencies between recorded token movements and underlying settlement obligations. A framework incorporating these distinctions would strengthen compliance expectations while avoiding the imposition of disproportionate monitoring or verification requirements on entities that do not control the relevant transaction or issuance activity.

Given the operational complexities associated with payment stablecoin issuance, redemption, and distribution, AFC further encourages Treasury to establish a transparent process for issuing additional interpretations as payment architectures evolve. Publicly available examples, prospective treatment of material interpretive changes where legally permissible, and coordination with primary federal and state payment stablecoin regulators would reduce inconsistent application. Such guidance should preserve statutory prohibitions while ensuring that legitimate activity is not discouraged by uncertainty over routine operational arrangements.

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AFC appreciates Treasury's engagement in implementing the GENIUS Act and its consideration of these recommendations. Clear jurisdictional boundaries, functional treatment of issuance and intermediation, practicable foreign-issuer verification, and faithful implementation of statutory exemptions would provide a more predictable foundation for responsible payment stablecoin activity. Equally important, greater clarity regarding transaction classifications, issuer responsibilities, settlement obligations, and operational safeguards would help ensure that financial institutions and fintech companies can participate in the payment stablecoin ecosystem without confronting unnecessary legal uncertainty or disproportionate compliance risks. AFC encourages Treasury to adopt a framework that provides sufficiently clear and administrable standards while preserving the flexibility necessary to accommodate evolving payment technologies and responsible innovation.

AFC welcomes continued dialogue and would be pleased to provide additional information as Treasury develops the final rule.

Sincerely,



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Chief Policy Officer
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