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A GENIUS Act Gameplan: Strategic Paths for Payment Stablecoin Issuers

With the [signing](#) of the “[Guiding and Establishing National Innovation for U.S. Stablecoins Act](#)” or the “GENIUS Act” into law, the United States has officially established a first-of-its-kind regulatory framework for “payment stablecoins” and the entities that issue them.

The law introduces a **clear gatekeeping model**: only entities recognized as “**permitted payment stablecoin issuers**” and qualifying foreign issuers may issue payment stablecoins in the U.S. once the law takes effect, which will be no later than January 2027.

This change brings both clarity and constraints, particularly for nonbank companies looking to enter the space.

For companies formulating or evaluating their stablecoin strategy, the GENIUS Act presents an important decision point: how to enter the market compliantly, at what scale, and under which regulatory regime.

The following table outlines the **three forward-looking payment stablecoin issuance paths** available to nonbank companies under the GENIUS Act, each allowing issuers to remain **outside the maximalist regulatory regime** that applies to commercial banks.



The provisions of the GENIUS Act apply only to “payment stablecoins,” which are digital assets that meet the following criteria:

- used or designed for use in payments or settlement;
- where the issuer is obligated to convert, redeem, or repurchase the stablecoin for a fixed amount of monetary value; and
- where the issuer represents that the stablecoin will maintain, or creates the reasonable expectation that it will maintain, a stable value relative to a fixed amount of monetary value.



PATH 1:

Take the Federal-Qualified Path as a National Trust Bank

Create a subsidiary that obtains a national trust bank charter from the Office of the Comptroller of the Currency (OCC) and, as an uninsured depository institution, applies for approval with the OCC to become a “federal qualified nonbank payment stablecoin issuer.”



PATH 2:

Take the Federal-Qualified Path for Nonbank Companies

Create a subsidiary that is a nonbank company and applies for approval with the OCC to become a “federal qualified nonbank payment stablecoin issuer.”



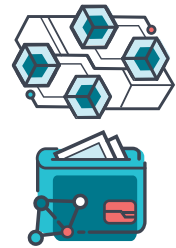
PATH 3:

Take the State-Qualified Path¹

Create a subsidiary that could be a nonbank company and applies for approval with a state regulator to become a “state qualified payment stablecoin issuer.”

	PATH 1 Federal-Qualified Path for National Trust Banks	PATH 2 Federal-Qualified Path for Nonbank Companies	PATH 3 State-Qualified Path
Regulator	OCC	OCC	State (Federal Reserve and OCC backstop enforcement authority)
Time to market	Moderate to long - chartering process is rigorous	Moderate - statutory 120-day outer boundary for OCC review	Uncertain and variable - depends on the state's approval process
Permissible activities	Limited to fiduciary and other related activities, and core GENIUS Act limitations ²	Core GENIUS Act limitations	Core GENIUS Act limitations
Preemption	Broad preemption as a national bank	Preemption of state licensure or other authorization requirements	Possible preemption of host state licensure or other authorization requirements
Compliance burden	Core GENIUS Act standards; ³ OCC prudential supervision and regulatory requirements for capital, liquidity, corporate governance, and sound risk management; parent company must provide financial support	Core GENIUS Act standards; regulatory requirements for capital, liquidity, and risk management that are yet to be issued by federal regulators	Core GENIUS Act standards; regulatory requirements for capital, liquidity, and risk management that are yet to be issued by state regulator and may vary across states
Scalability	High - no issuance cap; ideal for national/global scale	High - no issuance cap; ideal for national/global scale	Limited - capped at \$10 billion in consolidated outstanding issuance
Fed master account access	Federal Reserve has statutory authority	No Federal Reserve statutory authority	No Federal Reserve statutory authority
Bottom line	Best for companies seeking strong regulatory credibility or engaged in complex financial operations	Best for scaled fintech companies or platforms seeking to stay out of the bank regulatory perimeter while operating nationally	Best for startups or entrants seeking to test stablecoin issuance and comfortable operating within geographic and scale limitations

The GENIUS Act specifies that payment stablecoins meeting its terms are excluded from the definition of a “security” under the federal securities laws and “commodity” under the Commodity Exchange Act, effectively removing them from regulation by the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC). This does **not** apply, however, to digital assets that are not payment stablecoins such as those that **pay yield or interest** solely in connection with holding or using the stablecoin.⁴



While the GENIUS Act provides a foundational framework, many key details remain to be clarified through rulemaking and state-federal coordination. Prospective payment stablecoin issuers should plan with flexibility and monitor developments closely.



For more information on strategies for issuing payments stablecoins, please contact [Jess Cheng](#). For more information on other types of digital asset issuances, please contact [Jess Cheng](#), [Amy Caiazza](#), or any member of the firm’s Fintech and Financial Services practice.

- ¹ The state’s regulatory regime must be certified as “substantially similar” to the federal regulatory framework under the GENIUS Act by the Stablecoin Certification Review Committee, which is to be chaired by the Secretary of the Treasury and includes the Chair of the Federal Reserve Board and the Chair of the Federal Deposit Insurance Corporation as members.
- ² Under the GENIUS Act, a permitted stablecoin issuer may only: (i) issue payment stablecoins; (ii) redeem payment stablecoins; (iii) manage related services, such as purchasing, selling, holding reserve assets or providing custodial services for reserve assets; and (iv) provide custodial services for payment stablecoins, required reserves or private keys of stablecoins.
- ³ The core GENIUS Act standards include requirements for a permitted stablecoin issuer to: (i) fully back payment stablecoins with reserves consisting of specified assets that are highly liquid, such as U.S. currency, funds held as demand deposits, and Treasuries; (ii) publicly disclose redemption policies; and (iii) publish the composition of reserves on a monthly basis.
- ⁴ The federal banking agencies, SEC, and CFTC are tasked with issuing a study of non-payment stablecoins. Congress is separately considering proposed legislation that would apply to certain other types of digital assets.

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