MSBA
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October 19, 2026

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

Re: Notice of Proposed Rulemaking, Implementation of Section 3 of the GENIUS Act Regulations on Payment Stablecoin Issuance, Offer, and Sale (RIN 1505-AC95)

Department of Treasury:

The Money Services Business Association ("MSBA") appreciates the opportunity to comment on the U.S. Department of the Treasury's ("Treasury") Notice of Proposed Rulemaking ("NPRM) implementing Section 3 of the Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS Act"). MSBA represents licensed money transmitters, payment companies, remittance providers, digital asset payment firms, wallet providers, program managers, and other nonbank financial institutions that facilitate domestic and cross-border payments throughout the United States.

MSBA supports the GENIUS Act's objective of establishing a clear federal framework for payment stablecoins and their authorized issuers while preserving innovation, competition, consumer protection, and the continued development of efficient payment technologies. As Treasury finalizes these regulations, it is important that the implementing framework preserves the distinction between stablecoin issuers and the broad range of regulated financial institutions that facilitate payments, custody, settlement, remittances, foreign exchange transactions, and related services involving lawfully issued stablecoins.

Treasury's final rule should preserve the distinction between stablecoin issuers and service providers that facilitate lawful stablecoin-related payment activity. MSBA respectfully notes the below comments.

I. Key Definitions of Interest to MSBA

Treasury proposes to define several terms that are relevant to the prohibition on the unlawful issuance of payment stablecoins in the United States, but which the GENIUS Act leaves undefined, such as "issuer" and to describe when a person has "issued a payment stablecoin in the United States," triggering certain GENIUS Act regulatory obligations. MSBA wishes to provide some comments on both.

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Issuer. The NPRM defines "issuer" as a person that "(i) is obligated to convert, redeem, or repurchase the payment stablecoin for a fixed amount of monetary value, and (ii) represents that the person will maintain, or creates the reasonable expectation that the person will maintain, a stable value relative to the value of a fixed amount of monetary value." Proposed § 1523.1(c) ("Issuer").

Although the first prong of this definition substantially mirrors the GENIUS Act's definition of "payment stablecoin," it creates some facial ambiguity whether persons who perform technical functions or provide branding in white-label arrangements are "issuers",.Treasury clarifies deep in the preamble (but not in the text of the proposed rule of "issuer") they are not. For the avoidance of doubt, MSBA suggests that Treasury adopt the same approach it took in 2011 when it adopted 31 C.F.R. Part 1010's definitions for a variety of "financial institutions", and in particular, the definition of "money transmitter" at 31 C.F.R. § 1010.100(ff)(i)(5). There, Treasury laid out six specific categories of activities that do not result in a person being engaged in "money transmission." The most relevant one that could be adopted for Proposed Section 1523.1(c) purposes is the network exception, where Treasury states that "[t]he term 'money transmitter' shall not include a person that only "[p]rovides the delivery, communication, or network access services used by a money transmitter to support money transmission services." Similarly, Treasury can state, in the text of the proposed Section 1523.1(c) definition, that a person that provides the delivery, communication or network access services used by an "issuer" to support the issuance of a payment stablecoin does not cause such person to be deemed an "issuer."

Issuance in the United States. The NPRM proposes that a person is to have issued a payment stablecoin in the United States if, at the time of issuance, the "person is located in the United States" or, more broadly, the "person issues the payment stablecoin ***to a person located in the United States***." Proposed § 1523.2(b) (emphasis added). "In the United States" is defined to include, "[w]ith respect to a partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, the entity … "[i]s organized or incorporated under the laws of the United States or a State …." With respect to trusts in the United States, the vast majority of the are not "organized" or "incorporated" under any federal or state law. Rather, they are recognized by common law. Treasury should clarify the status of common law trusts.

The NPRM excepts a person from the "in the United States" standard if: (1) the person is not located in the United States; (2) the person reasonably believes that each person to whom the payment stablecoin is issued is not located in the United States; (3) the person has adopted and implemented policies, procedures and controls reasonably designed to avoid issuing the payment stablecoin to any person located in the United States; and (4) the person does not engage in advertising or solicitation activities that target, or could be reasonably expected to have the effect of targeting, any person located in the United States. Proposed § 1523.2(c)(1)-(4). MSBA suggests that Treasury consider refining Section

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1523.2(c)(4) to allow for circumstances where a person is solicited by a user/purchaser for the issuance of a payment stablecoin – i.e., reverse solicitation. This circumstance can arise where a non-US person temporarily in the United States initiates communication to a payment stablecoin issuer through interstate communications. This type of activity should not cause the stablecoin issuer to be subject to the GENIUS Act rules.

II. Treasury Should Clarify the Treatment of Non-Issuer Payment Intermediaries

A significant concern for money transmitters and payment service providers arises from Treasury's proposed interpretation of issuance and participation in issuance under proposed §§ 1523.1 and 1523.2. Treasury proposes a framework under which entities that facilitate key steps in issuance or distribution may, in certain circumstances, be viewed as participating in an unlawful issuance.

MSBA recognizes that many money transmitters, wallet providers, exchanges, and payment processors may qualify as digital asset service providers ("DASPs") under Treasury's proposed definition. The concern is not whether these firms are subject to the GENIUS Act framework, but whether ordinary payment, settlement, conversion, transmission, and compliance activities could inadvertently be characterized as issuing, offering, selling, or participating in the issuance of a payment stablecoin. Treasury should clarify that lawful post-issuance payment activity does not constitute issuance activity and should not trigger liability under Section 3.

Across the payments industry, a diverse range of established business models rely on the ability to receive, hold, transmit, exchange, or otherwise facilitate transactions involving payment stablecoins without participating in their issuance. For example, licensed money transmitters may facilitate domestic and international remittances in which customers fund transactions using stablecoins or recipients receive funds converted into local currency. Payment processors and merchant service providers may accept stablecoins on behalf of commercial customers, facilitate conversion into fiat currency, and settle proceeds into designated accounts. Foreign exchange and liquidity providers may convert between fiat currencies and existing stablecoins, or between different stablecoins, to support customer payments and treasury operations. Digital wallet providers and custodians may safeguard, transfer, or administer stablecoins on behalf of customers, while technology and compliance service providers support transaction processing, blockchain analytics, sanctions screening, fraud detection, and other regulatory obligations.

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These activities involve the movement, administration, exchange, or use of payment stablecoins already in circulation. They are fundamentally distinct from creating or issuing new stablecoins, establishing redemption obligations as an issuer, or coordinating activities integral to an unlawful issuance. The mere involvement of a payment intermediary in a transaction involving stablecoins should not create a presumption of participation in issuance, particularly where the intermediary exercises no authority over the creation of the stablecoin and does not act on behalf of an issuer to facilitate an unlawful issuance.

Treasury has appropriately recognized that technical service providers and other entities that do not perform statutory issuer functions should not automatically be deemed issuers. MSBA recommends that Treasury reinforce this distinction in the final rule by expressly clarifying that bona fide post-issuance activities involving payment stablecoins already in circulation do not, standing alone, constitute issuance or participation in issuance under proposed § 1523.2. Such clarification should apply regardless of whether the intermediary provides payment, transmission, settlement, conversion, custody, liquidity, or compliance services, provided the intermediary does not knowingly facilitate an unlawful issuance.

This approach would establish a clear and administrable distinction between issuer-related conduct and ordinary downstream payment activity, preserving Treasury's ability to enforce the GENIUS Act's prohibitions while avoiding unintended consequences for regulated financial intermediaries and legitimate commercial transactions.

III. Treasury Should Clarify Participation Liability Under Proposed §1523.2(d)

MSBA is concerned that the proposed examples of "participation" in an unlawful issuance may create uncertainty for service providers that routinely support digital asset transactions. Treasury appropriately seeks to prevent evasion schemes and coordinated unlawful issuances. However, the final rule should not sweep in ordinary commercial service providers that have no role in creating, authorizing, or directing an issuance.

Payment processors, money transmitters, remittance providers, wallet operators, market infrastructure providers, and compliance vendors frequently provide services to participants in digital asset ecosystems. These firms should not be considered participants in unlawful issuance merely because they provide routine services after issuance has occurred or because they facilitate secondary market activity that lacks a direct nexus to the issuance transaction itself.

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Treasury should clarify that participation liability attaches only where a ***person knowingly assists*** the issuer in the issuance transaction or knowingly facilitates conduct that constitutes an issuance under Section 3(a). Such clarification is particularly important with respect to proposed §§1523.2(d)(2) and (3), which address facilitating issuance-related activities and making newly issued stablecoins available for trading.

This approach would preserve Treasury's anti-evasion objectives while preventing unnecessary compliance uncertainty for regulated payment providers.

IV. Treasury Should Adopt a Safe Harbor for Bounded Safety Functions

MSBA strongly supports Treasury clarifying that the presence of a bounded safety function does not itself create custodial status, issuer status, or participation liability.

Network security, sanctions compliance, anti-fraud obligations, and law-enforcement cooperation often require payment firms and technology providers to implement controls such as:

- emergency pause functions;
- transaction suspension mechanisms;
- circuit breakers;
- sanctions blocking capabilities; and
- law-enforcement hold mechanisms.

Treasury's discussion of smart contract transfers, control over minting and burning, lawful-order compliance, and wallet exemptions creates uncertainty regarding whether non-custodial safety controls could inadvertently transform a service provider into a custodian, issuer, or participant in an unlawful issuance.

MSBA urges Treasury to confirm that a bounded safety function that is limited to suspending or resuming execution and cannot independently initiate, sign, or effect a transfer of customer assets does not alter the legal characterization of the operator.

The relevant distinction is not where assets may move, but who has the authority to cause them to move. A function that merely pauses execution without independently moving assets should not create custodial or issuer status.

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V. Treasury Should Adopt a Practical Due-Diligence Standard for Digital Asset Service Providers

Treasury requests comment regarding the due-diligence obligations imposed on digital asset service providers that rely upon representations from foreign payment stablecoin issuers concerning compliance with lawful orders and reciprocal arrangements.

MSBA strongly supports Treasury's proposed risk-based and reasonableness-oriented framework.

Digital asset service providers should be permitted to rely upon issuer representations where reasonable due diligence has been performed. Treasury should not require every DASP to conduct independent audits of stablecoin code, verify the efficacy of freeze, burn, or seize functionality, or perform technical examinations more appropriately conducted by issuers, regulators, or specialized auditors.

Requiring every participant in the payment ecosystem to independently validate technical compliance mechanisms would create substantial cost and operational burdens, particularly for regulated money transmitters and payment companies that neither issue stablecoins nor control stablecoin protocols.

Treasury correctly recognizes that some aspects of issuer compliance cannot be independently verified with certainty by downstream market participants. For this reason, Treasury should retain the proposed reasonableness standard and confirm that risk-based diligence is satisfied.

VI. Treasury Should Preserve Reasonableness Standards for Geographic Compliance

MSBA supports Treasury's proposed framework under which issuers and digital asset service providers may rely upon reasonable beliefs regarding customer location when supported by appropriate policies, procedures, and controls.

Perfect certainty regarding geographic location is not always possible in a digital payments environment. Customers travel, utilize multiple devices, operate through legal entities, and engage in cross-border transactions through intermediaries.

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A strict-liability approach would impose substantial operational burdens without producing meaningful compliance benefits. Treasury's proposed reasonableness framework appropriately balances compliance obligations with technological realities and should be retained in the final rule.

VII. Treasury Should Protect Bona Fide Cross-Border Payment Activity

Cross-border payments, international remittances, foreign exchange, and settlement services are essential components of the global financial system, facilitating the movement of substantial volumes of funds among individuals, businesses, and financial institutions across jurisdictions. These activities support international commerce, global supply chains, household remittances, corporate treasury operations, and access to financial services. Payment stablecoins are increasingly being incorporated into this infrastructure as tools for facilitating cross-border value transfers, managing liquidity, reducing settlement friction, and enabling more efficient movement of funds across currencies and jurisdictions.

The economic significance and international nature of these activities underscore the importance of regulatory clarity. An overly broad interpretation of the GENIUS Act's restrictions on the offer and sale of foreign-issued payment stablecoins could inadvertently disrupt legitimate commercial payment flows, even where the stablecoin is used solely as an intermediary instrument rather than marketed or distributed to U.S. customers as a financial product. The final rule should preserve the ability of regulated financial institutions and payment service providers to utilize foreign-issued, including foreign-currency-denominated, payment stablecoins in bona fide cross-border commercial and settlement transactions, consistent with applicable statutory requirements.

Treasury should distinguish between:

1. The distribution, marketing, or sale of foreign-issued payment stablecoins into the U.S. market; and
2. The incidental or operational use of those stablecoins by regulated institutions as instruments for payment, settlement, liquidity management, and foreign exchange in connection with legitimate cross-border transactions.

The latter category encompasses a broad range of economically important activities, including international remittances, correspondent settlement, trade finance, corporate treasury management, and cross-border business payments. For example, a payment intermediary may temporarily receive or hold a foreign-issued stablecoin to facilitate an international transfer, convert it into another currency, or

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use it to settle an obligation between counterparties in different jurisdictions. Such transactions should be evaluated based on their underlying commercial purpose and the intermediary's role, rather than the mere presence or movement of a foreign-issued stablecoin.

Treasury should therefore establish a narrowly tailored safe harbor for bona fide cross-border payment activity, subject to reasonable regulatory safeguards and consistent with the GENIUS Act's statutory limitations.

Treasury repeatedly asks whether concepts similar to Regulation S may provide an appropriate framework for distinguishing offshore activity from U.S.-directed distribution activity. MSBA supports Treasury's consideration of a tailored Regulation S-style approach that focuses on the commercial purpose of the transaction, the location of counterparties, the absence of U.S.-directed distribution efforts, and the existence of appropriate compliance controls. Treasury should not import securities-law concepts wholesale into the payment-stablecoin context but should incorporate those concepts where they provide practical guidance.

MSBA further supports clarification that the temporary receipt, holding, transfer, conversion, redemption, or settlement use of a foreign-issued payment stablecoin in connection with a bona fide cross-border transaction does not, standing alone, constitute a prohibited offer or sale within the United States. Such clarification would help preserve the efficiency and competitiveness of cross-border payment services while maintaining appropriate safeguards against unlawful distribution, sanctions evasion, money laundering, and other illicit financial activity.

VIII. Treasury Should Provide a State Certification Safe Harbor

MSBA strongly supports a transitional safe harbor for State Qualified Payment Stablecoin Issuers during the period in which a state's certification or recertification remains pending before the Stablecoin Certification Review Committee.

Section 4(c) establishes a certification process between State payment stablecoin regulators and the Stablecoin Certification Review Committee. Because this certification process evaluates the adequacy of a State regulatory framework rather than the conduct of an individual issuer, a State-qualified issuer should not become unlawful solely because an intergovernmental certification process remains pending or requires remediation. The issuer remains subject to active supervision by the State payment stablecoin regulator throughout this period.

The safe harbor should apply where:

- the issuer remains lawfully licensed and supervised;
- the State has timely submitted a certification or recertification;
- the certification remains pending;
- the State is operating within a statutory cure period following a denial; and
- the issuer otherwise remains compliant with applicable requirements.

Treasury should also provide for an orderly transition and wind-down framework in the event certification is ultimately denied, including the continued ability to redeem outstanding stablecoins and manage reserve assets for the benefit of holders. Immediate designation of such stablecoins as unlawful would create unnecessary disruption for consumers, regulated entities, and payment markets.

No de minimis volume limit. Treasury should not condition the safe harbor on a de minimis volume of transactions. The underlying issue is the timing of the State certification process, not the scale of the issuer's activities. A volume cap would not address that issue and could cause market disruption and discourage compliant State regimes

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Conclusion

Treasury repeatedly emphasizes that the GENIUS Act is intended to promote innovation, encourage the use of payment stablecoins as payment and settlement instruments, support responsible cross-border activity, and establish clear regulatory rules of the road. MSBA's recommendations advance those objectives while preserving necessary safeguards against unlawful issuance and distribution.

Specifically, Treasury should:

- preserve the distinction between issuers and payment intermediaries;
- clarify the scope of participation liability;
- adopt a bounded safety-function safe harbor;
- retain practical, risk-based due-diligence standards;
- maintain reasonable geographic-compliance standards;
- facilitate bona fide cross-border payment activity; and
- provide a transitional safe harbor for State-qualified issuers during regulatory certification processes.

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These recommendations will provide regulatory certainty for licensed money transmitters and payment companies while supporting the GENIUS Act's broader goals of innovation, consumer protection, and payment-system modernization.

MSBA appreciates Treasury's consideration of these comments and welcomes continued engagement as Treasury finalizes the rule.

Respectfully submitted,



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