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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 324, 330, and 350

RIN 3064-AG19

GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is soliciting comment on a proposal that would implement certain requirements pursuant to the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act) applicable to FDIC-supervised permitted payment stablecoin issuers and insured depository institutions, clarify deposit insurance coverage for deposits held as reserve assets for payment stablecoins, and clarify the treatment of tokenized deposits.

DATES: Comments must be received by the FDIC no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments, identified by RIN 3064-AG19, by any of the following methods:

- *FDIC Website*: *https://www.fdic.gov/federal-register-publications.* Follow instructions for submitting comments on the agency website.
- *Email*: *Comments@fdic.gov*. Include RIN 3064-AG19 in the subject line of the message.

- *Mail*: Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments – RIN 3064-AG19, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery to FDIC*: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection*: Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/federal-register-publications*. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the proposed rule will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

This proposal, all comments received, and a summary of not more than 100 words of the proposed rule pursuant to the Providing Accountability Through Transparency Act of 2023 are available at *https://www.fdic.gov/federal-register-publications.*

FOR FURTHER INFORMATION CONTACT: Alfred L. Seivold, Acting Senior Deputy Director, (415) 808-8248, *aseivold@fdic.gov*, Charles Kirkner, Senior CFI Specialist, (917) 320-2739, *ckirkner@fdic.gov*, Division of Complex Institution Supervision and Resolution; Sumaya Muraywid, Chief, Emerging Technology Section, (202) 898-3904, smuraywid@fdic.gov, Mark Mickelson, Senior Examination Specialist, (763) 229-6532, *mamickelson@fdic.gov*, Division of Risk Management Supervision; David Friedman, Special Advisor to the Director, (703) 508-3934, *dfriedman@fdic.gov*, Division of Depositor and Consumer Protection; Michael Overmyer, Senior Special Counsel, (917) 320-2795, *movermyer@fdic.gov*, Chantal Hernandez, Counsel, (202) 898-7388, *chhernandez@fdic.gov*, Eugene Frenkel, Fin-Tech Counsel, (202) 898-3578, *yfrenkel@fdic.gov*, James Watts, Counsel, (202) 898-6678, *jwatts@fdic.gov*, Legal Division.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The FDIC is issuing this notice of proposed rulemaking (proposed rule) to implement certain requirements under the GENIUS Act (or the Act).[1] The proposed rule would implement requirements that would apply to FDIC-supervised permitted payment stablecoins issuers (PPSIs), including requirements related to reserve assets, capital, liquidity, and risk management requirements. The proposed rule would also implement requirements that would apply to FDIC-supervised PPSIs and insured depository institutions (IDIs) that provide payment stablecoin-related custodial and safekeeping services (collectively, FDIC-supervised custodians). The proposed rule aims to establish

[1] Pub. L. 119-27, 139 Stat. 419 (codified at 12 U.S.C. 5901-5916).

a tailored, principles-based regulatory regime for FDIC-supervised PPSIs and FDIC-supervised custodians, consistent with the GENIUS Act, to support the responsible growth and use of digital assets and related technologies in the banking sector.[2] In addition, the proposed rule also aims to provide clarity to all IDIs with respect to deposit insurance coverage under the Federal Deposit Insurance Act (FDI Act) for deposits held at IDIs that serve as reserve assets of a PPSI's payment stablecoin, as well as clarify the treatment of tokenized deposits.[3]

II. Background and Authority

The GENIUS Act requires the FDIC, along with the other primary Federal payment stablecoin regulators[4] as well as the Department of Treasury, to implement regulations to carry out the Act's requirements in establishing a Federal payment stablecoin regulatory framework for supervised entities.[5] The FDIC is the primary Federal payment stablecoin regulator of subsidiaries of insured State nonmember banks and State savings associations (collectively, "FDIC-supervised IDIs") approved to issue payment stablecoins. In December 2025, the FDIC issued a notice of proposed rulemaking under section 5 of the GENIUS Act that would establish application

[2] *See* Executive Order 14178, Strengthening American Leadership in Digital Financial Technology, 90 FR 8647 (Jan. 31, 2025).

[3] The term "tokenized deposit" generally refers to a tokenized form of an IDI's deposit liability recorded in an on-chain or off-chain account enabled with distributed ledger technology. "Deposit tokens" are similar in application to tokenized deposits. Generally, a deposit token is more digitally native without a credit in a corresponding account. The terms "tokenized deposit" and "deposit token" are sometimes used interchangeably when discussing deposit tokenization. For purposes of this proposal, "tokenized deposit" is intended as a general term to also include "deposit token."

[4] The primary Federal payment stablecoin regulators are the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the National Credit Union Administration (NCUA). *See* 12 U.S.C. 5901(25).

[5] *See* 12 U.S.C. 5913. In developing this proposed rule, the FDIC, as required by section 13 of the GENIUS Act, 12 U.S.C. 5913, coordinated with fellow regulators, as appropriate. The GENIUS Act will become effective on January 18, 2027, or 120 days after the date on which the primary Federal payment stablecoin regulators issue any final regulations implementing the Act, if earlier. *See* 12 U.S.C. 5901 note.

procedures for FDIC-supervised IDIs to request approval to issue payment stablecoins through a subsidiary.[6]

This proposed rule would implement other GENIUS Act requirements, specifically requirements for FDIC-supervised PPSIs and FDIC-supervised custodians. Section 4 of the GENIUS Act establishes the general framework applicable to PPSIs, including, among other things, requirements regarding reserve assets, activities, and disclosures.[7] Section 4 of the Act also directs the FDIC, and other primary Federal payment regulators, to develop capital, liquidity, and risk management requirements and standards for supervised PPSIs.[8] Section 6 of the Act contains requirements regarding the FDIC's supervisory and enforcement authority over regulated PPSIs.[9] Moreover, section 10 of the GENIUS Act establishes requirements for FDIC-supervised custodians.[10] This proposed rule, if finalized and in conjunction with finalizing the proposed rule covering the application procedures, would establish regulatory requirements for FDIC-supervised PPSIs as mandated by the GENIUS Act, as well as provide further clarity for FDIC-supervised custodians.

With respect to proposed amendments to clarify deposit insurance coverage of deposits that serve as reserve assets and the treatment of tokenized deposits, the FDIC is authorized by the FDI Act to prescribe regulations as it may deem necessary to carry out

[6] 90 FR 59409 (Dec. 19, 2025).
[7] 12 U.S.C. 5903.
[8] 12 U.S.C. 5903(a)(4)(A).
[9] 12 U.S.C. 5905.
[10] 12 U.S.C. 5909.

the provisions of the FDI Act.[11] The FDIC has previously used this authority to issue rules providing specificity on insurance coverage.

III. Description of the Proposed Rule

To implement the statutory requirements required by the GENIUS Act, the proposed rule would amend part 350 of the FDIC Rules and Regulations. Subpart A would apply to FDIC-supervised PPSIs. Subpart B would apply to FDIC-supervised custodians.

On March 2, 2026, the OCC published in the *Federal Register* a notice of proposed rulemaking to issue implementing GENIUS Act regulations with respect to entities subject to the OCC's jurisdiction.[12] Although the OCC's proposed rule is more expansive than this proposed rule because the OCC is the primary Federal payment stablecoin regulator for subsidiaries of national banks and Federal qualified payment stablecoin issuers—including nonbank entities—approved to issue payment stablecoins, the FDIC has endeavored, in many areas, to align this proposed rule with the OCC's proposed rule, to the extent relevant. In addition to seeking comment on each of the particular provisions described below, the FDIC seeks comment on the extent to which the primary Federal payment stablecoin regulators should further align in their final rules to promote consistency of regulations applicable to all PPSIs subject to the GENIUS Act.

The proposed rule would also amend the deposit insurance coverage rules in part 330 that apply to all FDIC-insured depository institutions by clarifying that deposits held as reserves backing a payment stablecoin would be insured to the PPSI under the FDIC's

[11] 12 U.S.C. 1819(a)(Tenth); *see also* 12 U.S.C. 1820(g) (authorizing the FDIC to prescribe regulations to carry out the FDI Act); 12 U.S.C. 1821(d)(4)(B)(iv) (authorizing the FDIC to promulgate regulations as necessary to assure that the requirements of section 11 of the FDI Act, which governs the determination and payment of deposit insurance, can be implemented).
[12] 91 FR 10202 (March 2, 2026).

coverage rules for corporate deposits, but would not be insured to payment stablecoin holders on a pass-through basis. Lastly, the proposed rule would clarify the treatment of tokenized deposits under the FDI Act.

A. Subpart A— Requirements and Standards for Permitted Payment Stablecoin Issuers

1. Purpose and Scope (proposed § 350.0)

Proposed § 350.0 sets forth the purpose and scope of the regulations in subpart A. Paragraph (a) describes the purpose to implement the GENIUS Act, 12 U.S.C. 5901 *et seq*., with respect to entities for which the FDIC is authorized to issue regulations under the Act. Paragraph (b) provides that proposed part 350 subpart A would apply to all PPSIs for which the FDIC is the primary Federal payment stablecoin regulator.

2. Definitions (proposed § 350.1)

Proposed § 350.1 contains the definitions of terms used throughout subpart A, which generally follow the definitions provided under the GENIUS Act. For additional clarity, proposed § 350.1(a) would provide that definitions not otherwise defined in subpart A would have the same meaning given to them as in section 2 of the GENIUS Act (12 U.S.C. 5901).

Affiliate. With respect to individuals and entities that may be involved or associated with a PPSI, the FDIC would define "affiliate" to mean a person that controls, is controlled by, or is under common control with another person. This definition would be consistent with the definition used in section 3(w)(6) of the FDI Act (12 U.S.C.

1813(w)(6)),[13] with a modification to replace "company" with "person," as that term is defined under the GENIUS Act.

Bank Secrecy Act. Consistent with the definition provided in section 2(2) of the GENIUS Act (12 U.S.C. 5901(2)), the FDIC would define "Bank Secrecy Act" to mean (i) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b); (ii) Chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 *et seq*.); and (iii) Subchapter II of chapter 53 of title 31, United States Code and notes thereto (31 U.S.C. 5311 *et seq*.). The FDIC proposes to add "and notes thereto" as a clarification.

Customer. The FDIC would define "customer" to mean a person that purchases (through any consideration) the products or services of a PPSI directly from the PPSI. The FDIC believes this definition would be appropriate to distinguish from situations where a person has no direct relationship with a PPSI, such as a payment stablecoin holder who receives a payment stablecoin in exchange for goods or services sold, or who purchases a payment stablecoin on the secondary market, and does not establish a relationship with the PPSI. The proposed "customer" definition under part 350, subpart A only applies to part 350, subpart A.[14]

Demand deposit. The FDIC would define "demand deposit" to have the meaning given that term at 12 CFR 204.2(b). The term "demand deposit" includes those deposits in tokenized form.

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[13] This provision cites to the definition of "affiliate" under the Bank Holding Company Act, 12 U.S.C. 1841(k).

[14] The proposed "customer" definition under part 350, subpart A is not intended to affect any GENIUS Act requirements promulgated to implement the GENIUS Act's direction to treat PPSIs as financial institutions for purposes of the Bank Secrecy Act and to apply Federal law applicable to a financial institution located in the United States relating to the prevention of money laundering, including customer identification program or customer due diligence requirements applicable to PPSIs. *See* 12 U.S.C. 5093(a)(5)(A).

Deposit. The FDIC would define "deposit" to have the meaning as given that term in section 3(*l*) of the FDI Act (12 U.S.C. 1813(*l*)). Consistent with section 4(a)(1)(A)(viii) of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)(viii)), the proposed rule would clarify that the term includes deposits in tokenized form.

Digital asset. The FDIC would define "digital asset" to mirror the definition provided under section 2(6) of the GENIUS Act (12 U.S.C. 5901(6)), and the term would mean any digital representation of value that is recorded on a cryptographically secured distributed ledger.

Distributed ledger. The FDIC would define "distributed ledger" to mirror the definition provided under section 2(8) of the GENIUS Act (12 U.S.C. 5901(8)), and the term would mean technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions.

Distributed ledger protocol. The FDIC would define "distributed ledger protocol" to mirror section 2(9) of the GENIUS Act (12 U.S.C. 5901(9)), and the term would mean publicly available and accessible executable software deployed to a distributed ledger, including smart contracts or networks of smart contracts.

Eligible financial institution. The FDIC would define "eligible financial institution" to mean either: (i) a Federal Reserve Bank; or (ii) a person that is eligible to hold reserve assets in custody under section 10(a) of the GENIUS Act (12 U.S.C. 5909(a)) and that (A) complies with the applicable requirements in section 10(b), (c), and (d) of the GENIUS Act, including with applicable implementing regulations issued by the

relevant primary Federal payment stablecoin regulator, primary financial regulatory agency, State bank supervisor, or State credit union supervisor; and (B) if applicable, enters into a custody agreement with a PPSI documenting the person's compliance with applicable requirements in section 10(b), (c), and (d) of the GENIUS Act, and has implemented policies and procedures as to ensure compliance. The proposed term would be used in connection with requirements for maintaining required reserves. A PPSI that engages a financial institution for custody should ensure that the financial institution is contractually obligated to comply with the GENIUS Act section 10 and requirements under proposed part 350 subpart B or applicable implementing regulations by the relevant primary Federal payment stablecoin regulator, primary financial regulatory agency, State bank supervisor, or State credit union supervisor to ensure that reserves are adequately protected. This requirement is expected to encourage PPSIs to engage in appropriate due diligence of any financial institutions that offer to maintain reserve assets for PPSIs.

Fair value. The FDIC would define "fair value" to mean fair value as determined under GAAP.

GAAP. The FDIC would define "GAAP" to mean generally accepted accounting principles as used in the United States.

Insured credit union. The FDIC would define "insured credit union" to mirror section 2(14) of the GENIUS Act (12 U.S.C. 5901(14)), and the term would have the meaning given that term in section 101 of the Federal Credit Union Act. (12 U.S.C. 1752).

Insured depository institution. The FDIC would define "an "insured depository institution" to have the same meaning as that term is given in section 3(c)(2) of the FDI

Act (12 U.S.C. 1813(c)(2)). The FDIC believes this divergence from the GENIUS Act, which includes "insured credit union" within the term in section 2 of the GENIUS Act (12 U.S.C. 5901(15)), would be helpful to FDIC-supervised PPSIs and IDIs as it would be consistent with how the term is defined under other provisions within the FDIC's Rules and Regulations.

Monetary value. The FDIC would define "monetary value" to mirror section 2(17) of the GENIUS Act (12 U.S.C. 5901(17)), and the term would mean a national currency or deposit (as defined in section 3(*l*) of the FDI Act (12 U.S.C. 1813(*l*)) denominated in a national currency.

National currency. The FDIC would define "national currency" to mirror section 2(19) of the GENIUS Act (12 U.S.C. 5901(19)), and the term would mean (i) a Federal Reserve note (as the term is used in the first undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 411)); (ii) money standing to the credit of an account with a Federal Reserve Bank; (iii) money issued by a foreign central bank; or (iv) money issued by an intergovernmental organization pursuant to an agreement by two or more governments.

Outstanding issuance value. The FDIC would define "outstanding issuance value" to mean the total consolidated par value of all of a PPSI's payment stablecoins issued. The definition would include the combined total par value of different brands of payment stablecoins issued by the PPSI. This definition would be relevant for requirements related to reserve assets, redemptions, reporting, and audits for larger PPSIs.

Payment stablecoin. The FDIC would define "payment stablecoin" to mirror section 2(22) of the GENIUS Act (12 U.S.C. 5901(22)), and the term would mean a (i)

digital asset (A) that is, or is designed to be, used as a means of payment or settlement; and (B) the issuer of which (I) is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of monetary value; and (II) represents that such issuer will maintain, or creates the reasonable expectation that it will maintain, a stable value relative to the value of a fixed amount of monetary value. The proposed definition would also (ii) track the exceptions included in the statutory definition to explicitly exclude from the definition a digital asset that is a (A) national currency; (B) a deposit (as defined in section 3 of the FDI Act (12 U.S.C. 1813), including a tokenized deposit recorded using distributed ledger technology; or (C) a security, as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b), section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2). The FDIC would include the addition of "tokenized" to "deposit recorded using distributed ledger technology" to clarify deposits in tokenized form would not be a payment stablecoin.[15]

Permitted payment stablecoin issuer. The FDIC would define "permitted payment stablecoin issuer" to have the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

Person. The FDIC would define "person" to mirror section 2(24) of the GENIUS Act (12 U.S.C. 5901(24)), and the term would mean an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

[15] *See infra* Section III.D.

Primary financial regulatory agency. The FDIC would define "primary financial regulatory agency" to have the meaning given that term in 12 U.S.C. 5301(12)(B) or (C), as applicable. The FDIC believes this term is helpful to define in connection with the eligible financial institution definition.

Private key. The FDIC would define "private key" to mean the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger. The FDIC believes defining this term is important because cryptographic control of private keys is the cornerstone of digital trust, acting as the ultimate authorization for transfers of digital assets.

Registered public accounting firm. The FDIC would define "registered public accounting firm" to mirror section 2(26) of the GENIUS Act (12 U.S.C. 5901(26)), and the term would have the meaning set forth in section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(12)).

Reserve asset. The FDIC would define "reserve asset" to mean an asset maintained by a PPSI of a type enumerated in § 350.4(e).

Significant redemption request. The FDIC would define "significant redemption request" to mean a circumstance in which aggregate redemption requests exceed 10 percent of a PPSI's outstanding issuance value within a single 24-hour period. As noted below, the FDIC seeks comment on whether 10 percent is the right threshold for redemption requests and whether 24 hours is the right time period.

Subsidiary. The FDIC would define "subsidiary" to have the meaning given that term in section 3(w)(4) of the FDI Act (12 U.S.C. 1813(w)(4)).

United States Coins and Currency. The FDIC would define "United States coins and currency" to mean U.S. coins and currency as described in 31 U.S.C. 5103. This definition is relevant for proposed reserve asset composition, reserve asset value calculation, and operational backstop requirements.

Questions for Definitions Section (proposed § 350.1)

The FDIC requests comment on the definitions provided under proposed § 350.1, including the following:

Question 1: Are the definitions in the proposed rule sufficiently clear? What additional clarifications, if any, would be helpful? Should the FDIC define any additional terms?

Question 2: Is the distinction, legal or otherwise, between conversion, redemption, or repurchase of payment stablecoins sufficiently clear? Should the FDIC define conversion, redemption, or repurchase? If so, how? Should the FDIC define "redemption" broadly to mean that, for example, the PPSI has initiated payment to the payment stablecoin holder in return for a tendered payment stablecoin? Are there reasons to define "redemption" more narrowly? For example, should the FDIC define redemption to mean that the PPSI's payment to a payment stablecoin holder in exchange for a payment stablecoin has settled on chain (without any initiation of payment in return for a tendered payment stablecoin or associated settlement)?

Question 3: The FDIC proposes to define the term "customer" to mean a person that purchases (through any consideration) the products or services of a PPSI. Is this definition appropriately scoped? Should the FDIC consider defining the term to also

include persons with indirect relationships with a PPSI, such as downstream payment stablecoin holders? Why or why not?

Question 4: Is the term "distributed ledger" sufficiently clear? Is it necessary to clarify and distinguish ledger types? Does the phrase "public digital ledger" require regulatory clarity? Under what conditions should restricted (permissioned) ledgers be classified as "public?" How should frameworks differentiate between fully open, hybrid, and permissioned systems?

Question 5: Should the FDIC define the term "smart contract?" If so, how?

Question 6: Is the definition of "eligible financial institution" sufficiently clear? Should the definition be revised to include additional entities or exclude certain entities?

Question 7: Is the definition of "fair value" sufficiently clear? How could the term be further refined or clarified?

Question 8: Is the term "outstanding issuance value" appropriately defined? If not, how could the term be revised, refined, or clarified?

Question 9: Is the term "payment stablecoin" sufficiently clear? Should the FDIC provide additional clarity as to whether a particular type of stablecoin is a "payment stablecoin" under the GENIUS Act?

Question 10: Is the term "private key" appropriate? How could the term be further amended, refined, or clarified?

Question 11: Is the term "reserve asset" sufficiently clear? How could the term be further refined or clarified?

Question 12: Is the term "significant redemption request" sufficiently scoped? If not, how should the FDIC revise the definition? Is 10 percent the appropriate threshold, and is 24 hours the appropriate time period?

Question 13: The GENIUS Act refers to "payment stablecoin holders" across various provisions, particularly with respect to priority of claims, but the Act does not define the term. Should the FDIC define the term? If so, should the term be defined to mean the person that beneficially owns the payment stablecoin? Or should the FDIC instead define the term based on possession via digital wallets or control of private keys? What interactions with other requirements in the proposed rule should the FDIC consider if it chooses to define the term?

3. Severability (proposed § 350.2)

The FDIC is proposing to include a severability clause in proposed § 350.2, which would provide that the provisions of proposed part 350 are separate and severable from one another. In the event a court stays a particular provision of this rule or determines any provision is invalid, the FDIC intends that the remaining provisions shall continue in effect.

4. Activities (proposed § 350.3)

Core Activities

Proposed § 350.3 encompasses the range of activities that could be performed by a PPSI, consistent with section 4(a)(7) of the GENIUS Act (12 U.S.C. 5903(a)(7)).

Section 4(a)(7) of the GENIUS Act lists a narrow set of activities that may be performed by a PPSI. Consistent with the Act, the FDIC is proposing to limit a PPSI's activities as set out in section 4(a)(7) in § 350.3(a) of the proposed rule. First, a PPSI may

only (1) issue payment stablecoins; (2) redeem payment stablecoins; (3) manage reserves related to payment stablecoins; and (4) provide custodial or safekeeping services limited to certain assets.[16] The management of payment stablecoin reserves includes purchasing, selling, and holding or holding under custody reserve assets, consistent with Federal and State law.[17] Custody and safekeeping services are limited to only the holding of payment stablecoins, required payment stablecoin reserves, or private keys of payment stablecoins. It does not include custody of non-payment stablecoin digital assets.[18] Proposed § 350.2(a)(1) through (4) of the proposed rule set out the limited range of PPSI activities, which represent the core set of activities of a PPSI.

Activities Directly Supporting Core Activities

Additionally, section 4(a)(7)(A)(v) of the GENIUS Act (12 U.S.C. 5903(a)(7)(A)(v)) provides that a PPSI may undertake other activities that "directly support" any of the core activities of issuing and redeeming payment stablecoins, managing payment stablecoin reserves, and providing custody and safekeeping services, as limited by the Act. The allowance of these other supporting activities is reflected in proposed § 350.3(a)(5).

The FDIC would view activities that directly support the core activities enumerated in the Act as only those that would be considered necessary for the PPSI to have the capability to perform the permitted activities or that are fundamental to the operations in performing the core activities. Examples might be hosting digital wallet infrastructure using cloud platforms or on-premises, air-gapped hardware security

[16] 12 U.S.C. 5903(a)(7)(A)(i)-(iv).
[17] 12 U.S.C. 5903(a)(7)(A)(iii).
[18] Digital assets are defined in 12 U.S.C. 5901(6). The term "digital asset" can include payment stablecoins, however the Act specifically allows for a PPSI to custody or keep safe payment stablecoins.

modules to provide secure safekeeping of payment stablecoin private keys or providing other essential services.

Activities supporting a PPSI's issuance and redemption of payment stablecoins, management of payment stablecoin reserves, and custody and safekeeping for payment stablecoins are limited to direct support activities, and are irrespective of whether they are performed by a PPSI itself, or through arrangement with an affiliate or a third party.

If a PPSI has questions about whether an activity would be considered by the FDIC to be one directly supporting its core activities of issuing or redeeming payment stablecoins, managing payment stablecoin reserve assets, or providing safekeeping and custody services, the PPSI should contact the FDIC. The FDIC is seeking comment on whether there should be a more formal process for clarifications around permissibility, including whether the FDIC should provide additional clarity to the public through long-established channels such as financial institution letters, published frequently asked questions, or other means.

Activities Subject to FDIC Approval

Beyond the core activities and those that directly support those activities, section 4(a)(7)(B) of the GENIUS Act (12 U.S.C. 5903(a)(7)(B)) provides a rule of construction such that none of a PPSI's activities discussed above (*i.e.*, issuance, redemption, managing reserve assets, limited custody, *etc*.) are to be construed as a limitation on certain incidental activities or digital asset service provider activities if the activities are authorized by the FDIC. Digital asset service provider activities encompass: (1) exchanging digital assets for monetary value; (2) exchanging digital assets for other digital assets; (3) transferring digital assets to a third party; (4) acting as a digital asset

custodian; and (5) participating in financial services relating to digital asset issuance.[19] The FDIC is intending to adhere to the Act's rule of construction by proposing § 350.3(a)(6).

The FDIC's authority to approve these activities is limited to those activities specified by the Act that are consistent with all other Federal and State laws, and provided that in any insolvency proceedings described under section 11 of the Act (12 U.S.C. 5911), the activities would not jeopardize the claims of payment stablecoin holders, which would rank senior to claims of non-payment stablecoin creditors.[20] The FDIC seeks comment on how to interpret section 4(a)(7)(B) of the GENIUS Act (12 U.S.C. 5903(a)(7)(B)) and whether it serves as an independent grant of authority or whether it must be consistent with a grant of authority provided from another Federal or State law.

Related Fee Activity and Customer Buy, Sell Facilitation

Section 16(b) of the GENIUS Act (12 U.S.C. 5915(b)) provides that entities regulated by the FDIC as the primary Federal payment stablecoin regulator, namely PPSIs, are authorized to engage in payment stablecoin activities and investments contemplated by the Act, including acting as principal or agent with respect to any payment stablecoin and the payment of fees to facilitate customer transactions. As a result, beyond the activities outlined in section 4 of the Act (core, direct support, and approvable activities), but consistent with them, proposed § 350.3(a)(9) would provide

[19] 12 U.S.C. 5901(7)(A). Not included in the activities of a digital asset service provider are engaging as a digital ledger protocol; developing, operating, or engaging in the business of developing distributed ledger protocols or self-custodial software interfaces; as an immutable and self-custodial software interface; developing, operating, or engaging in the business of validating transactions or operating a distributed ledger; or participating in a liquidity pool or other similar mechanism for the provisioning of liquidity for peer-to-peer transactions. 12 U.S.C. 5901(7)(B).
[20] *See* 12 U.S.C. 5903(a)(7)(B).

that a PPSI may undertake any activity contemplated by the GENIUS Act in the capacity of principal or agent with respect to any payment stablecoin, if consistent with the Act. Proposed § 350.3(a)(7) and (8) also list among the permitted activities of a PPSI the assessment of fees associated with purchasing or redeeming payment stablecoins and the payment of fees to facilitate customer transactions, which the FDIC views as incidental to the issuance and redemption of payment stablecoins consistent with law and not affecting the claims of payment stablecoin holders in any insolvency proceedings.

Prohibitions

In addition to setting out what is permitted, the GENIUS Act prescribes several prohibited activities. Consistent with the GENIUS Act, proposed § 350.3(b) would clarify that PPSIs may not engage in certain activities.

Use of Deceptive Names

Proposed § 350.3(b)(1) would prohibit a PPSI from using any combination of terms related to the United States Government, including, but not limited to "United States," "United States Government," and "USG" in the name of a payment stablecoin, consistent with section 4(a)(9) of the GENIUS Act (12 U.S.C. 5903(4)(a)(9)). Proposed § 350.3(b)(2) would prohibit a PPSI from marketing a payment stablecoin in a manner that a reasonable person would perceive the payment stablecoin to be legal tender, issued by the United States, or guaranteed or approved by the United States Government, consistent with section 4(e)(2) of the GENIUS Act (12 U.S.C. 5903(e)(2)). The prohibitions in proposed § 350.3(b)(1) and (2) would not apply to abbreviations of currency that the PPSI is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, as described in proposed § 350.3(c).

Consistent with section 4(e) of the GENIUS Act (12 U.S.C. 5903(e)), proposed § 350.3(b)(3) would provide that a PPSI may not directly or through implication represent that payment stablecoins are backed by the full faith and credit of the United States, guaranteed by the United States Government, or subject to Federal deposit insurance or Federal share insurance.[21] Although disclaimers may be components of complying with these requirements, the FDIC also expects PPSIs to appropriately ensure that representations, marketing materials, and disclosures are clear and consistent with these requirements to avoid direct representations or implications that are likely to cause confusion.

Interest and Yield Solely in Connection with Holding, Use, or Retention

Proposed § 350.3(b)(4) would prohibit a PPSI from paying the holder of any payment stablecoin any form of interest or yield (whether in cash, tokens, or other consideration) solely in connection with the holding, use, or retention of such payment stablecoin consistent with section 4(a)(11) of the GENIUS Act (12 U.S.C. 5903(a)(11)). The proposed rule would further provide that the FDIC presumes a PPSI violates the prohibition if: (A) the PPSI has a contract, agreement, or other arrangement with an affiliate of the PPSI or related third party to pay interest or yield to the affiliate or related third party; (B) the affiliate, related third party, or an affiliate of a related third party has a contract, agreement, or other arrangement to pay interest or yield (whether in cash, tokens, or other consideration) to a holder of any payment stablecoin issued by the PPSI solely in connection with the holding, use, or retention of such payment stablecoin; and

[21] In addition, section 18(a)(4) of the FDI Act, 12 U.S.C. 1828(a)(4), and its implementing regulation, 12 CFR part 328, also prohibit any person from misusing the name or logo of the FDIC, engaging in false advertising, or making knowing misrepresentations about deposit insurance.

(C) to the extent the person, or an affiliate of the person, is a related third party of the PPSI because the PPSI issues payment stablecoins on the related third party's behalf or under the related third party's branding, the arrangement between the related third party and the holder of the payment stablecoin would consider the holder of the payment stablecoin to be the holder of the payment stablecoin issued by the PPSI on the related third party's behalf or under the related third party's branding.

With respect to this presumption, the proposed rule would define a related third party to mean (A) a person offering to pay interest or yield to payment stablecoin holders as a service; and (B) any person that the PPSI issues payment stablecoins on the person's behalf or under the person's branding. A PPSI may rebut the presumption by submitting written materials that, in the FDIC's judgment, demonstrate that the contract, agreement, or other arrangement is not prohibited under proposed § 350.3(b)(4) and not an attempt to evade the prohibition.

The FDIC seeks comment on this specific part of the proposal, and whether this is an appropriate interpretation and implementation of the prohibition in section 4(a)(11) of the GENIUS Act (12 U.S.C. 5903(a)(11)).

Pledging, Rehypothecating, and Reusing Reserve Assets

Proposed § 350.3(b)(5) would prohibit a PPSI from pledging, rehypothecating, or reusing any reserve assets required under § 350.4(a) and (e) of the proposed rule either directly or indirectly, including through a third party custodian of the reserve assets, except for the exceptions described in proposed § 350.3(b)(5)(i) through (iii), consistent with section 4(a)(2) of the GENIUS Act. A PPSI may only pledge, rehypothecate or re-use any reserve assets for the purpose of: (i) satisfying margin obligations in connection

with investments in required reserves under proposed § 350.4(e)(5) or (6); (ii) satisfying obligations associated with the use, receipt, or provision of standard custodial services; or (iii) creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins, such that reserves in the form of Treasury bills with a maturity of 93 days or less may be sold as purchased securities in repurchase agreements, provided that either: (A) the repurchase agreements are cleared by a clearing agency registered with the Securities and Exchange Commission; or (B) the PPSI receives prior written approval from the FDIC. With respect to any repurchase agreement under proposed § 350.4(e)(6), the FDIC will deem them as approved wherein the Treasury bills that are sold as purchased securities have a maturity of 93 days or less and the liquidity obtained through the repurchase agreement is not being obtained for purposes other than meeting redemption requests. The FDIC is proposing to limit the amount of reserve assets that a PPSI can pledge, rehypothecate, or reuse directly or indirectly, including through a custodian, which would include affiliates of the custodians or sub-custodians, to ensure that reserve assets remain liquid and payment stablecoin holders have confidence in the payment stablecoin. Although there are exemptions to the prohibition on pledging, rehypothecating, or reusing reserve assets, the FDIC expects that the PPSI would rely on the exemptions only as necessary for the purposes described in proposed § 350.3(b)(5)(i) through (iii), and not for any other business purpose.

Evasion

Proposed § 350.3(b)(6) would prohibit a PPSI from engaging in any activity that the FDIC determines is done in evasion of the requirements, standards, or prohibitions found in section 4 of the GENIUS Act or proposed part 350. This paragraph is consistent

with section 4(h)(1) of the GENIUS Act (12 U.S.C. 5903(h)) which gives the FDIC the authority to issue regulations to prevent evasions of section 4 of the GENIUS Act.

Unlawful Marketing

Proposed § 350.3(b)(7) would prohibit a PPSI from marketing a product in the United States as a payment stablecoin, or from issuing a payment stablecoin, unless the product or payment stablecoin is issued in compliance with the GENIUS Act and part 350. This paragraph is consistent with section 4(e)(3)(A) of the GENIUS Act (12 U.S.C. 5903(e)(3)(A)) which makes it unlawful to market a product in the United States as a payment stablecoin unless it is issued pursuant to the GENIUS Act. The FDIC will monitor FDIC-supervised PPSI's marketing, as appropriate, to ensure that they do not violate the GENIUS Act or part 350 of the proposed rule, and for referral to the Department of Treasury for possible violation of section 4(e)(3)(A) of the GENIUS Act.

Providing Credit

The FDIC is also proposing to prohibit a PPSI from providing credit to its customers to purchase payment stablecoins in § 350.3(b)(8) of the proposed rule. The FDIC interprets the GENIUS Act's requirements that a PPSI maintain reserve assets comprised of a narrow set of highly liquid assets and that a PPSI engage in a narrow set of activities to be the key guardrails to ensure a PPSI is able to satisfy redemption requests. If a PPSI lends funds to customers to enable customers to purchase payment stablecoins, or were to otherwise issue payment stablecoins to customers on credit extended by the PPSI, the PPSI would then, in effect, need to access separate funding to acquire and maintain identifiable reserve assets to back the payment stablecoins issued on credit. This could result in a highly leveraged balance sheet in which the reserve assets do

not provide the intended resiliency. The FDIC seeks comment on whether this is an appropriate prohibition, and whether other alternatives would better achieve the Act's objectives.

Questions for Activities Section (proposed § 350.3)

The FDIC requests comment on the activities described in proposed § 350.3, including the following:

Question 14: Are there any other activities that the FDIC did not include in proposed § 350.3 that PPSIs would need to, or should be able to, engage in under the GENIUS Act? If so, please describe the kinds of activities and any appropriate limits for such activities.

Question 15: Are there other limits or conditions the FDIC should consider with respect to PPSIs acting as principal or agent with respect to payment stablecoins? Should the FDIC specify the activities contemplated under the GENIUS Act for which a PPSI may act as principal or agent for payment stablecoins under section 16(b) of the Act (12 U.S.C. 5915(b))?

Question 16: Should the FDIC clarify proposed § 350.3(a)(6) by providing specific examples of activities that are incidental to the activities in proposed § 350.3(a)(1) through (4)? Are there specific examples of activities that are incidental to the activities in proposed § 350.3(a)(1) through (4) that should be clarified?

Question 17: Should the FDIC include by rule at proposed § 350.3 a process for the FDIC to approve additional activities? Should the FDIC adopt a formal process for clarifications around permissible activities, including through long-established channels such as financial institution letters, published frequently asked questions, or by other

means? If so, how should the processes work? How should the FDIC coordinate such a process with other primary Federal payment stablecoin regulators?

Question 18: Should the FDIC distinguish between what it means for an activity to directly support the activities in proposed § 350.3(a)(1) through (4), and therefore, satisfy the test in proposed § 350.3(a)(5) as opposed to what it means for an activity to satisfy the test in proposed § 350.3(a)(6) and be incidental to the activities in proposed § 350.3(a)(1) through (4), as provided in section 4(a)(7)(B) of the GENIUS Act?

Question 19: Are there additional steps the FDIC should take to ensure representations and disclosures by PPSIs are clear and minimize the risk of consumer confusion? Should the FDIC require PPSIs to provide specific disclosures or statements? Should the FDIC provide examples of specific representations that would be prohibited under proposed § 350.3(b)?

Question 20: Is any further clarity needed regarding the prohibition on the use of deceptive names, marketing, and representations in proposed § 350.3(b)(1) through (3)?

Question 21: Is it appropriate for the FDIC to apply the GENIUS Act's prohibition on paying interest or yield to affiliates and related third parties? Are there alternatives the FDIC should consider?

Question 22: Should the FDIC include a rebuttable presumption regarding the payment of interest or yield by an affiliate or related third party? If so, should the FDIC provide additional clarity on how the presumption could be rebutted?

Question 23: Should the prohibition on interest and yield in proposed § 350.3(b)(4) clarify the terms "pay," "interest," "yield," "solely," or any other terms? If

so, what clarifications would be helpful? What types of rewards, if any, should or should not be subject to the prohibition?

Question 24: What would the economic or market impact of a narrow prohibition on paying interest or yield solely in connection with the holding, use, or retention of a payment stablecoin be relative to a broader prohibition (*i.e.*, one that includes relationships with affiliates or third parties)?

Question 25: Is the scope of the prohibition against pledging, rehypothecating, or reusing reserve assets sufficiently clear? Are there specific types of transactions, relationships, or structures for which it would be helpful to clarify whether the prohibition applies? For example, should the FDIC clarify whether the prohibition would prevent establishing a collateral trustee that would hold a security interest in reserve assets for the benefit of payment stablecoin holders? What arguments weigh for and against finding that the prohibition would prohibit these arrangements?

Question 26: Should the FDIC cap the total amount of reserve assets that a PPSI can pledge or rehypothecate to maximize payment stablecoin holders' recoveries in the event of a bankruptcy or economic stress event? Are there business reasons for why a PPSI would want to rehypothecate a significant amount of their reserve assets? If so, what controls would PPSIs have in place to ensure those rehypothecated assets are returned at 100 percent of their asset value in time to meet redemptions, and mitigate other associated risks? Which scenarios or risks could cause these rehypothecated assets to lose value or not be returned at original value?

Question 27: Should the FDIC specify what "creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins" means under proposed

§ 350.3(b)(5)(iii)? Should the FDIC pre-approve repurchase agreements by rule as proposed in § 350.3(b)(5)(iii)(B)? Alternatively, should the FDIC allow for broad and open-ended approvals of the sale of reserves as purchased securities in repurchase agreements or should approvals be limited to specific types of transactions? What factors should the FDIC consider prior to granting approval of the sale of reserves as purchased securities in repurchase agreements under proposed § 350.3(b)(5)(iii)(B)?

Question 28: Is the proposed prohibition on providing credit to customers to purchase payment stablecoins appropriate? If so, should the prohibition be modified in any way? Should it be narrower or broader? If not, are there alternatives to achieve the intended objective or ensuring reserve assets achieve the intended resiliency? Are there any other activities that the FDIC should expressly prohibit as not being permissible and not in direct support of the core activities of issuance, redemption, managing reserves, and providing certain safekeeping and custody services?

5. Reserve assets (proposed § 350.4)

Reserve Requirement

Proposed § 350.4 contains requirements applicable to reserve assets as required by section 4(a) of the GENIUS Act (12 U.S.C. 5903(a)), which provides that a PPSI must maintain identifiable reserves backing the outstanding payment stablecoins of the PPSI on an at least one-to-one basis and specifies the required reserve asset types.

Proposed § 350.4(a)(1) would require the PPSI to maintain identifiable reserves fully backing the outstanding payment stablecoins of the PPSI, the reserve asset value of which must at all times meet or exceed the total outstanding issuance value of payment stablecoins issued by the PPSI. To maintain "identifiable reserves," the PPSI shall

maintain appropriate records to identify required reserve assets underlying a particular payment stablecoin. The FDIC generally anticipates that reserve assets will be recorded on the PPSI's balance sheet under GAAP and be included in the quarterly reports required under proposed § 350.7 and on Consolidated Reports of Condition and Income (Call Reports) for the parent IDI. Proposed § 350.4(a)(2) would require the PPSI to monitor the issuance and redemption of payment stablecoins to ensure compliance. To maintain reserves at all times, the PPSI would monitor the value of the required reserves underlying the payment stablecoin regularly throughout the day. However, the PPSI would only need to notify the FDIC as described in proposed § 350.4(i)(1) if the reserve asset value of the required reserves is less than the par value of outstanding payment stablecoins at the PPSI's close of business. Proposed § 350.4(a)(3) would require the PPSI to maintain reserves directly or maintain them in the custody of an eligible financial institution.

Reserve Asset Value

Proposed § 350.4(b) provides that for purposes of calculating the reserve asset value of the reserve assets backing each outstanding payment stablecoin issued by the PPSI, reserve assets shall be valued at fair value, with the exceptions of United States coins and currency which shall be valued at face value. Valuing reserve assets at fair value would result in reserve assets reflecting market prices at that time and ensure that the PPSI has sufficient reserves to meet redemption requests at par value. U.S. coins include those minted of precious metals, such as gold and silver. Valuing coins at fair rather than par value could lead to gold or silver, in coin form, backing payment stablecoins, which the FDIC believes is not consistent with Congressional intent.

Identifiable Reserves

Proposed § 350.4(c) would require that reserves maintained by a PPSI are readily identified as backing outstanding payment stablecoins issued and differentiated from assets not backing payment stablecoins, particularly when the PPSI issues more than one distinguishable brand[22] of payment stablecoin. A PPSI may issue multiple brands of distinct payment stablecoin but, under the proposal, would be required to maintain required reserves with assets that can be separately identified as backing a particular brand of distinct payment stablecoin and each brand of payment stablecoin would independently comply with proposed § 350.4(a). Thus, if a PPSI issues more than one brand of distinct payment stablecoin, each payment stablecoin must have a segregated pool of reserves, kept, maintained, and recorded separately, unless the FDIC approves in writing that the PPSI may comingle reserves.

If one of the PPSI's payment stablecoins fails to maintain reserves on a one-to-one basis to its outstanding issuance value, in some cases, that may erode market confidence in the PPSI's other brands of payment stablecoins, even as the PPSI maintains separate required reserves identifiable for each brand of payment stablecoin. Under the proposal, the FDIC would expect, at a minimum, that a PPSI with multiple brands of payment stablecoins maintain separate and segregated pools of reserves for each payment stablecoin to protect against the contagion risk from one payment stablecoin failing. The PPSI would also be expected to regularly monitor the value of reserves for each brand of payment stablecoin, with the ability to immediately identify if any one brand of payment stablecoin falls below the required threshold in proposed § 350.4(a) of the proposed rule.

[22] For purposes of this proposal, the FDIC is using the term "brand" to describe each legally distinguishable payment stablecoin issued by the same PPSI.

Further, the FDIC would expect that PPSIs with multiple brands of payment stablecoin would establish clear procedures for winding down a brand of payment stablecoin without disrupting the PPSI's other payment stablecoins.

The FDIC invites comment on these considerations, particularly how to address risk of instability from a PPSI that issues more than one brand of payment stablecoin. The proposal requires a PPSI to maintain identifiable and segregated reserve assets for each payment stablecoin. Further, the reserve assets identified as satisfying the statutory 1:1 reserve requirement of each brand of payment stablecoin would be required to only be used as required reserves supporting the payment stablecoin to which the reserves are identified.

Under this approach, reserve assets required to satisfy the statutory 1:1 reserve requirement for one payment stablecoin could not be used to meet redemptions requests for another payment stablecoin issued by the same PPSI. Such an approach would promote transparency regarding the assets supporting each payment stablecoin and help ensure that potential liquidity risks associated with one payment stablecoin would not be transferred to holders of another payment stablecoin issued by the same PPSI.

However, the FDIC recognizes that in the ordinary course of business, a PPSI may hold reserve assets in excess of that which are necessary to maintain the statutory 1:1 reserve requirement for a particular payment stablecoin. Required reserves that maintain the statutory 1:1 ratio would be required to remain segregated and dedicated to the payment stablecoin to which they relate and could not be used to satisfy redemption requests for another payment stablecoin. However, if the amount of reserve assets exceeds the 1:1 ratio for a particular stablecoin, the PPSI may remove reserve assets from

that payment stablecoin's pool of reserve assets and use those reserve assets to meet redemption requests of another payments stablecoin, but *only* so long as the payment stablecoin with "excess reserves" remains above the 1:1 ratio.

The FDIC also notes there are other alternative approaches the FDIC could take. The FDIC could take an approach that all reserves identified and segregated to each payment stablecoin cannot be removed from that pool of reserve assets without approval from the FDIC or public notice. Another alternative approach would be to permit a PPSI that issues multiple payment stablecoins to maintain one reserve asset pool backing all of the PPSI's outstanding payment stablecoins, without segregating reserve assets that back each individual payment stablecoin. Another alternative approach would be to limit each PPSI to only issuing one payment stablecoin, thus requiring an FDIC-supervised IDI that wanted to set up an entity to issue multiple payment stablecoin brands would need to set up a separate subsidiary approved by the FDIC to issue each payment stablecoin.

The FDIC requests comment on all aspects of this proposed approach including whether it appropriately addresses risks that may arise for a single PPSI that issues multiple brands of payment stablecoins.

Monetization Capability

Proposed § 350.4(d) would require that a PPSI demonstrate the operational capability to access and monetize reserve assets, commensurate with the PPSI's risk profile and business model. The PPSI must be able to monetize the reserve assets, potentially quickly and at short notice, to meet redemption requests. If the PPSI was unable to quickly monetize reserve assets, then the PPSI would not be able to show that it can maintain a stable value, or retain the expectation of maintaining a stable value,

relative to the value of a fixed amount of monetary value. To comply with the proposed monetization capability requirement, the PPSI would be expected to demonstrate that it can quickly and efficiently monetize its reserve assets that underlie each payment stablecoin. A smaller, less complex PPSI could satisfy this requirement by demonstrating the ability to monetize reserve assets by establishing appropriate arrangements with counterparties through which it can quickly sell reserve assets at fair value and receive liquid funds that can be used for redemptions. A PPSI could also demonstrate an arrangement with its parent IDI that would provide funding through purchases of the PPSI's reserves. However, PPSIs would likely regularly monetize reserve assets in managing reserves in the ordinary course of business and should be able to demonstrate on a regular basis that the PPSI has adequate monetization channels commensurate with the PPSI's risk profile and business model.

Reserve Composition

Under proposed § 350.4(e), commensurate with the PPSI's risk profile and business model, reserve assets shall only be comprised of: (1) United States coins and currency (including Federal Reserve notes); (2) money standing to the credit of an account with a Federal Reserve Bank; (3) funds held as demand deposits or other deposits that may be withdrawn upon request at any time at an IDI or insured shares held by an insured credit union (including any foreign branches or agents, including correspondent banks, of an IDI); (4) Treasury bills, notes, or bonds with a remaining maturity of 93 days or less, or issued with a maturity of 93 days or less; (5) money received under repurchase agreements with the PPSI acting as a seller of securities and with an overnight maturity backed by Treasury bills with a maturity of 93 days or less provided the money is

received consistent with one or more of the allowable exceptions to rehypothecation, reuse, or pledging as circumscribed in 12 U.S.C 5903(a)(2); (6) reverse repurchase agreements with the PPSI acting as a purchaser of securities and with an overnight maturity that are collateralized by Treasury notes, bills, or bonds on an overnight basis, subject to overcollateralization in line with standard market terms, that are: (i) tri-party; (ii) centrally cleared through a clearing house registered with the Securities and Exchange Commission; or (iii) bilateral with a counterparty that the issuer has determined to be adequately creditworthy even in the event of severe market stress; and (7) securities issued by an investment company registered under section 8(a) of the Investment Company Act of 1940 (15 U.S.C. 80a‑8(a)), or other registered Government money market fund, and that are invested solely in underlying assets described in proposed § 350.4(e)(1) through (6). Proposed § 350.4(e)implements section 4(a)(1)(A) of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)).

Asset Diversification and Concentration

Section 4(a)(4)(A)(iii) of the Act (12 U.S.C. 5903(a)(4)(A)(iii)) requires the FDIC to issue regulations implementing reserve asset diversification, including deposit concentration at banking institutions and interest rate risk management standards that are tailored to the business model and risk profile of the PPSI and that do not exceed standards that are sufficient to ensure the ongoing operations of the PPSI. Proposed § 350.4(f) would implement tailored reserve asset diversification requirements.

Given the narrow scope of eligible reserve assets, the FDIC does not believe extensive asset diversification requirements are necessary. However, the FDIC is seeking comment on whether limitations on any specific reserve asset category or other

restrictions on reserve asset concentration would be appropriate. For example, given that uninsured deposits present credit risk, the FDIC seeks comment on whether there should be limits on the extent to which reserve assets may be held in deposits not insured by the FDIC.

Proposed § 350.4(f) would require that a PPSI limit its total counterparty exposure to any one eligible financial institution, regardless of type of reserve asset, to no more than 40 percent of its reserve assets, across all brands of payment stablecoins issued by the PPSI. This requirement would limit a PPSI from being overly exposed to or concentrated in a single eligible financial institution. The PPSI should take into account exposure across all of an eligible financial institution's parents, subsidiaries, or affiliates, in terms of its risk management required under proposed § 350.4(f) of the proposed rule, so the PPSI minimizes its risk of being subject to the health of a single eligible financial institution. This requirement would ensure that a PPSI has multiple arrangements for meeting redemption requests if reserve assets held by any one eligible financial institution are at risk. The FDIC selected 40 percent so no single eligible financial institution custodies a majority of the PPSI's reserve assets.

Monthly Report on Reserve Composition

Proposed § 350.4(g) would require PPSIs to publish, for each brand of payment stablecoin issued by the PPSI, by close of business on the last day of each month, the composition of the PPSI's reserves held pursuant to proposed § 350.4(e) as of close of business of the last day of the prior month, using a format substantially similar to the template provided in table 1 to proposed § 350.4(g). The report should contain the total number of outstanding payment stablecoins issued by the PPSI, including the average

tenor and geographic location of custody of each category of reserve asset. The report should contain information as of the previous month. These public disclosures are not required to include specific information on the institutions, branches, or counterparties involved in the holding of reserve assets.

Monthly Certification; Examination of Reports by Registered Public Accounting Firm

Proposed § 350.4(h)(1) would require PPSIs to have the information disclosed in the previous month-end report as required in proposed § 350.4(g) examined by a registered public accounting firm which will issue a written report of findings to the PPSI's audit committee, or board of directors if there is no audit committee. In addition, the PPSI shall publish the report on its website at the same time as the report under proposed § 350.4(g). Consistent with section 4(a)(3) of the GENIUS Act (12 U.S.C. 5903(a)(3)), proposed § 350.4(h)(2) would require the chief executive officer and chief financial officer of a PPSI, or persons performing the equivalent functions, to submit a certification of the accuracy of the monthly report to the FDIC, including a copy of the written report prepared in proposed § 350.4(h)(1). Consistent with section 4(a)(3)(C) of the GENIUS Act (12 U.S.C. 5903(a)(3)(C)), any person who submits this required certification knowing that such certification is false shall be subject to the same criminal penalties as those set forth under 18 U.S.C. 1350(c).

Failure to Meet Minimum Reserve Assets Requirement

Proposed § 350.4(i)(1) provides that a PPSIs shall notify the FDIC in writing when the PPSI determines or has reasonable grounds to suspect that the aggregate fair value of identified reserves backing any of the PPSI's outstanding payment stablecoins is

less than the amount required under proposed § 350.4(a). Proposed § 350.4(i)(1) would also provide that, upon notification by a PPSI that identified reserves have fallen below the amount required under proposed § 350.4(a), the FDIC in its sole discretion may take any of the steps described below.

Proposed § 350.4(i)(1)(i) would enable the FDIC to direct a PPSI to suspend or reduce issuance of a payment stablecoin, until the aggregate fair value of identifiable reserves backing the brand of payment stablecoins exceeds the outstanding issuance value of the particular payment stablecoin. Proposed § 350.4(i)(1)(ii) would enable the FDIC to direct the PPSI to take measures to increase the aggregate value of identifiable reserves until the aggregate value of identifiable reserves backing outstanding payment stablecoins exceeds the value of outstanding payment stablecoins. Finally, proposed § 350.4(i)(1)(iii) would enable the FDIC to direct the PPSI to begin orderly redemption of the payment stablecoin in light of exigent circumstances.

Proposed § 350.4(i) is intended to give the FDIC discretion in supervising a PPSI and to protect payment stablecoin holders. The FDIC recognizes that different tools may be appropriate for different circumstances, and thus believes allowing discretion would be valuable.

Restoration Plan

Proposed § 350.4(j) would require PPSIs to maintain a written contingency plan describing the measures that it will take to restore compliance with the requirements in proposed §§ 350.4(a)(1) or (e) or 350.9 if the PPSI is not meeting those requirements. The FDIC would expect the plan to include reserve monitoring systems that would trigger alerts to the PPSI when falling below specific thresholds, actions the PPSI will

take as the fair value reserves fall below specific thresholds, and delineate immediate steps that the PPSI shall take. The PPSI may consider identifying pre-arranged funding sources and designate responsible staff with authority to decide what steps the PPSI shall take to comply with proposed §§ 350.4(a) and 350.9.

Proposed § 350.4(i) and (j) do not limit the FDIC's authority to pursue other appropriate measures with respect to the PPSI or the payment stablecoin.

Questions for Reserves Assets Section (proposed § 350.4)

The FDIC requests comment on the reserve asset requirements contained in proposed § 350.4, including the following:

Question 29: Is the description of maintaining "identifiable" reserves sufficiently clear? Is the FDIC's description of "identifiable" in proposed § 350.4(c) appropriate or should the proposed rule include additional measures to ensure that reserve assets are appropriately traceable and linked to their corresponding brand of payment stablecoin so as to avoid any difficulties in resolving claims to reserve assets? How could the term be further defined or clarified?

Question 30: Should the proposed rule require PPSIs to structure or title reserve assets in a prescribed manner as part of the requirement to maintain "identifiable" reserves? If so, what measures should the proposed rule include to ensure a treasury management structure is bankruptcy remote? What specific asset holding titles would prevent a PPSI from using reserve assets for operational purposes or lending them out? Is the FDIC's description of "identifiable" in proposed § 350.4(c) appropriate or should the proposed rule include additional measures to ensure that reserve assets are appropriately

traceable and linked to their corresponding brand of payment stablecoin so as to avoid any difficulties in resolving claims to reserve assets?

Question 31: How should the FDIC approach a PPSI that wants to issue more than one brand of payment stablecoin? Should the FDIC impose any limits or controls on the ability of a PPSI to issue more than one brand of payment stablecoin?

Question 32: If a PPSI issues more than one brand of stablecoin, should the FDIC require the reserve assets for each brand to be segregated, as in the proposal, or should the PPSI be permitted to comingle the reserve assets, such that there would be one pool of reserve assets for all payment stablecoins issued by the PPSI? What are the pros and cons of each alternative?

Question 33: Should the FDIC require reserve assets to be held in a special purpose, bankruptcy remote vehicle?

Question 34: Section 4(a)(1)(A)(vii) of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)(vii)) provides that reserve assets may include "any other similarly liquid Federal Government-issued asset approved by the Federal payment stablecoin regulator, in consultation with the State payment stablecoin regulator, if applicable." In the proposed rule, the FDIC has not included any such assets in the list of eligible reserve assets. Should the FDIC include a list of approved reserve assets in proposed § 350.4(e) for "similarly liquid Federal government-issued assets?" If so, what asset(s) should be included? Alternatively, should the FDIC implement a procedure for approvals in the future of "similarly liquid federal government-issued assets?" If so, how should this process work? Should there be an interagency process with the other primary Federal payment stablecoin regulators?

Question 35: Should the provisions relating to repurchase agreements and reverse repurchase agreements be clarified? Should the FDIC provide that deposits can serve as collateral for repurchase agreements? If so, what limitations, if any, should the FDIC include with respect to the use of deposits as collateral?

Question 36: Should the FDIC include in its list of approved reserve assets at proposed § 350.4(e) an acknowledgment that tokenized assets that comply with all applicable laws and regulations will be permitted? If so, why? Should the FDIC include factors to consider in approving a reserve asset in a tokenized form?

Question 37: Should the FDIC include by rule at proposed § 350.4(e) a process for the FDIC to approve additional reserve asset types in the future? If so, how should that process work? How should the FDIC coordinate such a process with other payment stablecoin regulators?

Question 38: Does proposed § 350.4 provide for sufficient information and disclosures to enable payment stablecoin holders to understand reserve composition and sufficiently consider potential risks related to inadequate reserves and insolvency?

Question 39: Should the FDIC require PPSIs to maintain a minimum amount of reserve assets in the form of deposits? If yes, how would the FDIC calibrate the deposit requirement for PPSIs? Should there be a cutoff for PPSIs above or below a certain size threshold that should be required to place deposits? If so, why? What would be the implications of such a cutoff?

Question 40: Given that uninsured deposits present credit risk, should there be a limit on the amount of reserve assets that can be held in deposits that are not FDIC-insured or shares that are not NCUA-insured?

Question 41: Consistent with the GENIUS Act, the proposed rule would allow United States coins and currency to serve as reserve assets. However, physical currency has limitations, especially if needing to deploy physical currency as it requires transportation, to meet redemption demands. Should the FDIC impose limits on physical currency as a reserve asset in the proposed rule? For example, the FDIC could require that United States coins and currency be limited to no more than 5 percent or 10 percent of a PPSI's reserve assets. Should the FDIC impose any additional requirements with respect to physical currency to make sure that physical currency is safeguarded? Should there be periodic verification or inspection requirements for United States currency used as reserve assets?

Question 42: Should the proposed rule include special limits on Treasury notes, bills and bonds and notes that may be more thinly traded and therefore more likely to sell at a discount? The GENIUS Act would allow PPSIs to hold as reserve assets Treasury notes and bonds so long as they have a remaining maturity of 93 days or less. Older and off-the-run Treasury securities may be more difficult to sell and may only be marketable at a discount.

Question 43: Should the FDIC expressly require that a certain percentage of reserve assets be held in custody at a third-party custodian? What are the potential costs and benefits of this approach, including with respect to operational risk?

Question 44: In the provision in proposed § 350.4(e)(6) regarding reverse repurchase agreements, is the proposed rule sufficiently clear in its reference to "overcollateralization in line with standard market terms?" What other clarifications should the FDIC provide?

Question 45: Should the proposed rule include special measures to ensure that reverse repurchase agreements are appropriately overcollateralized? Proposed § 350.4(e)(6) would permit the inclusion reverse repurchase agreements "subject to overcollateralization in line with standard market terms" as reserve assets. In the proposed rule, the FDIC could include specific requirements for overcollateralization or, in the alternative, include no such measures and leave it to the supervision process if PPSIs are failing to overcollateralize their reverse repurchase agreements in line with standard market terms.

Question 46: Should the FDIC exempt reserve assets held at a Federal Reserve Bank from the conditions in proposed § 350.4(f)?

Question 47: The reserve asset diversification and concentration limits in proposed § 350.4(f) limit a PPSI's exposure to no more than 40 percent of its reserve assets. Are these concentration limits appropriate? Are there other concentration percentages that would be more appropriate and why?

Question 48: Should the FDIC adopt any other restrictions on reserve asset concentration? If so, should these restrictions be based on exposures to particular counterparties or be more prescriptive?

Question 49: Should the FDIC impose limits on the amount of reserve assets that can be held in any particular category of reserve assets?

Question 50: Should the FDIC impose a principle-based requirement that the PPSI maintain reserve assets that are sufficiently diverse to manage potential credit, liquidity, interest rate, and price risks? Should those be in addition to the proposed limitations in proposed § 350.4(f)?

Question 51: Should there be an exception to some or all of the requirements in proposed § 350.4(f) for a subsidiary of an FDIC-supervised IDI approved to be a PPSI if the IDI has less than a certain amount of total assets (*e.g.*, $10 billion, $30 billion, $50 billion)? Should a PPSI that is a subsidiary of an FDIC-supervised IDI with less than a certain amount of total assets be permitted to hold a larger percentage, or all, of its reserve assets as deposits at the FDIC-supervised IDI? Should any such exception be subject to any conditions? Should it only be available if the FDIC-supervised IDI is well-capitalized?

Question 52: Should the FDIC require PPSIs to maintain a minimum amount of their reserve assets in cash or cash equivalents or assets that may more easily be used for short-term liquidity needs to diversify the maturity profile of reserve assets, such as within a daily or weekly timeframe, akin to the requirements for money market funds in SEC Rule 2a-7 or short-term investment funds in 12 CFR 9.18(b)(4)(iii)? Should the FDIC require PPSIs to maintain a minimum percentage of reserve assets (*e.g.*, 10 percent) as "immediately available liquidity" (*i.e.*, deposits or insured shares payable upon demand or money standing to the credit of an account with a Federal Reserve Bank)? If so, should the FDIC impose a cap (*e.g.*, 50 percent) on how much required "immediately available liquidity" a PPSI can maintain at any one eligible financial institution? Should the FDIC require PPSIs to maintain a minimum percentage of reserve assets (*e.g.*, 30 percent) as "liquidity available within one business week" (*i.e.*, deposits or insured shares payable upon demand, money standing to the credit of an account with a Federal Reserve Bank, or amounts receivable and due unconditionally within five business days on pending sales of reserve assets, maturing reserve assets, or other

maturing transactions)? Should the FDIC impose requirements relating to the weighted average maturity of the PPSI's stock of reserve assets, such as requiring the weighted average maturity of the reserve assets to be no more than 20 days? If the FDIC includes quantitative diversification and concentration requirements like those mentioned above, should they be structured as mandatory requirements or as a safe harbor?

Question 53: Should the FDIC impose restrictions on when a PPSI can withdraw surplus reserve assets? Should the FDIC require that a PPSI only withdraw any surplus reserve assets in excess of outstanding issuance value once per month, upon the publication and certification of the composition report?

Question 54: Is the FDIC's proposed approach to consequences when a PPSI fails to meet minimum capital or operational backstop requirements appropriate? Alternatively, should the proposed rule require a PPSI to begin liquidating reserve assets at the end of two consecutive quarters of failing to meet these requirements?

Question 55: The FDIC invites comment on the extent to which additional diversification requirements are necessary. Should the FDIC require that PPSIs maintain more than one type of reserve asset?

Question 56: Is the FDIC's proposed approach to consequences when a PPSI's amount of reserves falls below the required minimum appropriate? Alternatively, should the proposed rule require a PPSI to begin liquidating reserve assets to meet redemption demands if the PPSI fails to meet its minimum reserve asset requirement in proposed § 350.4(a)?

Question 57: Section (4)(a)(1)(A)(ii) of the GENIUS Act (12 U.S.C. 5903 (a)(1)(A)(ii)) authorizes the FDIC to establish limitations in respect of deposits placed as

reserve assets by PPSIs at IDIs to address safety and soundness risks to such IDIs. Should the FDIC impose any such limitations? Should the FDIC establish a limitation that would require an IDI to hold an amount of cash assets (*e.g.*, balances at a Federal Reserve Bank) equal to the amount by which deposits placed by PPSIs for reserve purposes exceed a specified percentage of the IDI's total deposits? If so, at what percentage of total deposits should such a requirement be calibrated? Should the IDI be required to segregate such cash assets, and if so, how would that be operationalized? Alternatively, should the FDIC set a cap on the amount of deposits an IDI can accept from any one PPSI, or across all PPSIs, for purposes of holding reserve assets? If so, how should such a cap be calibrated? Are there other types of relevant limitations that the FDIC should consider?

Question 58: Should the FDIC cap the total amount of reserve assets that a PPSI can pledge or rehypothecate (in aggregate, across all counterparties) to maximize payment stablecoin holders' recoveries in the event of a bankruptcy or stress event? What percentage of reserve assets do PPSIs plan to rehypothecate, if at all? Which scenarios or risks could cause these rehypothecated assets to lose value or not be returned at original value and what controls can mitigate these risks?

Question 59: Should other liquidity rules be amended to accommodate the changes made by the proposed rule and the GENIUS Act? Should the liquidity coverage ratio (LCR) and net stable funding ratio (NSFR) rules be amended so that depository institutions are unable to include high quality liquid assets (HQLA) held by PPSI subsidiaries as eligible HQLA in their own LCR and NSFR calculations? Similarly, should any outflows associated with a PPSI subsidiary be excluded from a parent entity's LCR calculations? Should the payment stablecoin activities of permitted payment

stablecoin subsidiaries be fully excluded from the LCR calculations of parent entities? Or should there be a limited outflow commensurate with the possibility that a parent entity may provide support to a PPSI subsidiary (for example, 1 percent, 5 percent, or 10 percent or outstanding issuance value)? Should the LCR rule be amended in light of any other implications of the GENIUS Act, such as how it may apply to custodians under section 10 of the GENIUS Act?

Question 60: For purposes of incorporating "average tenor and geographic location of custody of each category of reserve assets" in the composition report required under proposed § 350.4(g), what, if any, specific content and structure should the FDIC require? Should the composition report conform to a template? Should the FDIC require PPSIs to state granular geographic location of custody or is stating by country sufficient? Should the report include information about deposit concentration and CUSIPs of securities? Should the required content include the composition of the reserve assets by type of assets and maturities and by counterparty issuer? For "geographic tenor," are there specific methods for calculating tenor that the rule should require or permit?

Question 61: Are there any additional steps that the FDIC should take to encourage transparency while minimizing burden with respect to the reserve asset composition report?

Question 62: With respect to a PPSI that issues multiple brands of payment stablecoins, such as in white label arrangements, what modifications to the reporting requirements, including the reserve asset composition report, would be appropriate? Are there any additional disclosures that the PPSI should provide so the report is not misleading?

Question 63: Should the composition report be required to list and name any IDIs holding reserve assets? Should the report be required to list and name other eligible financial institutions holding reserve assets?

Question 64: Should the values and information in the monthly report be required to be as of a particular date or time? Should the monthly report be required to include both month end figures (for the previous month) and some information that can be presented in real-time (for example, the value of reserves or outstanding issuance value)? Are there potential challenges in providing assurance over real-time information presented in a monthly report?

Question 65: Is the requirement in proposed § 350.4(h) to have information disclosed in the previous month-end report examined by a registered public accounting firm sufficiently clear? If not, what additional clarity should the FDIC provide with respect to the examination by a registered public accounting firm? Should the examination be performed at the "reasonable assurance" level or at some other standard? What additional standards, if any, should the FDIC apply to ensure that the examination by the registered public accounting firm is accurate and appropriate? Should the engagement letter between the PPSI and the registered public accounting firm require the registered public accounting firm to attest to whether the PPSI is in compliance with the reserve asset requirements in proposed § 350.4, based on the information available to the registered public accounting firm? What criteria should be used for the examination by the registered public accounting firm? Would assertions from the management of the PPSI regarding the information in the issuer's weekly or monthly report be sufficient? If not, what other criteria should be included?

Question 66: Should the FDIC add or remove specific data points from Table 1 to proposed § 350.4(g) – Monthly Composition Template? Is the template appropriately configured to capture the data needed for the required month-end reports? Should the FDIC provide instructions for using the template or is the format of the template sufficiently clear to complete without instructions? Is there a different format or template that is better suited for this purpose than the proposed Table 1?

Question 67: Should the FDIC require PPSIs to monitor the financial condition of eligible financial institutions, including IDIs, holding reserve assets?

Question 68: Is the FDIC's approach to PPSIs that fail to meet minimum reserve requirements in proposed § 350.4(i) appropriate? If the PPSI is unable to meet the requirements what other actions should the FDIC consider directing the PPSI to perform? What measures would be appropriate for a PPSI to take to meet their requirements in proposed § 350.4(a)?

Question 69: The FDIC proposes that all PPSIs maintain a written contingency plan in proposed § 350.4(j). Should the FDIC specify what measures PPSIs should include in their contingency plans? If yes, what measures would be appropriate to include?

Question 70: Should the FDIC require that PPSIs maintain processes for the orderly redemptions of outstanding payment stablecoins in exigent circumstances in proposed § 350.4(k)? If so, what, if anything, should be required?

6. Redemption (proposed § 350.5)

Section 350.5 of the proposed rule addresses redemption requirements imposed by section 4(a)(1)(B) of the GENIUS Act (12 U.S.C. 5903(a)(1)(B)). Consistent with the

Act, under proposed § 350.5(a), a PPSI must publicly disclose its redemption policy. The FDIC proposes PPSIs also include additional information as described below.

Redemption Policy

Proposed § 350.5(a)(1) requires PPSIs to disclose the timeframe in which the PPSI will redeem payment stablecoins issued by the PPSI for a fixed amount of monetary value and the timeframe under proposed § 350.5(b)(1).

Proposed § 350.5(a)(2) would require the PPSI to include the statement in proposed § 350.5(b)(2), which requires that any discretionary limitations on timely redemptions can only be imposed by the FDIC.

Proposed § 350.5(a)(3) would require the PPSI to explain when the redemption period may be extended, as detailed in proposed § 350.5(c).

In proposed § 350.5(a)(4), the PPSI would be required to provide a statement with clear instructions on how a payment stablecoin holder can redeem a payment stablecoin, including a link to the website where a payment stablecoin holder can redeem the payment stablecoin.

Under proposed § 350.5(a)(5) the PPSI must disclose the minimum number of payment stablecoins that it will redeem, but the minimum number the PPSI will redeem may not be greater than one payment stablecoin.

Redemption Policy Requirements

Proposed § 350.5(b) requires a permitted payment stablecoin redemption policy to provide clear and conspicuous procedures for timely redemption of outstanding payment stablecoins. The FDIC is proposing to define "timely" to mean that a PPSI shall redeem a payment stablecoin no later than two business days following the date of the requested

redemption in proposed § 350.5(b)(1). Under the proposal, two business days would be the maximum amount of time a PPSI could choose to redeem payment stablecoins, but a PPSI could choose a shorter time period. The FDIC recognizes that the market may expect redemptions to occur far more quickly than two business days. The FDIC is requesting comment on this provision on whether the number of business days is appropriate. In addition, consistent with the Act, the FDIC is proposing that discretionary limitations on timely redemptions can only be imposed by the FDIC.

Timeliness Extended in Certain Scenarios

Proposed § 350.5(c) would provide that the PPSI must notify the FDIC immediately if it receives redemption requests that exceed 10 percent of its outstanding issuance value within a 24-hour period, which the FDIC defines as a "significant redemption request." If a PPSI receives redemption requests that exceed 10 percent over a time period of less than 24 hours, the PPSI is required to provide immediate notice to the FDIC upon the 10 percent threshold being crossed, rather than waiting until the end of the 24-hour period. Along with that notification, the PPSI may request that the FDIC grant the PPSI approval to extend the redemption time period beyond the required two business days. The FDIC may also request the PPSI to provide a specific time period by which it expects to be able to satisfy all of the redemption requests and, if appropriate, whether it is at risk of potentially not satisfying requirements in proposed § 350.4(i) or plans to implement the measures in proposed § 350.4(j). The FDIC in its sole discretion may choose to grant or deny the request for extension or grant a different amount of time than one requested by the PPSI.

Disclosures and Fees Associated with Purchase and Redemptions

Proposed § 350.5(d)(1) would provide that a PPSI must also publicly, clearly, and conspicuously disclose in plain language and in a format that is readily noticeable, readily understandable, and segregated from other information: (i) the name of the PPSI that issues the brand of payment stablecoin; (ii) that the PPSI is the entity that is obligated to convert, redeem, or repurchase the payment stablecoin for a fixed amount of monetary value; (iii) the link to the monthly composition report of the relevant PPSI's reserves as required under proposed § 350.4(g); and (iv) all fees associated with purchasing or redeeming payment stablecoins. The PPSI should make such disclosures clear for each brand of payment stablecoin.

Proposed § 350.5(d)(2) provides that a PPSI shall update the disclosures in proposed § 350.5(d)(1)(iv) if there are any increases in the fees associated with purchasing or redeeming payment stablecoins and provide at least seven calendar days' prior notice of the change, including by securely delivering the notice to current customers for whom the PPSI has contact information. Such disclosures and any updates to its disclosures shall be published on the PPSI's website, as described in proposed § 350.5(d)(3).

Proposed § 350.5(d)(4) provides that a PPSI shall include the disclosures in proposed § 350.5(d)(1) and any updates made with respect to proposed § 350.5(d)(2) in any customer agreements that it provides.

Questions for Redemption Section (350.5)

The FDIC requests comment on the redemption requirements contained in proposed § 350.5, including the following:

Question 71: Has the FDIC appropriately defined "timely" for purposes of redemption in proposed § 350.5(b)(1) as not exceeding two business days? If not, what may be a more appropriate timeframe? For example, should the FDIC consider other timeframes ranging from less than one calendar day to seven calendar days? Should "timely" be defined to scale with the liquidity of specific required reserve assets or with other factors? How should the definition of "timely" appropriately balance considerations of price stability and run risk?

Question 72: The proposed rule would require PPSIs to notify the FDIC if they receive "significant redemption requests," and, as part of that notification, PPSIs may request that the FDIC extend the redemption time beyond two days. The FDIC may choose in its sole discretion to grant or deny the redemption request. Is this notification requirement appropriate? Are there reasons why monitoring for redemption requests exceeding 10 percent and immediately notifying the FDIC would be operationally challenging? Should the FDIC provide in the rule specific time periods that it could choose when granting extensions to redemption requests? What metrics and data should the FDIC review or request from the PPSI for its determination when granting extensions to redemption requests?

Question 73: Should the FDIC require a permitted payment stablecoin issuer to include in its redemption policy an automated, emergency safety mechanism, commonly known as a "circuit breaker," designed to pause trading, redemptions, or minting when extreme price volatility or a de-pegging event occurs?

Question 74: Are there limitations that the FDIC should impose related to redemption fees, *e.g.*, to reduce the risk of reserves assets falling below outstanding payment stablecoin issuance value, discourage run risk, or encourage price stability?

Question 75: Should the FDIC include specific additional provisions regarding fee disclosures in the regulation text? If so, what additional requirements should be included?

Question 76: Should the FDIC propose any other categories of disclosures with respect to redemption requirements? Would potential payment stablecoin holders have sufficient information to inform their use of payment stablecoins?

Question 77: Should the FDIC impose any additional rules addressing minimum amounts for redemption? For example, should the FDIC prohibit any redemption minimums or set the minimum at some point other than one payment stablecoin?

Question 78: Should the FDIC include in proposed § 350.5(c) a provision permitting a PPSI to make exceptions to its redemption policy or refuse a redemption request in the event of fraud? Should a PPSI be able to pause or refuse redemption in any other scenarios like a cyber-attack or idiosyncratic market events? If the FDIC permits exceptions or refusals to timely redemption for cases of fraud, cyber-attack or market events, how should the FDIC design or limit the exception so that the purpose of the timely redemption provision is not thwarted?

7. Risk management (proposed § 350.6)

Section 4(a)(4)(A)(iv) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iv)) provides that the FDIC must issue regulations implementing appropriate operational, compliance, and information technology risk management principles-based requirements and standards, including Bank Secrecy Act and sanctions compliance standards, that are

tailored to the business model and risk profile of PPSIs and consistent with applicable law. Accordingly, proposed § 350.6 would implement this provision and address: (i) general operational and managerial standards; (ii) information technology and security; and (iii) the anti-money laundering and economic sanctions compliance programs certification requirement.

Internal Controls and Information Systems

The FDIC is proposing risk management requirements and standards in proposed § 350.6(a) that largely provide for the PPSI to design commensurate with the nature, complexity, and risk of a PPSI's activities. Many of the standards in proposed § 350.6(a) are adapted from relevant provisions of 12 CFR part 364, Appendix A, which in turn implement 12 U.S.C. 1831p-1. The FDIC identified standards from Appendix A of Part 364 that fit the requirements of section 4(a)(4)(A)(iii) or 4(a)(4)(A)(iv) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iii), (iv)) and then adapted and tailored those standards to the business models of PPSIs, as appropriate. The FDIC is also seeking comment on whether to adopt more general risk management standards, with less specificity than provided in the proposal, as described below.

Proposed § 350.6(a)(1) would require that a PPSI have internal controls and information systems that are appropriate for the size and complexity of the PPSI and the nature, scope, and risk of its activities and that provide for: (i) an organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies; (ii) effective risk assessment; (iii) timely and accurate financial, operational, and regulatory reporting, including with respect to the reports required under this part; (iv) adequate procedures to monitor, safeguard, manage, and control assets,

including reserve assets; and (v) compliance with applicable laws and regulations. Internal controls refer to the systems, policies, procedures, and processes implemented by management to operate effectively, safeguard assets, produce reliable financial records, and ensure compliance with applicable laws and regulations. The internal control standards are principles-based to account for the varying size, complexity, and risks of PPSIs. For example, the procedures to monitor, safeguard, and manage assets and to comply with applicable laws and regulations would be expected to include measures to monitor and ensure reserve requirements are met on a daily basis.

Internal Audit System

Proposed § 350.6(a)(2) requires PPSIs to have an internal audit system that is appropriate to the size and complexity of the PPSI and the nature, scope, and risk of its activities and that provides for: (i) adequate monitoring of the system of internal controls through an internal audit function, or for a PPSI whose size, complexity or scope of operations does not warrant a full scale internal audit function, a system of independent reviews of key internal controls; (ii) independence and objectivity; (iii) qualified persons; (iv) adequate independent testing and review of internal controls and information systems; (v) adequate documentation of tests and findings and any corrective actions; and (vi) verification and review of management actions to address deficiencies. Internal audit programs are expected to include independent tests and reviews, as appropriate, with scopes and activities that are informed by an assessment of the risk and control environment. While the proposed § 350.6(a)(2) requires that internal audit functions be structured with independence and objectivity to promote impartiality and avoid potential conflicts of interest, the proposed rule would not mandate a specific organizational

structure or a standardized risk management approach. PPSIs will be able to tailor the size and organizational structure of the internal audit function, and any outsourcing arrangements, commensurate with the size, complexity, and risk profile of its activities.

Interest Rate Exposure

Proposed § 350.6(a)(3) addresses interest rate risk pursuant to section 4(a)(4)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iii)) which requires the FDIC to establish interest rate risk management standards among other things. The proposal would require a PPSI to manage interest rate risk in a manner that is appropriate to the size and complexity of the PPSI and the complexity of its assets and liabilities. Although the reserve composition requirements proposed under proposed § 350.4(e) limit reserve assets to those that generally have limited duration or no duration (*e.g.*, funds held as demand deposits), PPSIs should understand the impact that changes in interest rates, particularly increases in interest rates over short-time periods, may have on the fair value and monetization of interest-sensitive reserve assets. Interest rate risk management practices may also need to consider the impact that the interest rate environment may have on the demand for payment stablecoins and anticipated redemptions, given the prohibition of paying interest to payment stablecoin holders solely in connection with the holding, use, or retention of payment stablecoins under proposed § 350.3(b)(4).

Asset Growth

Proposed § 350.6(a)(4) requires a PPSI's asset growth to be commensurate with risk management and operational capabilities. The proposal does not establish limits on asset growth rates or the overall size of a PPSI but is intended to ensure the growth of

assets is managed prudently and that management maintains risk management and operational capabilities.

Insider and Affiliate Transactions

Proposed § 350.6(a)(5) addresses insider and affiliate transactions and is intended to add to the protection of the assets and resources of a PPSI from misuse for the benefit of insiders, affiliates, or related entities. Under proposed § 350.6(a)(5)(i), a PPSI would be required to ensure that transactions between or among the PPSI and insiders or affiliates (other than the parent IDI of which it is a subsidiary): (A) do not pose significant risks of material financial loss to the PPSI and (B) are conducted on terms that are the same or at least as favorable to the PPSI as those prevailing at the time for comparable transactions with or involving non-insiders or non-affiliates (or in the absence of comparable transactions, are offered on terms and under circumstances that, in good faith would be offered to, or would apply to non-affiliates or non-insiders).

Oversee Service Provider Arrangements

Proposed § 350.6(a)(6) would provide requirements for overseeing third-party service provider arrangements. Specifically, a PPSI must: (i) exercise appropriate due diligence in selecting its service providers; (ii) require its service providers by contract to implement appropriate measures designed to meet the requirements of proposed part 350; and (iii) as appropriate, monitor its service providers to confirm they have satisfied their obligations under proposed part 350. Appropriate due diligence provides PPSIs with the information needed to evaluate whether third-party service providers can perform as expected and whether risks associated with the relationship can be adequately identified, monitored, and controlled. Further, properly structured contractual arrangements can help

protect PPSIs compliance with proposed part 350, and effective monitoring practices enable management to determine if third-party service providers are performing as expected.

Liquidity

Proposed § 350.6(a)(7) establishes liquidity standards, pursuant to section 4(a)(4)(A)(ii) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(ii)). The proposed rule would require a PPSI to: (i) appropriately monitor and validate compliance with the requirements of proposed § 350.4 and (ii) manage liquidity risk in a manner that is appropriate to the business model and risk profile of the PPSI. Appropriate monitoring and management of liquidity is integral to the operations of a PPSI and its ability to facilitate the timely redemption of payment stablecoins and adhere to the requirements under proposed § 350.4.

Information Technology and Security

Section 4(a)(4)(A)(iv) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iv)) directs the FDIC to establish appropriate information technology risk management principles-based requirements and standards that are tailored to a PPSI's business model and risk profile, and consistent with applicable law. Proposed § 350.6(b) sets forth such principles-based information technology risk management standards for PPSIs consistent with the GENIUS Act. Proposed § 350.6(b) would require an FDIC-supervised PPSI to account for information technology risks arising from activities authorized by the GENIUS Act, including reliance on distributed ledger(s) or distributed ledger protocol(s) to process and record payment stablecoin transactions. The standards in proposed § 350.6(b) are in addition to, and do not supersede, any information technology risk

management rules, standards, or guidelines generally applicable to a subsidiary of an IDI, including the Interagency Guidelines Establishing Information Security Standards (Appendix B to Part 364), with which IDIs should already be familiar.

Information Technology and Security Program

Proposed § 350.6(b)(1) provides that a PPSI must establish a comprehensive framework that addresses information technology and security-related risks. This framework shall include a structured program for assessing and managing information technology and security risks. A comprehensive information technology and security program will facilitate the operational resilience of the PPSI, as well as mitigate technology vulnerabilities and security threats that could disrupt operations, including redemption of payment stablecoins. Furthermore, maintenance of such a program by a PPSI is consistent with the approach to risk management by regulated financial institutions generally.

Required Elements of Program

Under proposed § 350.6(b)(2), a PPSI's information technology and security program shall include: (i) an inventory and classification of information technology assets, processes, and sensitivity of data; (ii) an assessment of the information technology and security risks associated with the issuance of stablecoins; (iii) controls supporting and safeguarding the confidentiality, integrity, and availability of information technology; (iv) controls for the development, maintenance, and changes to information technology, including controls for testing, storage, and deployment of the code base, including the smart contract code; (v) evaluation, validation, and reporting processes to ensure that information technology systems and controls, including smart contracts, are operating as

intended; (vi) periodic independent testing of controls; and (vii) a comprehensive and effective program for the identification, assessment, and response to operational and security incidents. A comprehensive incident response program is essential for a PPSI to respond in an effective and timely manner to an incident and mitigate its impact.

Safe Handling of Digital Assets

Proposed § 350.6(b)(3) provides that a PPSI shall develop, implement, and maintain appropriate measures to ensure secure handling of digital assets, including private key management, backup, and recovery incorporating: (i) relevant technical, operational, strategic, market, legal, and compliance considerations relating to each digital asset and its underlying distributed ledger(s); and (ii) material developments specifically related to supported digital assets and their underlying distributed ledger(s).[23] Maintaining appropriate measures for private key management, backup, and recovery incorporating both technical and operational factors and material on-chain developments is essential to manage risk associated lost or stolen private keys and the resulting loss or theft of assets. For example, depending on the assessed risk, appropriate layered security could include controls such as: (1) private key security via multi-party computation or multi-signature technology to prevent single points of failure, alongside, cold/offline storage for assets; (2) geographically dispersed, encrypted, and regularly tested recovery keys; and (3) monitoring for technical, legal, and material on-chain updates, such as blockchain forks or smart contract vulnerabilities.

[23] If a PPSI holds digital assets on a customer's behalf, the PPSI's risk management practices must reflect this activity. Consistent with the July 14, 2025 Joint Statement on Risk Management Considerations for Crypto-Asset Safekeeping, a PPSI holding digital assets on a customer's behalf would be required to maintain risk management practices, and information security practices in particular, that reflect the PPSI's capacity to understand a complex and evolving asset class, ability to ensure a strong control environment, and appropriate contingency plans to address unanticipated challenges in effectively providing services to customers.

Adjust the Program

Proposed § 350.6(b)(4) would require that a PPSI monitor, evaluate, and adjust, as appropriate, the information technology and security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats, and the PPSI's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, third-party arrangements, and changes to applicable information systems. Monitoring, evaluating, and adjusting the information technology and security program facilitates a risk-based approach, ensuring that information technology defenses keep pace with rapidly evolving cyber threats, blockchain technology advancements, and business changes like mergers and acquisitions.

Notification of Unauthorized Access

Proposed § 350.6(b)(5) would provide that a PPSI shall maintain an appropriate program to notify its customers if the PPSI becomes aware of an incident of unauthorized access to sensitive customer information. The standards in proposed § 350.6(b)(5) are in addition to, and do not supersede, other notification standards including the Interagency Guidelines Establishing Information Security Standards (Appendix B to Part 364). A PPSI could, if it so chose, satisfy the notification obligation under this section and other notification requirements through a single, comprehensive notification that met all relevant timing and content requirements. The program shall require the delay of customer notice if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the permitted payment stablecoin issuer with a written request for the delay.

Information Technology Resilience

Proposed § 350.6(b)(6) would provide that a PPSI's information technology and security program shall include measures to reasonably address continuity of operations and recovery of critical functions in the face of disruptions, including by business impact analyses, testing of vulnerability, and testing with critical service providers. The operational resilience of a PPSI is challenged by a range of threats and vulnerabilities, including ransomware, service provider outages, or smart contract exploits. Such threats and vulnerabilities can cause severe de-pegging, transaction delays, or loss of access to reserves. Addressing operational resilience for payment stablecoin functions is particularly challenging given the 24/7 nature of blockchain networks. By implementing these business continuity measures, a PPSI can protect itself from significant operational and financial impact and support its customers' access to their digital assets, during market stress or a cyber-attack, for example.

Anti-Money Laundering and Economic Sanctions Compliance Programs

Required Certification

Proposed § 350.6(c) would implement requirements under section 5(i) of the GENIUS Act (12 U.S.C. 5904(i)) regarding the initial and annual anti-money laundering and economic sanctions compliance programs certifications. The proposed rule would require a PPSI to file with the FDIC a certification that it has implemented anti-money laundering and economic sanctions compliance programs that are reasonably designed to prevent the PPSI from facilitating money laundering, in particular, facilitating money laundering for cartels and organizations designated as foreign terrorist organizations under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) and the

financing of terrorist activities, as required by the GENIUS Act. The PPSI would be required to file the initial certification within 180 days of being approved under the application process and by April 1 of each year thereafter. Given that the certification requirement would be ongoing and related to a PPSI's compliance programs, the FDIC is proposing to include the certification requirement within the risk management provisions in subpart A of 12 CFR part 350.

Questions for Risk Management Section (proposed § 350.6)

The FDIC requests comment on the risk management requirements contained in proposed § 350.6, including the following:

Question 79: Should the FDIC streamline proposed § 350.6(a) by replacing it with a high-level requirement that the PPSI establish a prudent risk management framework commensurate with its size, complexity, and risk, including appropriate risk management frameworks to manage liquidity and interest rate risk? If so, should it, also at a higher level than proposed, specify that such risk management framework include risk assessment, internal controls, organizational structure with clear lines of authority and responsibility, and an internal audit system?

Question 80: Are the risk management standards included in proposed § 350.6 appropriate? Are there any the FDIC should remove or modify? Are there any risk management standards the FDIC should add?

Question 81: Are the liquidity risk management requirements in proposed § 350.6(a)(7) unnecessary, given the requirements that are proposed in § 350.4?

Question 82: Should the risk management standards under proposed § 350.6(a) provide for clear management roles, responsibilities, and accountability? Should the

standards include any requirements for the PPSI's board of directors and senior management to maintain appropriate competence and experience relevant to its activities? If so, should any standards regarding competence and experience be similar to the considerations set forth in section 5(c)(3) of the GENIUS Act?

Question 83: Should proposed § 350.6(b) expressly address risks relating to smart contracts, encryption, tokenized assets, or any other technology or procedure? Are there standards which were included but are not relevant to PPSIs?

Question 84: Are the restrictions on insider and affiliate transactions in proposed § 350.6(a)(5) appropriate? What modifications, if any, are warranted? Should there be similar restrictions applied to transactions with the parent IDI? Should there be limitations on the ability of a parent IDI to "bail out" a subsidiary PPSI during stress? What are the pros and cons of permitting such actions? Should the requirements include any prescriptive qualitative or quantitative limits? Should certain transactions require approval by the board of directors?

Question 85: Should the FDIC require PPSIs to take any steps to manage risks related to customer-facing operational issues, such as with respect to fraud, unauthorized activity, customer disputes, or service disruptions?

Question 86: To what extent are the requirements in proposed § 350.6 consistent with other actions the FDIC is taking to make supervision less process-focused and more focused on financial risks?

8. Audits, reports, and supervision (proposed § 350.7)

Section 6(a)(1) of the GENIUS Act (12 U.S.C. 5905(a)(1)) subjects PPSIs to the supervision of the FDIC. Section 6(a)(3) of the GENIUS Act (12 U.S.C. 5905(a)(3))

requires the FDIC to examine PPSI s to assess: (i) the nature of the operations and the financial condition of the PPSI; (ii)the financial, operational, technological, compliance, and other risks associated with the PPSI that may pose a threat to the safety and soundness of the PPSI or the stability of the financial system of the United States; and (iii) the systems of the PPSI for monitoring and controlling the risks. Pursuant to section 6(a)(4) of the GENIUS Act (12 U.S.C. 5905(a)(4)), in supervising and examining a PPSI, the FDIC shall, to the fullest extent possible, use existing reports and other supervisory information, avoid duplication, and shall only request examinations at a cadence and in a format that is similar to that required for similarly situated entities regulated by the FDIC.

Examinations

Proposed § 350.7(a) outlines that the FDIC will fulfill its examination responsibilities, pursuant to Section 6(a)(3) of the GENIUS Act (12 U.S.C. 5905(a)(3)), and will do so consistent with existing examination timelines established for the parent IDI outlined in § 337.12 of the FDIC Rules and Regulations, which generally require the FDIC to conduct examinations at least once during each 12-month period, but may be conducted at least once during each 18-month period if certain conditions outlined in § 337.12(b) are met by the parent IDI. Consistent with section 6(a)(3) of the GENIUS Act (12 U.S.C. 5905(a)(3)), the scope of the examination will include: (i) an assessment of the nature of the operations and financial condition of the PPSI; (ii) the financial, operational, technological and other risks associated within the permitted payment stablecoin; and (iii) the systems (including practices) for monitoring and controlling those risks. Such examinations will review compliance with laws and regulations and assess overall safety and soundness.

Proposed § 350.7(b) of the proposed rule requires that, upon request by the FDIC, PPSIs must grant the FDIC prompt and complete access to all officers, directors, employees, agents, and relevant books, records, or documents of any type, including distributed ledgers. The FDIC, through its examination authority over State nonmember banks and State savings associations, has authority to make a thorough examination.[24] Sections 6(a)(1) and (3) of the GENIUS Act (12 U.S.C. 5905(a)(1), (3)) give the FDIC similar authority to supervise and examine PPSIs. Proposed § 350.7(b) proposes that the books and records of a PPSI include, but are not limited to, information retained on distributed ledgers. Proposed § 350.7(b) applies the FDIC's supervisory and examination approach of access to all books and employees to perform adequate examination and supervision to PPSIs similarly to State nonmember banks and State savings association. Additionally, proposed § 350.7(c) clarifies that the FDIC may conduct examinations either on-site or remotely.

Proposed § 350.7(d) allows the FDIC to conduct examinations of PPSIs as frequently as the FDIC deems necessary, including examinations of a limited scope. This is consistent with the FDIC's statutory authority under Section 6(a) of the GENIUS Act (12 U.S.C. 5905) and the FDIC's supervisory authority over State nonmember banks and State savings associations.

Recordkeeping

Proposed § 350.7(e) provides that PPSIs must maintain a complete set of books and records. Proposed § 350.7(f) requires PPSIs to develop and implement a records

[24] 12 U.S.C. 1820(b), (c).

retention policy that ensures the PPSI can demonstrate compliance with the GENIUS Act, this part, and all applicable laws and regulations.

Reporting

Section 6(a)(2) of the GENIUS Act (12 U.S.C. 5905(a)(2)) requires that each PPSI shall, upon request, submit to the FDIC a report on: (i) the financial condition of the PPSI; (ii) the systems of the PPSI for monitoring and controlling financial and operating risks; and (iii) compliance by the PPSI (and any subsidiary thereof) with the GENIUS Act.

Proposed § 350.7(g) would require the PPSI to submit a confidential weekly report to the FDIC, pursuant to the FDIC's authorities in section 6(a)(2) of the GENIUS Act (12 U.S.C. 5905(a)(2)). The FDIC is seeking comment on what the FDIC should require. The requirement could include information regarding required reserves, issuance and redemption, and other relevant information. The FDIC understands that this type of information is currently monitored on an ongoing basis by existing PPSIs. Such reporting includes additional or more frequent information beyond the composition report that would be required in proposed § 350.4(g) and the quarterly financial condition reporting required in proposed § 350.7(h) and will allow the FDIC to more effectively supervise PPSIs to identify changes in risk profile and financial condition between examinations, in a timely manner, and to more efficiently supervise PPSIs by facilitating risk scoping.

Proposed § 350.7(h) would require PPSIs to submit quarterly reports of financial condition to the FDIC in a standardized format to be established by the FDIC, pursuant to the FDIC's authorities in sections 6(a)(1) and (2) of the GENIUS Act (12 U.S.C. 5905(a)(1)-(2)). The reports of financial condition would be required within 30 days of

the end of the prior quarter and will include an income statement, balance sheet, reserves, statement of changes in equity, issuance value, and assets under custody, among other things. These reports of financial condition are intended to replicate, in a streamlined manner, the quarterly Consolidated Reports of Condition and Income (commonly referred to as the Call Report). Similar to the Call Report, the FDIC intends to publish the information for public use and intends to require the chief financial officer (or the individual performing an equivalent function) of the PPSI to attest to the accuracy of the filing. In addition, the FDIC would require directors and senior management of the PPSI, other than the officer signing the chief financial officer declaration, to attest to the accuracy of the report of financial condition. Such reporting includes additional information beyond the composition report that would be required in proposed § 350.4(g) and the weekly reporting required in proposed § 350.7(g) and will allow the FDIC to more effectively supervise PPSIs to identify changes in risk profile and financial condition between examinations, in a timely manner, and to more efficiently supervise PPSIs by facilitating risk scoping.

Proposed § 350.7(i) would require the PPSI to submit reports on the following to the FDIC, upon request, as required by section 6(a)(2) of the GENIUS Act (12 U.S.C. 5905(a)(2)): (i) the financial condition of the PPSI; (ii) the systems of the PPSI for monitoring and controlling financial and operational risks; and (iii) compliance of the PPSI and any subsidiary thereof with the GENIUS Act, and proposed part 350.

Audits

Proposed § 350.7(j) implements section 4(a)(10) of the GENIUS Act (12 U.S.C. 5903(a)(10)), which requires a PPSI with more than $50,000,000,000 in consolidated

total outstanding issuance value, that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), to prepare an annual financial statement, obtain an audit of that financial statement, and make the audited annual financial statement publicly available and submit it to the FDIC. Under the proposed rule, each PPSI with more than $50,000,000,000 in total outstanding issuance value, that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), is required to prepare an annual financial statement, in accordance with GAAP, and which shall include the disclosure of any related party transactions, as defined by GAAP. Consistent with section 4(a)(10)(A)(ii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(ii)), proposed § 350.7(j)(1) would require a registered public accounting firm to audit and report on the annual financial statements. While section 4(a)(10)(A)(ii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(ii)) requires that such audit be performed in accordance with all applicable auditing standards established by the Public Company Accounting Oversight Board (PCAOB), proposed § 350.7(j)(1) seeks to provide additional flexibility relevant for non-public entities that would allow the audit to be performed either in accordance with generally accepted auditing standards or PCAOB auditing standards. Also, while Section 4(a)(10)(A)(i) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(i)), is limited to a PPSI that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), the FDIC interprets section 4(a)(10)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(iii)) to mean those "applicable auditing standards" would apply if the PPSI were subject to the reporting requirements under section 13(a) or 15(d) of the

Securities and Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)). Also, the FDIC may at any time request that a registered public accounting firm provide to the FDIC certain additional information or documents relating to information provided by the PPSI. The registered public accounting firm must retain the working papers related to the audit of the PPSI and agree to provide copies of any working papers, policies, and procedures relating to services performed in connection with the audit required under section 4(a)(10)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(iii)). Proposed § 350.7(j)(2)(i) would require a PPSI to make the audited financial statements publicly available on the PPSI's website and submit them to the FDIC within 120 days after the end of its fiscal year. Proposed § 350.7(j)(2)(ii) would require a PPSI that is unable to file all or any portion of its financial statement in a timely manner, to submit a written notice of late filing to the FDIC: (1) before the filing date; (2) stating its inability to timely file all, or specified portions, of its annual financial statement and the reasons for such inability to timely file, in reasonable detail; and (3) stating the date by which the financial statement will be filed.

Questions for Audits, Reports and Supervision Section (proposed § 350.7)

The FDIC requests comment on the audits, reports, and supervision provisions contained in proposed § 350.7, including the following:

Question 87: Should the FDIC modify any aspects of the examination requirements under proposed § 350.7 for PPSIs? If so, what examination requirements should be modified, and why?

Question 88: Proposed § 350.7(d) provides the FDIC authority to conduct examinations of any PPSI as frequently as the FDIC deems necessary. Should the

proposal include criteria that the FDIC should consider when exercising its authority to conduct more frequent examinations?

Question 89: Should the FDIC coordinate examinations with other appropriate primary Federal payment stablecoin regulators in the event a PPSI participates in a consortium of multiple entities supervised by more than one primary Federal payment stablecoin regulator? If so, should it utilize existing processes? If no, how should coordination be structured?

Question 90: Should the FDIC modify any aspects of the proposed reporting requirements under proposed § 350.7 for PPSIs? If so, what reporting requirements should be modified, and why? Are any changes needed to the frequency or content of required reports?

Question 91: In proposed § 350.7(g), the FDIC proposes to collect confidential weekly data from PPSIs. The weekly data could include some or all of the following: (i) outstanding issuance value; (ii) reserve assets; (iii) redemptions; (iv) minting and issuance; (v) exchanges on which the payment stablecoin trades; (vi) the largest holders of the payment stablecoin; (vii) data concerning securities held as reserve assets (including information regarding reserve assets' CUSIPs, yield, weighted average maturity and weighted average life); and (viii) information regarding repurchase agreements and reverse repurchase agreements (including information regarding the counterparty, clearing agency, collateral, and interest). Has the FDIC identified the appropriate data and categories of information it would collect from a PPSI on a weekly basis to understand the operations and risks unique to its business model? If not, are there data listed above that the FDIC should not request on a weekly basis and/or are there any

additional data beyond those listed above that the FDIC should collect on a weekly basis? If the payment stablecoin trades on the secondary market, should the FDIC collect secondary market transaction data (*e.g.*, trading price and volume), if applicable? Would it be too burdensome for PPSIs to provide the proposed weekly data to the FDIC electronically on a daily or real-time basis? Should the FDIC collect additional data regarding the custody of reserve assets (or other covered assets)? To what extent, if any, would a PPSI be anticipated to track the information listed above on a regular or real-time basis for its own use? To what extent would the proposed weekly and quarterly reporting requirements tend to reduce the frequency at which the FDIC would need to examine PPSIs? Are there other reporting requirements that the FDIC could request that might reduce the frequency at which the FDIC would need to examine PPSIs?

Question 92: In proposed § 350.6(h), the FDIC requires all PPSIs to submit a quarterly report of financial condition. Should the FDIC tailor this requirement for PPSIs with assets below a certain threshold? If so, what should the threshold be? For PPSIs under the threshold, what changes to reporting frequency or information should be considered? Should the FDIC consider any changes to the quarterly report of financial condition required under proposed § 350.6(h) with respect to the filing of quarterly Call Reports by the PPSI's IDI parent? Could such changes to the Call Report be utilized in lieu of the report proposed in § 350.6(h)? Should the quarterly report under proposed § 350.6(h) be attached to the Call Report as an appendix as opposed to a separate filing? Why or why not? Are there changes that should be made to the Call Report to limit duplicative reporting requirements? Should reports required under proposed § 350.6(h)

and proposed part 350 more generally be coordinated and developed on an interagency basis across the primary Federal payment stablecoin regulators?

Question 93: Is the flexibility proposed in § 350.7(j)(1) that would allow the audit relevant for non-public entities to be performed either in accordance with generally accepted auditing standards or PCAOB auditing standards reasonable, and why or why not?

Question 94: How can the FDIC best minimize duplication of reports, including for PPSIs subject to the audit requirement contained in proposed § 350.7(j)? Should the FDIC also include in the rule text that it may at any time request that a registered public accounting firm provide to the FDIC certain additional information or documents relating to information provided by the PPSI and that the registered public accounting firm must agree to provide copies of any working papers, policies, and procedures relating to services in connection with the audit required under section 4(a)(10)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(iii))?

Question 95: The proposal does not include a requirement that a person seeking to acquire control of a PPSI follow the requirements in 12 CFR part 303 subpart E, which requires an FDIC-supervised insured State nonmember bank or insured State savings association to provide prior notice to the FDIC prior to a change in control. Should the FDIC require a person seeking to acquire control, as that term is defined in 12 CFR § 303.81(c), of a PPSI to provide the FDIC prior notice of the proposed acquisition pursuant to the requirements of 12 CFR part 303, subpart E, as if the PPSI were a covered institution? Should a person acquiring control of an FDIC-supervised PPSI through an acquisition be required to notify the FDIC, or would section 5 of the GENIUS Act (12

U.S.C. 5904) and implementing regulations be adequate, such that a person would be required to file an application with the appropriate primary Federal payment stablecoin regulator rather than the FDIC?

9. Capital requirements

Section 4(a)(4)(A)(i) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(i)) requires the FDIC to establish capital requirements for PPSIs that are tailored to the business model and risk profile of PPSIs and not exceed requirements sufficient to ensure the ongoing operations of PPSIs. Under the proposal, capital requirements would be established based on an individualized evaluation of each PPSI.

Under the GENIUS Act, Congress established stringent reserve requirements to serve as the key safeguard to ensure PPSIs can meet redemptions throughout cycles. To the extent a PPSI limited its activity most narrowly to payment stablecoin issuance and redemption, the FDIC would expect its capital requirements to be relatively low. However, to the extent a PPSI engaged in additional permitted activities that presented additional risks, the FDIC would expect capital requirements to play more of a role. Given the uncertainty at this stage regarding the potential risks and activities, the FDIC is proposing to require PPSIs to develop a process to assess and meet their capital requirements, with the FDIC maintaining an ability to require additional capital if warranted. The FDIC is also seeking comment on whether this is the right approach, or whether standardized capital requirements would be a preferable approach.

Capital elements (proposed § 350.8)

Under proposed § 350.8, regulatory capital for PPSIs would consist of two capital elements, common equity tier 1 capital and additional tier 1 capital. These two elements

are generally consistent with the capital elements under 12 CFR part 324 for FDIC-supervised IDIs. These elements consist of common equity, retained earnings, and noncumulative perpetual preferred stock that meet certain terms designed to ensure significant loss-absorbing capabilities. FDIC-supervised IDIs that may seek to establish PPSI subsidiaries are generally familiar with the long-standing criteria for capital instruments to qualify under the existing 12 CFR part 324 framework.

Common equity tier 1 capital would consist of common stock instruments (par value, if any, and related surplus), retained earnings, and any accumulated other comprehensive income (AOCI), all as reported under GAAP. Common stock instruments would need to meet various proposed criteria, including being the most subordinated claim on the PPSI's assets, being fully paid-in, having no maturity date, and not being redeemable except with prior FDIC approval. Any dividends must be fully discretionary, paid out only after fulfillment of any other legal or contractual obligations. In addition, the holders of the instruments must bear losses equally, proportionally, and simultaneously with other holders of common stock instruments. As the most subordinated tier of regulatory capital, common equity tier 1 exhibits the most loss absorbency, as any dividends are discretionary and there is no expectation of redemption or repurchase of the instrument, ensuring any operating funds generated can be used for any other business need of the PPSI.

The FDIC also is proposing to include AOCI as a component of common equity tier 1 capital. Unlike in 12 CFR part 324, the FDIC is not proposing to permit any neutralization of AOCI. The FDIC permits neutralization of components of AOCI under part 324 for most banks in part to reduce regulatory capital volatility associated with

changes in value of available-for-sale fixed income securities due to changes in interest rates. Changes in value due to interest rate movements are generally larger for securities with longer remaining maturities. As PPSIs can only hold as reserve assets securities with remaining maturities of 93 days or less, the change in value of these securities due to interest rate movements would be unlikely to generate material amounts of AOCI.

Additional tier 1 capital would consist of instruments that meet a different set of proposed criteria, generally consistent with noncumulative perpetual preferred stock issuances that are classified as equity under GAAP. Generally, these instruments would be subordinated to all claims except those of common shareholders. The instruments could not have a maturity date but may be callable after at least 5 years with prior approval of the FDIC. In addition, the terms of the instrument must provide for the payment of dividends only if and when declared by the board of directors of the PPSI. This feature provides the PPSI the ability to retain earnings and capital if needed. These provisions all help ensure that the instrument provides significant loss absorbency by limiting the PPSI's obligations to holders.

The FDIC's capital framework for banks also permits tier 2 capital elements, which mainly consist of tier 2 capital instruments, such as certain types of subordinated debt instruments, and certain allowances for credit losses. The FDIC is not proposing to adopt tier 2 capital elements for PPSIs. Allowing subordinated debt obligations of a PPSI to qualify as capital may incentivize a PPSI to take on material leverage beyond its payment stablecoin liabilities, which may increase the risk profile of the PPSI. Separately, as PPSIs generally would not be providing loans or other credit to customers, they likely would not have any allowance for credit losses.

The proposed rule would not require any specific deductions from regulatory capital for PPSIs. The FDIC's current rules for FDIC-supervised IDIs in 12 CFR part 324 require deductions from capital for goodwill, other intangible assets, and certain other assets such as mortgage servicing assets greater than a specified amount of capital, generally due to their volatility and their inability to predictably absorb losses. The FDIC does not believe such deductions are necessary or appropriate for a PPSI. While a PPSI's goodwill and other intangible assets may exhibit similar valuation volatility as those of an IDI, the FDIC expects these risks to be sufficiently addressed though the operational backstop, as well as through proposed requirements around risk management, ongoing capital adequacy assessments, and reserve asset composition. For example, a PPSI that holds a significant amount of goodwill from the acquisition of another entity would be expected to appropriately incorporate in its capital adequacy assessment the risk that the goodwill may become impaired and reduce retained earnings. The FDIC seeks comment, however, on whether any deductions should be required. In addition, the FDIC expects that the minimum capital requirement for a PPSI with material or volatile intangible assets would typically be higher, both in the *de novo* period and on an ongoing basis, than for a PPSI with only small amounts of intangible assets.

As an alternative, the FDIC is considering a simpler framework for identifying qualifying capital instruments for PPSIs. Under this alternative, any balance sheet account that is classified as equity under GAAP would qualify as a capital element, including common stock, retained earnings, accumulated other comprehensive income, and certain preferred stock. This alternative could be easier for some PPSIs to implement, as it is based on the GAAP definitions of equity without any additional requirements.

These benefits may be small, however, given that the FDIC-supervised IDI that controls an FDIC-supervised PPSI would already be familiar with the additional requirements for common equity tier 1 capital and additional tier 1 capital. Moreover, those additional requirements are designed to ensure that the equity instruments are sufficiently loss absorbing and reduce the risk of loss to payment stablecoin holders. For example, the additional proposed requirements would help ensure a PPSI does not redeem equity instruments with funds that are necessary to support the liquidity or operations of the payment stablecoin and associated reserves, or make loans to potential third-party shareholders to purchase stock, which provides no loss absorbency. The FDIC is also seeking comment, however, on whether a simpler framework, such as one that is based on tangible equity or GAAP equity, would be more appropriate.

Minimum capital and operational backstop (proposed § 350.9)

Under proposed § 350.9, the FDIC would establish the initial minimum capital requirement for the PPSI that would apply for a minimum timeframe, generally three years. Under the proposed approach, the FDIC would consider factors such as projected revenues and expenses, cash burn rates, and expenditures necessary to implement the proposed business plan and activities of the applicant. The FDIC may consider various scenarios based on projected payment stablecoin issuance volumes, planned composition of reserves, and projected returns on those reserves in different economic and market environments.

More specifically, under proposed § 350.9(a), the initial minimum capital requirement would apply during the "*de novo* period," generally the three-year period following approval by the FDIC of the PPSI to issue payment stablecoins under this

proposed rule. This timeframe may be extended or shortened by the FDIC. Generally, the FDIC could extend the *de novo* period based on changes to the business model or activities of the PPSI, excessive volatility in issuance and redemptions of the payment stablecoin, unexpected operating losses, weak earnings, poor risk management, or violations of the GENIUS Act or part 350.

During the *de novo* period, the FDIC may adjust a PPSI's minimum capital requirement based on a comparison of its actual operations to the projections provided as part of the application. During this time, and afterward, the PPSI also would be required to assess its own capital adequacy and maintain an amount of capital that is commensurate with its business model and risk profile, subject to review by the FDIC.

The FDIC would consider the proposed PPSI's risk profile, business strategy, future growth prospects, and cushions for unexpected losses. As part of the approval process and during the *de novo* period, the FDIC would consider factors including: (i) the composition, stability, and direction of revenue; (ii) the level and composition of expenses; (iii) the level of retained earnings; (iv) the quantity and direction of strategic risk; (v) the quantity of transaction risk from delivery and administration of asset management products and services; and (vi) the impact of external factors, including economic conditions and evolving technology.

The proposed rule also proposes a floor of $5 million on the minimum capital requirement during the *de novo* period. This floor is primarily intended to ensure that a PPSI has sufficient resources to support initial operations, including resources sufficient to cover any losses that are expected to occur early in the launch of a new payment stablecoin.

In addition to the capital requirement established by the FDIC for the *de novo* period, the proposed rule would also require a PPSI to calculate a minimum capital requirement based on a thorough evaluation of the risks associated with its business model and risk profile. This amount would be based on estimates submitted during the application phase, and after approval, this amount must incorporate the operating history of the PPSI and losses experienced from all sources, including, but not limited to, operational risk. The FDIC would review and monitor the amount of capital held by the PPSI, and the process employed by the PPSI to determine its minimum capital requirement, as part of the examination process. The amount of capital held by the PPSI must appropriately incorporate the operating history and risk profile of the PPSI. As described below, if the FDIC concludes that the minimum capital requirement established by the PPSI was inappropriate, the FDIC would have the authority to establish an additional capital requirement under proposed § 350.10.

The GENIUS Act requires that capital requirements for PPSIs be tailored to the business model and risk profile of PPSIs. In light of the reserve asset composition and diversification requirements for PPSIs, as well as the amendments to the U.S. Bankruptcy Code made by the GENIUS Act that are designed such that payment stablecoins holders are paid on their claims against an insolvent PPSI, the FDIC expects that minimum capital requirements for a PPSI with a business model that is narrowly focused on the issuance and redemption of payment stablecoins and with a correspondingly simple balance sheet will be relatively low. Conversely, if a PPSI held assets on its balance sheet outside of reserve assets that presented material risks the FDIC would expect higher capital requirements.

Although the FDIC is not currently proposing to establish any specific minimum capital amount or ratio by regulation, or a framework for determining a minimum capital requirement, the FDIC is seeking comment on whether to implement such a framework for determining more objective capital requirements.

Under proposed § 350.9(b), the FDIC is proposing that a PPSI hold an operational backstop comprised of a designated pool of highly liquid assets to maintain the ongoing operations of the PPSI during a business disruption. The operational backstop would be independent of the *de novo* and ongoing capital requirements, and the assets that comprise the backstop would be separate from assets held as reserve assets. The purpose of the proposed operational backstop would be to help ensure that, during a business disruption that impacts operations of a PPSI, the PPSI has on hand a pool of liquid assets, separate from reserve assets, that can be used to meet short term liquidity needs, stabilize the PPSI after the disruption, and continue or resume normal operations. The operational backstop would be calculated based on the actual total expenses of the PPSI over the past 12 months. These expenses, including for utilities, data processing, and salaries, are highly correlated with a PPSI's ability to maintain ongoing operations for the benefit of payment stablecoin holders and stabilize from a business disruption. At a minimum, the operational backstop could provide a basis for a more orderly runway for a PPSI to develop and execute potential stabilization actions or prepare for resolution. The amount of the operational backstop would be calculated each quarter, based on a PPSI's total expenses as reported in the four most recent quarterly reports filed under proposed § 350.7 of the proposed rule. During the *de novo* period, the initial requirement would be

based on reasonable expense projections and adjusted each quarter based on actual amounts for that quarter.

The operational backstop amount would need to be held as readily available liquid assets to ensure that funds are available quickly during a business disruption. Specifically, this amount would need to be held in U.S. currency directly or at a Federal Reserve Bank, as demand deposits at an IDI, or in Treasury bills, notes or bonds that meet the requirements to qualify as reserve assets. The operational backstop assets would need to be separately identified in the reports filed under proposed § 350.7, and in any other financial statements of the PPSI, from any reserve assets required to support the payment stablecoin and any other assets of the PPSI on any reports filed under proposed § 350.7. The proposed minimum capital amount, the capital held by the PPSI, and the operational backstop would be calculated as of the last day of each quarter and disclosed in the reports required under proposed § 350.7 of the proposed rule. Under proposed § 350.9(c), if a PPSI does not meet the minimum capital requirement or have sufficient liquid assets to meet the operational backstop at the end of a quarter, it must notify the FDIC in writing and provide a description of the measures it intends to take to remediate the shortfall. If the FDIC determines that such measures are not viable, the FDIC may direct a PPSI to take other remediative measures, including directing the PPSI to issue additional capital instruments or acquire additional liquid assets for the operational backstop, suspend or reduce issuance of payment stablecoins, execute an orderly redemption of all outstanding payment stablecoins, or take other actions.

Individual additional capital or backstop requirement (proposed § 350.10)

Proposed § 350.10 addresses individual additional capital or operational backstop requirements. As permitted by section 4(a)(4)(B)(i) of the GENIUS Act (12 U.S.C. 5903(a)(4)(B)(i)), to address cases where the PPSI's internal capital adequacy assessment is deficient in addressing the capital needs of the PPSI, or where the PPSI's available liquid assets are insufficient to ensure ongoing operations, the FDIC is proposing a process to impose on a PPSI an individual additional capital or operational backstop requirement.

Proposed § 350.10(a) includes a list of examples intended to illustrate when the FDIC may consider imposing an individual additional capital or operational backstop requirement. These include when there has been a significant increase in operational risks, excessive volatility in payment stablecoin issuance or redemptions, or additional risks that the PPSI is not appropriately reflecting in its ongoing capital adequacy assessment framework. While an individual capital or backstop requirement would be based on the facts of each individual case, proposed § 350.10(b) would describe the factors that the FDIC may consider.

Under proposed § 350.10(c), the FDIC would notify the PPSI of the proposed individual additional capital or backstop requirement, including a justification for that requirement and a target achievement date. The board of directors and management of the PPSI generally would have 30 days to respond to that notice. The FDIC may change this time period, as appropriate, based on the condition of the PPSI. For example, the time period may be shortened due to the severity of the underlying issues and need for additional capital or backstop. After the response period, the FDIC would issue a final

decision establishing an individual additional capital or backstop requirement for that PPSI, which would remain in effect until modified or rescinded by the FDIC. The decision may require the PPSI to develop and submit to the FDIC, within a specified time period, an acceptable plan to reach the additional capital or backstop requirement established for the PPSI. If, after the FDIC renders its decision, there is a significant change in the circumstances that materially affects the PPSI's capital adequacy or its ability to reach the required capital or backstop requirement, the PPSI may request, or the FDIC may propose to the PPSI, a change in the additional capital or backstop requirement for the PPSI, the date when the minimum must be achieved, or the PPSI's plan (if applicable). The FDIC may decline to consider proposals that are not based on a significant change in circumstances or that are repetitive or frivolous. Pending a decision on reconsideration, the FDIC's original decision and any plan required under that decision shall continue in full force and effect.

Proposed Adjustment to the Bank Capital Rule (proposed amendments to 12 CFR 324)

Section 4(a)(4)(C)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(4)(C)(iii)) specifies that the leverage and risk-based capital requirements imposed by an appropriate Federal banking agency (as defined in 12 U.S.C. 1813(q)) on a consolidated basis on an IDI or depository institution holding company that includes a PPSI as a consolidated subsidiary cannot require such an IDI or depository institution holding company to hold any amount of regulatory capital with respect to such PPSI subsidiary and its assets and operations in excess of the capital that such PPSI must maintain under the capital regulations issued pursuant to the GENIUS Act.

The FDIC is the appropriate Federal banking agency for FDIC-supervised IDIs, and the FDIC's regulations impose consolidated leverage and risk-based capital requirements on FDIC-supervised IDIs (capital rule).[25] To comply with section 4(a)(4)(C)(iii) of the GENIUS Act, the FDIC is proposing to amend section 324.22 of the capital rule, which sets forth certain adjustments and deductions to the amount of an FDIC-supervised IDI's regulatory capital, to specify the balance sheet adjustments that an FDIC-supervised IDI with a consolidated PPSI subsidiary would be required to make for purposes of the capital rule. First, an FDIC-supervised IDI that consolidates a PPSI in accordance with regulatory reporting instructions and under GAAP would be required to deconsolidate the investment in the PPSI for regulatory capital purposes. Second, the FDIC-supervised IDI would be required to deduct any interest in the retained earnings of the PPSI from the FDIC-supervised IDI's common equity tier 1 capital. This amount would also be deducted from the asset reflecting the FDIC-supervised IDI's investment in the PPSI for risk-based and leverage capital calculations. This interest reflects the FDIC-supervised IDI's share of retained earnings of the PPSI that have not been paid out as dividends, and the deduction ensures that the same amount would not count as capital at both the PPSI and its parent FDIC-supervised IDI. Once earnings from the PPSI are paid as dividends to the parent FDIC-supervised IDI, those funds are available for general uses of the parent FDIC-supervised IDI and no longer count as capital of the PPSI. Finally, any remaining assets of the FDIC-supervised IDI associated with the PPSI (after deducting its share of retained earnings), such as investments in or intercompany receivables from a PPSI, would be excluded when calculating the FDIC-supervised IDI's

[25] *See* 12 CFR part 324.

standardized total risk-weighted assets, advanced approaches risk-weighted assets,[26] average total consolidated assets, and total leverage exposure, as applicable. To the extent that a subsidiary PPSI incurs net losses, there would be no adjustment to increase its parent FDIC-supervised IDI's assets or retained earnings to offset those losses, so as to not overstate the resources and financial condition of the parent FDIC-supervised IDI.

The FDIC is also proposing to make conforming amendments to the definition of total assets in 12 CFR 324.401(g).

As proposed, this deconsolidation and deduction approach would ensure that an FDIC-supervised IDI that consolidates a PPSI under GAAP would not be required to hold any amount of regulatory capital with respect to such PPSI subsidiary and its assets and operations in excess of the capital that such PPSI must maintain under the capital requirements issued pursuant to the GENIUS Act. This approach would also ensure that any undistributed retained earnings of the PPSI are not double-counted as capital that can be used by the parent FDIC-supervised IDI.

However, because the proposed approach would not deduct the full amount of an FDIC-supervised IDI's investment in its PPSI subsidiary, there may be incentives for an FDIC-supervised IDI to contribute more capital to its PPSI subsidiary (in the form of permissible reserve assets for PPSIs) than necessary to prudently operate the PPSI subsidiary as a mechanism to inflate the capital ratios of the FDIC-supervised IDI. The FDIC recognizes that an appropriately capitalized PPSI will have a positive capital position, and the FDIC does not intend to discourage a PPSI from maintaining reserve

[26] The FDIC, OCC and FRB issued the Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations proposal that would replace the advanced approaches with the expanded risk-based approach.

assets and other liquid assets in amounts that a PPSI believes are prudent given the PPSI's outstanding balance of payment stablecoins and other potential risks of the PPSI. In contrast, contributions of assets by an FDIC-supervised IDI to its PPSI subsidiary that are disproportionate to the PPSI's outstanding payment stablecoins or are not readily usable by the PPSI subsidiary for its operations, or the recognition of significant intangible assets by the PPSI subsidiary, as examples, may be indicative of balance sheet management activities intended to improve the FDIC-supervised IDI's regulatory capital position rather than serve the operations and/or business needs of the PPSI.

Consequently, the FDIC intends, through its supervision of FDIC-supervised IDIs and PPSIs, to monitor the balance sheet management activities of FDIC-supervised IDIs and their PPSI subsidiaries to ensure that an FDIC-supervised IDI does not use the balance sheet of its PPSI subsidiary to inappropriately inflate the regulatory capital ratios of the FDIC-supervised IDI. In this regard, the FDIC maintains the authority under 12 CFR 324(d)(1) to require an FDIC-supervised IDI to hold an amount of regulatory capital greater than otherwise required under 12 CFR part 324 if the capital requirement under part 324 is not commensurate with the FDIC-supervised IDI's credit, market, operational, or other risks. If the FDIC were to determine that contributions of assets by an FDIC-supervised IDI to its PPSI subsidiary appear indicative of an intent to inflate the capital ratios of the IDI rather than serve the operations and/or business needs of the PPSI, the FDIC would expect to require the FDIC-supervised IDI to hold an additional amount of regulatory capital commensurate with such disproportionate contribution of assets.

Questions for Capital Section (Proposed §§ 350.8, 350.9, 350.10)

The FDIC requests comment on the capital requirements contained in proposed §§ 350.8, 350.9, and 350.10, including the following:

Question 96: Should the FDIC establish standardized capital requirements (*i.e.*, establish minimum risk-based capital and/or leverage requirements) for PPSIs? If so, how should such capital requirements be established and calibrated? If not, should the FDIC make any modifications to the proposed capital requirements?

Question 97: Should the FDIC provide additional clarity around its expectations for calibration of capital requirements based on the risks and activities of PPSIs?

Question 98: Are the proposed requirements for capital elements appropriate and sufficiently clear? Should the FDIC consider permitting tier 2 capital in the form of subordinated debt, similar to the permitted capital element under Part 324 for FDIC-supervised IDIs? If so, in what circumstances would it be likely for an FDIC-supervised PPSI to issue tier 2 capital instruments? Should the FDIC consider establishing limits on how much capital of each tier should be required or allowed? Alternately, should the FDIC adopt a simpler measure of capital, such as anything that qualifies as equity under GAAP, instead of importing the bank framework for capital instruments? Should the FDIC use tangible equity (retained earnings, stock, and preferred stock, net of tangible assets) as the measure of capital for a PPSI?

Question 99: Should the FDIC require deductions from regulatory capital for goodwill, certain deferred tax assets, or other illiquid or intangible assets, recognizing that these assets may not provide sufficient loss absorbency during a business disruption, and may experience volatility in value or write-downs that could deplete retained earnings? Please provide any data supporting your views.

Question 100: Are the proposed components and determination of the minimum capital and backstop requirements appropriate for PPSIs? Which alternatives, if any, should the FDIC consider and why? Should the requirements include any adjustments in recognition of newly acquired or divested businesses, or any other adjustments when calculating total expenses for purposes of the proposed backstop? Please provide any data supporting your views.

Question 101: Is the $5 million minimum capital requirement for a *de novo* PPSI appropriate?

Question 102: Should the FDIC incorporate a capital requirement based on the outstanding issuance value or amount and type of reserve assets, including variations of any of the proposals discussed above? For example, should the FDIC impose a minimum capital requirement based on a set percentage of outstanding issuance value, as discussed above in this supplementary information? If so, are the minimum capital requirements and thresholds discussed above appropriately calibrated? Please provide any data supporting your views.

Question 103: A PPSI and holders of payment stablecoins issued by a PPSI could be exposed to losses through the price risk, credit risk, and interest rate risk of the PPSI's portfolio of reserve assets, as well as through any operational risks to which the PPSI is exposed. Should the FDIC adopt a capital requirement based on price risk, credit risk, operational risk, or interest rate risk, including variations on any of the proposals discussed above? Please provide any data supporting your views. Should the FDIC impose a charge for credit risk, such as a capital charge for uninsured deposits? Should

the FDIC impose a minimum operational risk capital charge that scales with the size of the PPSI, as discussed above?

Question 104: Should the FDIC adopt a capital requirement expressly designed to address costs of litigation, legal risk, or legal costs during insolvency that a PPSI may face? If so, how should such a requirement be calibrated?

Question 105: Should the capital and operational backstop requirements be calculated based as of the last day of a given quarter, as proposed? Or should the amount instead be calculated across some other period of time, such as an average on a monthly, bi-monthly, biannually, or yearly basis?

Question 106: Is the timing for the PPSI to meet capital and operational backstop requirements appropriate? Should consequences for falling below minimum requirements kick in sooner than the end of the quarter?

Question 107: Are the proposed criteria for imposing an individual additional capital or operational backstop requirements appropriate and sufficiently clear? What modifications, if any, are appropriate? Are there modifications to the process that are appropriate? Is the process too long or too short?

Question 108: With respect to the assets eligible for the operational backstop, the proposal would allow demand deposits at an IDI to qualify. Should this be limited to only fully insured deposits?

Question 109: Does the proposed deconsolidation and deduction approach appropriately balance the FDIC's statutory obligations under the GENIUS Act with other statutory requirements to establish risk-based and leverage capital requirements for FDIC-supervised IDIs? If not, what changes or alternatives should the FDIC consider?

Question 110: Instead of the proposed approach, should the FDIC require an FDIC-supervised IDI that includes a consolidated PPSI subsidiary to treat a PPSI subsidiary for regulatory capital purposes in the same manner that it is required to treat a financial subsidiary? This would require the FDIC-supervised IDI to deconsolidate the assets and liabilities of the PPSI subsidiary, exclude the amount of its investment in the PPSI subsidiary from its total risk-weighted assets, average total consolidated assets, and other applicable exposure measures, and deduct the amount of its investment in the PPSI subsidiary from its common equity tier 1 capital. On the one hand, this approach would ensure that the FDIC-supervised IDI's investment in its PPSI subsidiary does not increase the capital of the FDIC-supervised IDI, thus avoiding any double counting of capital. On the other hand, this approach could, at least for some period of time upon establishing a PPSI subsidiary, cause the regulatory capital ratios of an FDIC-supervised IDI that includes a consolidated PPSI subsidiary to be lower than the regulatory capital ratios of an otherwise similar FDIC-supervised IDI that did not establish a consolidated PPSI subsidiary, thus (relative to the proposal) potentially increasing the cost of establishing a PPSI subsidiary. What would be the advantages and disadvantages of this approach? If the FDIC were to adopt such an approach, should the FDIC consider calibrating the PPSI capital requirement as a percentage of the PPSI's total assets or other denominator, rather than the proposal's fixed minimum capital requirement for PPSIs? Alternatively, should the FDIC consider applying the existing treatment for financial subsidiaries to larger institutions, while retaining the proposed approach for smaller institutions, given the proposal's fixed minimum capital requirement for PPSIs? Are there other alternatives the FDIC should consider?

Question 111: Does the proposed approach appropriately reflect loss absorbing capacity of FDIC-supervised IDIs and PPSI subsidiaries?

Question 112: To what extent do commenters agree with the FDIC's characterization of the potential that an FDIC-supervised IDI could utilize a subsidiary PPSI under the proposed approach to inflate the capital ratios of the parent IDI? What are the advantages and disadvantages of the supervisory actions the FDIC would expect to take upon determining that the contribution of assets by an FDIC-supervised IDI to its PPSI subsidiary appeared indicative of an intent to improve the regulatory capital position of the IDI rather than serve the operations and/or business needs of the PPSI? Are there other measures the FDIC could adopt to address such concerns? Would treating PPSI subsidiaries as financial subsidiaries for regulatory capital purposes, as discussed above, be a preferable approach?

B. Subpart B— Requirements for FDIC-Supervised Entities Engaged in the Custody or Safekeeping of Payment Stablecoin Reserves and Collateral

The FDIC proposes to establish subpart B to implement the custodial and safekeeping requirements outlined in section 10 of the GENIUS Act (12 U.S.C. 5909) with respect to FDIC-supervised entities.

1. Purpose and Scope (proposed § 350.100)

Proposed § 350.100 sets forth the purpose and scope of the custodial and safekeeping regulations in subpart B. The subpart B requirements would apply to persons subject to supervision and regulation by the FDIC, including insured State nonmember banks, insured State-licensed branches of foreign banks, insured State savings associations, and PPSIs, for which the FDIC is the primary Federal banking agency or

primary Federal payment stablecoin regulator, that are engaged in the business of providing custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins pursuant to sections 4(a)(7)(A)(iv) and 10 of the GENIUS Act (12 U.S.C. 5903(a)(7)(A)(iv) and 5909).

Furthermore, proposed § 350.100 would provide that subpart B applies to the custody and safekeeping of any other digital asset by a PPSI authorized by the FDIC. The provision also clarifies that proposed subpart B requirements would apply in addition to any other applicable law regarding the provision of custody and safekeeping services of payment stablecoin reserves, payment stablecoins used as collateral, or private keys, and any other digital asset.

Lastly, proposed § 350.100 would provide that subpart B requirements would not apply solely on the basis of engaging in the business of providing hardware or software to facilitate a customer's self-custody or safekeeping of payment stablecoins or private keys. This exclusion is consistent with section 10(e) of the GENIUS Act (12 U.S.C. 5909(e)).

2. Definitions (proposed § 350.101)

For purposes of proposed subpart B, the FDIC would include the following definitions in proposed § 350.101.

Applicable law. The proposed rule would define "applicable law" to mean the law of a state or other jurisdiction governing a custodian's custody relationships, any applicable Federal law governing those relationships, and any applicable court order.

Custody agreement. The proposed rule would define "custody agreement" to mean a legally binding contractual agreement between a customer, as the principal, and

the custodian, as the agent, that establishes the custodian's duties and responsibilities in providing custody, safekeeping and ancillary services to the customer.

Customer. The proposed rule would define "customer" to mean a person for whom or on whose behalf a custodian receives, acquires, or holds payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property received in the course of the provision of custody services for such assets. This definition is consistent with the description of the term "customer" used in section 10(b) of the GENIUS Act (12 U.S.C. 5909(b)). The proposed "customer" definition under part 350 subpart B only applies to part 350, subpart B.[27]

Custodian. The proposed rule would define "custodian" to mean an FDIC-supervised person, including an insured State nonmember bank, insured State-licensed branch of a foreign bank, insured State savings associations, or a PPSI. This proposed definition specifies the FDIC-supervised entities that are permitted to provide custodial and safekeeping services as provided under section 10(a) of the GENIUS Act (12 U.S.C. 5909(a)).

Digital wallet. The proposed rule would define "digital wallet" to mean a software program or hardware device that stores and manages the private keys associated with a particular unit of a digital asset.

Person. The proposed rule would define "person" to mirror section 2(24) of the GENIUS Act (12 U.S.C. 5901(24)), and the term would mean an individual, partnership,

[27] The proposed "customer" definition under part 350, subpart B is not intended to affect any GENIUS Act requirements promulgated to implement the GENIUS Act's direction to treat PPSIs as financial institutions for purposes of the Bank Secrecy Act and to apply Federal law applicable to a financial institution located in the United States relating to the prevention of money laundering, including customer identification program or customer due diligence requirements applicable to PPSIs. *See* 12 U.S.C. 5093(a)(5)(A).

company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

Permitted payment stablecoin issuer. The proposed rule would define "permitted payment stablecoin issuer" to have the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

Private keys. The proposed rule would define "private keys" to mean the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger.

Sub-custodian. The proposed rule would define "sub-custodian" to mean a person that provides custody and safekeeping services to a custodian, including through a digital wallet for which such person controls the associated private keys, with respect to assets of a customer, for which the custodian otherwise serves as an agent under this subpart.

3. Severability (proposed § 350.102)

Similar to subpart A, subpart B would include a severability clause in proposed § 350.102 that would provide that the provisions of subpart B are separate and severable from one another. In the event a court stays a particular provision of this rule or determines any provision is invalid, the FDIC intends that the remaining provisions shall continue in effect.

4. Custodial and Safekeeping Requirements (proposed § 350.103)

Proposed § 350.103(a) would implement requirements in section 10(b)(1) of the GENIUS Act (12 U.S.C. 5909(b)(1)) and would require a custodian to treat payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other

property received, acquired, or held in custody for or on behalf of a customer as belonging to such customer and not as the property of the custodian.

Proposed § 350.103(b) would require a custodian to take appropriate steps to protect the customer's payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property from the claims of the custodian's creditors and any sub-custodian's creditors. Under the proposed rule, these measures must be commensurate with the custodian's size, complexity, and risk profile and with the nature of the applicable assets for which it provides custodial or safekeeping services including through adopting, implementing, and maintaining written policies, procedures, and internal controls that are adequate to comply with applicable law. The FDIC believes this proposed § 350.103(b) would be consistent with section 10(b)(2) of the GENIUS Act (12 U.S.C. 5909(b)(2)), which requires a custodian to take appropriate steps to protect the customer's property from the claims of the custodian's creditors. Moreover, the requirements in proposed § 350.103(b) incorporate appropriate risk management principles that are consistent with safe and sound practices expected for institutions providing custodial and safekeeping services.[28]

Section 350.103(c)(1) of the proposed rule would require a custodian to maintain possession or control of the customer's property that is held directly, including in a digital wallet for which the custodian controls the associated private keys. The proposed rule would further provide that a custodian could maintain the customer's property through the use of a sub-custodian if consistent with applicable law, provided the custodian maintains adequate safeguards and internal controls reasonably designed to

[28] *See e.g.*, Joint Statement on Crypto-Asset Safekeeping by Banking Organizations (July 14, 2025), https://www.fdic.gov/interagency-statement-crypto-asset-safekeeping.pdf.

provide the custodian with oversight of such sub-custodian's compliance with the requirements of subpart B.

With respect to any payment stablecoin or tokenized reserve asset, proposed § 350.103(c)(2) provides that a custodian or sub-custodian maintains control if it can it can reasonably demonstrate, consistent with the standard of care established by applicable law that no other party, including the customer or any affiliate of the custodian, can control or transfer the payment stablecoin or payment stablecoin reserve in the form of an asset in tokenized form using a distributed ledger without the affirmative consent of the custodian or sub-custodian, as applicable. The custodian must have technical safeguards to prevent unauthorized access by its own personnel. This provision would be consistent with past interagency guidance regarding control of crypto assets for purposes of safekeeping[29] and necessary to protect a customer's assets.

5. Commingling Prohibition and Limited Exceptions (proposed § 350.104)

Section 350.104(a) of the proposed rule would provide that a custodian shall not commingle and shall separately account for and segregate payment stablecoin reserves, payment stablecoins, cash, and other property of a customer from the custodian's own assets. A custodian should ensure that accounts are appropriately titled and ownership is clear for each of the customers that own the payment stablecoin reserves, payment stablecoins, cash, and other property of that customer. This requirement would apply to any property that the custodian is maintaining on behalf of its customers. Proposed § 350.104(a) is consistent with the GENIUS Act section 10(c) (12 U.S.C. 5909(c)) and implements those requirements.

[29] *See e.g.*, *id.*

Proposed § 350.104(b) provides for three exceptions to the prohibition against a custodian commingling a customer's assets with the custodian's assets, consistent with the GENIUS Act section 10(c)(2), for operational convenience. Proposed § 350.104(b)(1) would permit an insured State nonmember bank, insured State-licensed branch of a foreign bank, or insured State savings association that provides custodial or safekeeping services, for convenience, to hold payment stablecoin reserves, stablecoins, cash, and other property of a customer within a single omnibus account containing assets of other customers so long as the payment stablecoin reserves remain identifiable. Proposed § 350.104(b)(2) would allow an insured State nonmember bank, insured State-licensed branch of a foreign bank, or insured State savings association that provides custodial or safekeeping services for payment stablecoin reserves in the form of cash to hold such cash in the form of a deposit liability, provided such treatment is consistent with applicable law. Proposed § 350.104(b)(3) allows a custodian to withdraw and apply the share necessary of the payment stablecoin reserves, payment stablecoins, cash, and other property of a customer to cover routine operational needs of the custodian, such as paying commission, taxes, storage fees, or other lawful charges. For each of these exceptions in proposed § 350.104(b)(1) through (b)(3), the custodian should follow safe and sound practices and remain consistent with applicable laws and regulations.

6. Reporting

Under section 10(d) of the GENIUS Act (12 U.S.C. 5909(d)), the FDIC may require a custodian to provide information, in a form and manner determined by the FDIC, concerning the custodian's business operations and processes to protect customer assets. The FDIC recognizes that while IDIs currently provide reporting on their custodial

businesses pursuant to Schedule RC-T of the Call Report, Schedule RC-T does not currently require reporting specific to payment stablecoins or payment stablecoin reserves. At this time, the FDIC is not proposing separate reporting requirements for custodians under subpart B. However, the FDIC is considering, and requesting comment on, whether it would be appropriate to seek revisions to Schedule RC-T or whether to require custodians to report on a separate form maintained by the FDIC information relevant to custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins.

Questions for Subpart B, §§ 350.100- 350.104)

The FDIC requests comment on the custodial requirements contained in proposed part 350, subpart B, including the following:

Question 113: Are the subpart B proposed definitions appropriate and sufficiently clear? Would it be helpful to define any other terms?

Question 114: FDIC's proposed subpart B would implement section 10 of the GENIUS Act (12 U.S.C. 5909) with respect to entities that are regulated by the FDIC. Are there issues that the FDIC should bear in mind if an FDIC-supervised entity holds reserve assets on behalf of a PPSI that is not regulated by the FDIC?

Question 115: The FDIC proposes principles-based requirements in line with sound custodial management practices that the FDIC understands are industry standard. Does the proposal accurately capture sound custodial management practices that are industry standard? Why or why not? Are there any additional practices or standards that FDIC should consider?

Question 116: Is it sufficiently clear in a custodial relationship when and for what assets the minimum, principles-based requirements of subpart B would apply? Are there circumstances where a custodian may be unaware that payment stablecoin reserve assets held in an account are being used as collateral and potentially subject to the requirements of subpart B?

Question 117: The proposed rule describes how a custodian maintains control of payment stablecoin reserve assets. Is this description appropriately calibrated? Are there other means by which a custodian should be deemed to have demonstrated control over these types of assets?

Question 118: Are there additional considerations the FDIC should take into account regarding a custodian's use of an omnibus account? To what extent should the FDIC consider prescribing additional recordkeeping, customer account, disclosure, or other terms or conditions as a precondition to a custodian commingling payment stablecoin reserve assets and other custodial assets?

Question 119: Section 10(c)(3) of the GENIUS Act (12 U.S.C. 5909(c)(3)) provides a priority regime regarding the claims of customers against a custodian with regards to any payment stablecoins used as collateral. The section also allows customers to expressly waive this priority. What are the potential benefits and drawbacks of such a priority regime, including with regards to whether it may amplify losses PPSIs on payment stablecoin reserves that are custodied by a custodian that provides a diversified custodial business should there be a shortfall in a custodian's custodied assets? What market practices are likely to arise regarding the use of the contractual provisions that waive a customer's priority regarding payment stablecoins used as collateral that are held

in custody? To what extent should the FDIC consider either providing guidance on the use of such contractual provisions or requiring custodians to use such contractual provisions in their custody agreements? How are customer waivers in relation to custodians likely to impact the resolution of PPSIs? For example, would they lead to additional complications in determining the priority of claims?

Question 120: The GENIUS Act provides an exclusion from the custodial requirements to any person solely on the basis that such person engages in the business of providing hardware or software to facilitate a customer's own custody, known commonly as "self-custody," or safekeeping of the customer's payment stablecoins or private keys. Should the FDIC consider implementing language to prevent this exception from being used to evade the custodial requirements of the Act?

Question 121: Are there particular circumstances for which the FDIC should provide additional clarification as to the application of subpart B or the applicability of any exception (*e.g.*, regarding payment stablecoins locked in a smart contract for purposes of "wrapping" the payment stablecoin for use on an unsupported blockchain)?

Question 122: To ensure that a PPSI is able to meet redemptions on a timely basis, should the FDIC require that any custody agreement a custodian enters into with a PPSI provide for release of any custodied payment stablecoin reserve assets to the customer's control within a specific timeframe? What are the costs and benefits of any such approach?

Question 123: Should the FDIC require custodians to report on a separate form information regarding custodial and safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to

issue payment stablecoins? Should the form request information regarding total payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins under custody? For payment stablecoin reserves under custody, should the FDIC require custodians to report the payment stablecoin reserves under custody (for affiliates and third parties), including payment stablecoin reserves held in each of the permitted categories of reserve assets proposed in § 350.4? Is there additional information the FDIC should include? If other forms of reporting would be helpful, what are they? What are the costs and benefits of requiring separate reporting?

Question 124: To what extent is Schedule RC-T of the Call Report, in the case of FDIC-supervised IDIs relevant to custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins? Should revisions to Schedule RC-T or other Call Report Schedules be made to require information relevant to custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins? If so, what changes should be made? What are the costs and benefits of more detailed reporting requirements?

C. Proposal to Clarify Deposit Insurance Coverage for Reserve Deposits

Reserve assets backing payment stablecoins are an important component of the statutory framework established by the GENIUS Act. Through this proposal, the FDIC is seeking to clarify the treatment for such reserves for deposit insurance purposes. In particular, the FDIC is proposing to amend its deposit insurance rules, found in part 330 of the FDIC's regulations, to provide that deposits held as reserves for a payment

stablecoin would be insured to the PPSI under the FDIC's coverage rules for corporate deposits, but would not be insured to payment stablecoin holders on a pass-through basis. As corporate deposits of the PPSI, such deposits would be aggregated with other corporate deposits maintained by the PPSI at the same IDI and insured for up to the Standard Maximum Deposit Insurance Amount (SMDIA), currently $250,000. The FDIC is seeking comment on whether this is the appropriate approach and reflects the appropriate interpretation of the GENIUS Act and FDI Act.

General Principles of Deposit Insurance Coverage

The FDIC only insures "deposits," as that term is defined in section 3(*l*) of the FDI Act (12 U.S.C. 1813(*l*)). "Deposits" include demand deposits at insured depository institutions, which the GENIUS Act provides may comprise a portion of a PPSI's reserves backing its payment stablecoins.[30]

The FDI Act establishes the key parameters of deposit insurance coverage, including the SMDIA, and provides deposit insurance coverage up to the SMDIA at each separately chartered IDI where deposits are maintained. The FDI Act also provides separate insurance coverage for deposits maintained in different rights and capacities (also known as ownership categories) at the same institution. In other words, the SMDIA is $250,000 per depositor, per IDI, for deposits held in each ownership category.

Today, some deposit accounts are eligible for pass-through deposit insurance. Pass-through deposit insurance coverage is a mechanism that allows deposits placed at an IDI by a third party on behalf of one or more owners to be insured as if deposited directly at the IDI by the owner(s). Certain regulatory requirements must be satisfied for pass-

[30] The FDIC's deposit insurance coverage does not apply to other types of reserve assets that a PPSI may maintain pursuant to the GENIUS Act.

through deposit insurance to apply: (1) the deposit account records of the IDI must expressly disclose a basis for pass-through coverage, such as a custodial or agency relationship; (2) the identities and interests of the owners must be ascertainable either from the records of the IDI or records maintained in good faith and in the regular course of business by the depositor or another party that maintains such records for the depositor; and (3) the relationship that provides the basis for pass-through deposit insurance coverage must be genuine, with the deposited funds actually owned by the named owners.[31]

GENIUS Act Provisions Concerning Deposit Insurance

The GENIUS Act expressly provides that payment stablecoins "shall not be backed by the full faith and credit of the United States, guaranteed by the United States Government, subject to deposit insurance by the Federal Deposit Insurance Corporation, or subject to share insurance by the National Credit Union Administration," and it is unlawful to make contrary representations.[32]

These provisions appear to be inconsistent with providing deposit insurance to payment stablecoin holders on a pass-through basis. When the FDIC insures deposits on a pass-through basis, it treats end customers as depositors. Treating payment stablecoin holders as the insured depositors on a pass-through basis seems inconsistent with the GENIUS Act's prohibition on payment stablecoins being "subject to Federal deposit insurance." Additionally, third parties that establish pass-through insurance arrangements often market the availability of FDIC deposit insurance to their customers, which is consistent with the principle that a third party offering pass-through insurance is

[31] 12 CFR 330.5(b); 12 CFR 330.3(h).
[32] 12 U.S.C. 5903(e)(1), (2).

effectively offering an access mechanism to an FDIC-insured deposit account. The GENIUS Act's firm prohibition on marketing payment stablecoins as subject to deposit insurance seems inconsistent with the concept of payment stablecoins serving as an access mechanism for FDIC-insured deposit accounts. Moreover, the fact that a payment stablecoin holder would generally engage in transactions by transferring payment stablecoins, without funds ever leaving the FDIC-insured deposit account, further differentiates payment stablecoin arrangements from existing pass-through arrangements in which funds generally are withdrawn from the deposit account when transactions are made.

Description of the Proposed Rule (proposed § 330.11(a)(3))

For reasons discussed above, the FDIC proposes to amend its deposit insurance rules, found in part 330 of the FDIC's regulations, to clarify that deposits held as reserves for a payment stablecoin are not insured to payment stablecoin holders on a pass-through basis. Under the proposed rule, such deposits would be insured as corporate deposits of their owner, the PPSI. The FDIC proposes to amend its deposit insurance rules for corporate accounts, found at 12 CFR. 330.11(a), to expressly include within their scope deposits held as reserves backing payment stablecoins.

The proposed rule would add a new paragraph (3) to 12 CFR 330.11(a). This new paragraph would provide that notwithstanding any other provision of part 330, deposits at an IDI held as reserves for a payment stablecoin, as defined in the GENIUS Act, are deposits of the PPSI and insured as corporate deposits. Section 330.11(a)(1) generally provides that deposits of a corporation engaged in any independent activity are added

together and insured up to the SMDIA, currently $250,000, in the aggregate.[33] Under the proposed rule, all deposits maintained by a PPSI at an IDI would be added together for purposes of the deposit insurance limit, regardless of whether those deposits consist of reserves backing payment stablecoins or serve some other purpose (such as paying the PPSI's operating expenses). The PPSI's deposits would not be insured to payment stablecoin holders on a pass-through basis.

Questions on Deposit Insurance Coverage Proposal

The FDIC requests comment on the proposal to clarify deposit insurance coverage for reserve deposits, including the following:

Question 125: Is the FDIC's proposed treatment of deposits that comprise reserves for a payment stablecoin under section 4 of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)(ii)) appropriate? Is this the best reading of the GENIUS Act and FDI Act?

Question 126: If payment stablecoin reserves were eligible for pass-through deposit insurance, to what extent would PPSIs satisfy pass-through requirements, either today or in the future? Should the requirements be tailored for PPSIs in any way, and if so, how?

Question 127: If payment stablecoin reserves are or are not eligible for pass-through deposit insurance, what impact would this have on the market demand for payment stablecoins? What impact would it have on the composition of reserve assets of PPSIs?

[33] The deposit insurance regulations define being engaged in an "independent activity" to mean that the corporation is operated primarily for a purpose other than to increase deposit insurance coverage. 12 CFR. 330.1(g). The FDIC has historically interpreted "corporation" broadly for purposes of section 330.11 to include similar forms of organizations established under State law, such as limited liability companies.

Question 128: If payment stablecoin reserves are eligible for pass-through deposit insurance, what impact would that have on the Deposit Insurance Fund?

Question 129: If payment stablecoin reserves are eligible for pass-through deposit insurance, how would that impact the risk of a PPSI's risk of failure?

Question 130: Should the availability of pass-through insurance or lack thereof have an impact on any of the other requirements in the proposed rule?

D. Proposal to Clarify Treatment of Deposits in Tokenized Form

The GENIUS Act establishes a Federal regulatory framework for the issuance of payment stablecoins and related payment stablecoins activities; the Act does not address tokenized deposits, other than to provide that the definition of "payment stablecoin" does not include, among other things, a deposit, including a deposit recorded using distributed ledger technology.[34] Although payment stablecoins and tokenized deposits can both be used as a means of payment and can use the same underlying technological components and characteristics, payment stablecoins and tokenized deposits are economically and legally distinct. Payment stablecoins generally represent a PPSI's liability where the promise to redeem and to maintain a stable value is backed by highly liquid, short-term, and safe assets (including deposits) held in reserve to mitigate concerns of counterparty risk.

A tokenized deposit, on the other hand, is an IDI's deposit liability represented in a particular way: in tokenized form and recorded on a distributed ledger technology. Like other deposits, tokenized deposits fund a bank's extensions of credit and represent an integral part of the maturity and liquidity transformation services provided by banks.

[34] *See* 12 U.S.C. 5901(22).

Banks are subject to extensive regulatory and supervisory requirements, and are eligible for Federal deposit insurance.

The FDIC is using this proposed rule as a vehicle to clarify the treatment of tokenized deposits under the FDI Act. Whether or not a particular tokenized financial product is considered a tokenized deposit for purposes of the FDI Act is relevant, among other things, to: (1) the applicability of deposit insurance;[35] (2) depositor preference in the event of an institution's failure and liquidation;[36] (3) regulatory reporting purposes;[37] and (4) whether it would not be subject to the GENIUS Act.[38] Accordingly, the FDIC is proposing to amend its deposit insurance rules under part 330 to clarify that the application of deposit insurance to deposits does not depend upon the technology or recordkeeping used to record a bank's deposit liabilities.

The FDI Act's definition of deposit is technology neutral, and therefore, tokenized forms of deposits are not a separate category of deposits under the statute. For an IDI's tokenized financial product to be considered a deposit, it must meet the statutory definition of "deposit" under section 3(*l*) of the FDI Act (12 U.S.C. § 1813(*l*)). The technology used in crediting an account, evidencing a deposit liability, or recording or transferring a deposit, is not a factor in applying the statutory definition. A tokenized product that meets the statutory definition of "deposit" is a deposit, and as such, is treated no differently under the FDI Act than other forms of deposits. Accordingly, a depositor

[35] *See* 12 U.S.C. 1821(a)(1).
[36] *See* 12 U.S.C. 1821(d)(11).
[37] *See* 12 U.S.C. 1817(a)(9); 12 CFR 304.3 and 12 CFR Part 370.
[38] *See* 12 U.S.C. 5901(22)(B)(ii) (stating the GENIUS Act's definition of "payment stablecoin" expressly does not include a digital asset that "is a deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), including a deposit recorded using distributed ledger technology.").

using tokenized deposits is afforded the same Federal deposit insurance coverage under the FDI Act as a depositor using non-tokenized deposits.

The proposed rule would amend the FDIC's deposit insurance regulations to expressly include the general principle that the technology or recordkeeping utilized by an IDI to record its deposit liabilities does not affect whether those liabilities constitute "deposits." The proposed amendment is intended to codify this principle. Thus, an IDI's tokenization of its deposit liabilities would not alter the legal status of those liabilities as "deposits." Under the proposed rule, depositors with tokenized deposits would be entitled to the same benefits as depositors with more traditional forms of deposits, including the FDIC's deposit insurance coverage.

The proposed rule also includes a conforming edit to the definition of "deposit account records" in FDIC's deposit insurance regulations to effectuate the general principle described above. Specifically, § 330.1(e) would be amended to provide expressly that an IDI's choice of technology or recordkeeping utilized to record deposit liabilities is not relevant to the FDIC's determination of deposit insurance coverage.[39] The intent of this proposed amendment is to accommodate institutions' potential use of technology, including blockchain and distributed ledger infrastructures, for purposes of recording deposit liabilities.

Although a tokenized deposit is a deposit, there may be tokenized bank liabilities that are not deposits, irrespective of an intention or representation that such constitute a deposit. If a product does not meet the statutory definition of "deposit," it is, by

[39] The FDIC currently defines "deposit account records" to include, among other things, "books and records of the institution, including records maintained by computer, which relate to the insured depository institution's deposit taking function." 12 CFR 330.1(e).

definition, a non-deposit product.[40] Institutions should also be mindful of the evolving characteristics and capabilities of tokenized deposits that may lead to any material changes to the underlying nature throughout a product or transaction lifecycle to ensure ongoing alignment of the underlying tokenized deposit with the FDI Act's statutory definition.

As noted above, under the FDIC's regulations, for pass-through deposit insurance to apply, certain recordkeeping and ownership requirements must be met.[41] The FDIC seeks comment on whether any amendments to the deposit insurance rules, including the pass-through rules, are needed to address tokenized deposits.[42] For example, the pass-through insurance rules require that an IDI's deposit account records expressly indicate a relationship, such as a fiduciary or agent relationship, that provides a basis for pass-through coverage.[43] Parties often satisfy this requirement today through account titling. The pass-through rules also include specific requirements that apply where multiple levels of fiduciary relationships exist, including identification at each level of the names and interests of the person(s) on behalf of which the party at that level is acting.[44] To the extent tokenized deposit arrangements may involve different approaches to account titling or recordkeeping, the FDIC seeks comment on what clarifications to the FDIC's pass-through rules would be appropriate.

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[40] The FDIC defines a non-deposit product as any product that is not a "deposit," including, but not limited to, insurance products, annuities, mutual funds, securities, and crypto-assets. 12 CFR 328.1. Although "crypto-asset" is not defined by regulation, the FDIC would not interpret it to include deposits in tokenized form.

[41] *See* 12 CFR 330.5, 330.7(a).

[42] The FDIC's pass-through insurance rules support the agency's ability to carry out its statutory obligation to aggregate and insure deposits to each depositor up to the insurance limit, regardless of whether funds are held in the name of the depositor or another party. *See* 12 U.S.C. 1821(a)(1)(C); *see also* 12 U.S.C. 1821(f) (requiring the FDIC to pay deposit insurance as soon as possible following an IDI's failure).

[43] 12 CFR 330.5(b)(1).

[44] 12 CFR 330.5(b)(3).

Questions on Treatment of Deposits in Tokenized Form:

The FDIC requests comment on proposed amendments that would clarify the treatment of deposits in tokenized form and the following questions regarding tokenized deposits more broadly:

Question 131: Is the FDIC's proposed amendment to part 330 clarifying that the application of deposit insurance to deposits does not depend upon the technology or recordkeeping used to record a bank's deposit liabilities appropriate? Should the FDIC consider a more narrow amendment specifically focused on tokenized deposits?

Question 132: Should the FDIC provide additional clarity regarding the treatment of tokenized deposits outside of the deposit insurance context?

Question 133: Would it be helpful for the FDIC to consider defining relevant terms related to tokenized deposits for purposes of the FDI Act, and, if so, what defined terms should be considered?

Question 134: What key characteristics of tokenized deposits might be considered in the context of whether a particular product would be considered a "deposit" under the FDI Act? Do such products, including those that represent tokenized deposits, function similarly or dissimilarly to the types of instruments considered a deposit for purposes of the FDI Act (*e.g.*, certificates of deposits, certified checks, cashiers' checks and other official instruments)?

Question 135: Although the statutory definition of "deposit" is technology neutral, how might technology and the evolving capabilities of tokenized deposit products, including through application of smart contracts, alter the underlying nature of a bank's liability?

Question 136: Should FDIC's rules and regulations be further updated to reflect reporting and recordkeeping considerations that are unique to blockchain and distributed ledger-based systems, and if so, how?

Question 137: The FDIC determines deposit insurance coverage at the time of the failure of an IDI, based on the IDI's deposit account records and in accordance with deposit insurance coverage rules. An IDI's deposit records are evidence of its deposit obligations. What challenges, if any, do tokenized deposits present as to blockchain and distributed ledger recordkeeping, particularly as it relates to identifying owners of the deposits and aggregating tokenized deposits with other traditional deposits?

Question 138: How should the FDIC view a digital asset that only represents an interest in or claim on a deposit at an IDI rather than being the tokenized deposit itself? Under what circumstances could such a product be viewed as a tokenized deposit product of an IDI, and under what circumstances could such a product be viewed as a payment stablecoin backed by tokenized deposits? In what other manner could such a product be characterized for purposes of the GENIUS Act and other applicable law (*e.g.*, banking and securities laws)? How would digital assets that represent tokenized deposits but are not themselves deposits be treated for accounting purposes; for example as an intangible asset or as cash and cash equivalents?

Question 139: What additional clarifications of existing pass-through rules are needed, if any, to address tokenized deposit arrangements? Should the FDIC's approach to tokenized deposits differ in any respect from the approach to other deposits? To what extent should the FDIC consider modifications with respect to expectations around

account titling and recordkeeping? Are there particular considerations for any specific type of third-party arrangement?

IV. Expected Effects

The GENIUS Act was enacted to establish a comprehensive regulatory framework for the issuance of payment stablecoins in the United States,[45] prohibiting any person from issuing payment stablecoins in the United States unless they are a PPSI.[46] The proposed rule would implement the statutory requirements required by the GENIUS Act for entities under the FDIC's jurisdiction by establishing the requirements and standards applicable to FDIC-supervised PPSIs and IDIs.[47] Specifically, the proposed rule would operationalize statutory requirements for PPSIs related to reserve assets, capital, liquidity, and risk management, as well as requirements for FDIC-supervised custodians regarding payment stablecoin related custodial and safekeeping services.

This section summarizes the analysis performed by the FDIC to estimate the economic impact of the proposed rule. For this purpose, the FDIC compares estimated economic outcomes under the proposed rule to outcomes under a baseline that resembles a world absent the proposed rule. Because the proposed rule implements the non-discretionary mandates of the GENIUS Act, the FDIC utilizes a pre-statutory baseline under which the GENIUS Act is considered unenacted. Under this baseline, FDIC-supervised IDIs generally do not issue payment stablecoins given the lack of regulatory clarity surrounding such activities; to the extent any such activity occurs, it is generally conducted on a highly limited or experimental basis under existing general authorities.

[45] 12 U.S.C. 5901 *et seq.*
[46] 12 U.S.C. 5902(a).
[47] 12 U.S.C. 5903(a)(4)(A).

Absent the GENIUS Act, no formal Federal framework exists to coordinate and homogenize the issuance of payment stablecoins, leaving the market to operate under a fragmented regulatory framework and limited Federal guidance.

The GENIUS Act requires that the FDIC, as well as other primary Federal payment stablecoin regulators and the Secretary of the Treasury, promulgate regulations within one year of the Act's enactment.[48] As such, for purposes of this analysis, the FDIC assumes that, under the proposed rule, all other Federal payment stablecoin regulators would have adopted their corresponding GENIUS Act regulations.[49,50] This assumption allows the FDIC to focus its analysis on the most likely scenario under the proposed rule.

A. Scope of Affected Entities

The entities that fall under the direct scope of the proposed rule are all FDIC-supervised PPSIs, all FDIC-supervised PPSIs and IDIs that provide payment stablecoin-related custodial and safekeeping services, referred to as FDIC-supervised custodians, and all IDIs maintaining tokenized deposits or deposits held as reserves backing a payment stablecoin.

For the estimation of the scope and magnitude of the effects under both the proposed rule and the baseline, this analysis uses banking industry and financial data as

[48] 12 U.S.C. 5913(a).
[49] The FDIC, OCC, FRB and NCUA are concurrently working to implement the GENIUS Act mandate applicable to entities within their regulatory jurisdiction. *See, e.g.,* NCUA, Investments in and Licensing of Permitted Payment Stablecoins Issuers, 91 FR 6531 (Feb. 12, 2026); and OCC, 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 FR 10202 (Mar. 2, 2026).
[50] In addition, the analysis assumes that, under the proposed rule, the Secretary of the Treasury would have adopted rules to treat PPSIs as financial institutions for purposes of the Bank Secrecy Act and applied GENIUS Act obligations, including maintenance of an effective sanctions compliance program, as required by Section 4(a)(5) of the GENIUS Act (12 U.S.C. 5903(a)(5)).

of the quarter ending September 30, 2025. As of this date, the FDIC insures 4,388 IDIs, supervises 2,778 of these IDIs,[51] and supervises zero PPSIs.

The FDIC recognizes the significant uncertainty regarding estimates of the number of FDIC-supervised PPSIs and IDIs that would seek to issue payment stablecoins or engage in other permitted payment stablecoin activities under the proposed rule. Because the regulations governing the application and approval of FDIC-supervised PPSIs are currently under development and have not yet been finalized,[52] the FDIC lacks data on the number of entities that would ultimately fall under the scope of the FDIC-supervised PPSI category, either independently or through consortia and other partnerships. Recognizing this uncertainty, without predicting the actual amount of FDIC-supervised PPSIs, for the purposes of this analysis, the FDIC estimates that between 5 and 30 FDIC-supervised IDIs would apply for and receive approval to issue payment stablecoins through FDIC-supervised PPSIs in the first few years after the enactment of the proposed rule. The population of FDIC-supervised PPSIs under the proposed rule could be higher or lower depending on market demand, strategic operational choices of FDIC-supervised entities, and future developments in the digital landscape, among many other factors. By utilizing this range, the FDIC aims to establish an estimate that serves as the basis for evaluating the economic effects of the proposed rule, while acknowledging the inherent uncertainty resulting from a lack of historical precedent.

[51] Including insured State nonmember banks, insured State-licensed branches of foreign banks, and insured State savings associations. FFIEC Reports of Condition and Income (Call Reports), September 30, 2025.
[52] The FDIC has issued a notice of proposed rulemaking regarding the application process for FDIC-supervised institutions, Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions, 90 FR 59409 (Dec. 19, 2025).

Beyond the direct issuance of payment stablecoins under section 4 of the GENIUS Act, the proposed rule would also encompass a broader population of institutions through its supervision of payment stablecoin-related financial activities, consistent with the GENIUS Act. As noted above, FDIC-supervised custodians would also be affected by the proposed rule. As with FDIC-supervised PPSIs, the FDIC recognizes significant uncertainty regarding the number of FDIC-supervised custodians that would provide such services. For the purposes of providing a conservative estimate, the FDIC assumes that approximately 30 FDIC-supervised IDIs would perform these activities under the proposed rule.

B. Expected Benefits

If finalized, the proposed rule would establish a new regulatory framework for payment stablecoins issued by subsidiaries of FDIC-supervised institutions. The new framework could encourage FDIC-supervised entities to establish PPSIs to issue payment stablecoins and lead to an expansion of the payment stablecoin market. The expansion would provide the general public with more choices for making payments and engaging in transactions; provide regulatory clarity for FDIC-supervised IDIs seeking to issue payment stablecoins; and expand the set of opportunities related to payment stablecoin market activities. The proposed rule would effectuate this clarity through the formalization of a Federal regulatory framework for payment stablecoin related activities. By resolving uncertainty that potentially hindered innovation and constrained capital allocation within the digital asset space, the proposed rule would stimulate payment stablecoin issuance, potentially resulting in more structured growth than would have otherwise occurred under the baseline. While these benefits are inherently difficult to

quantify, the FDIC anticipates they could be material to the general public, the banking sector, and the broader economy.

The proposed rule would provide the general public with more choices for making payments and engaging in transactions. To the extent payment stablecoins issued by FDIC-supervised PPSIs under the proposed rule would have lower transaction frictions or remittance costs, or added functionality, compared to other payment options available under the baseline, the proposed rule would result in transaction cost savings or other benefits for payment stablecoin holders. Lower fees due to increased competition among payment stablecoin issuers or custodians would also benefit payment stablecoin holders under the proposed rule, relative to the baseline.

The proposed rule would also benefit payment stablecoin holders by providing a more secure environment, relative to the baseline, for activities related to payment stablecoins. The proposed rule would provide payment stablecoin holders increased assurance that their payment stablecoins are subject to elevated regulatory and supervisory standards. By codifying requirements and standards for reserves, redemption policies, and operational and compliance standards, among others, the proposed rule would require that payment stablecoin holders are able to redeem payment stablecoins issued by an FDIC-supervised PPSI at par, including during periods of market stress.

In addition to the core activities of issuing payment stablecoins, the proposed rule may result in FDIC-supervised IDIs opening new fee-based income streams from digital asset custody, settlement services, and strategic partnerships with financial technology providers. Furthermore, the ability to settle obligations on-chain using a regulated instrument could provide operational efficiencies and lower costs associated with an

institution's internal accounting functions. By establishing a definitive set of requirements and standards associated with payment stablecoins, the proposed rule would provide FDIC-supervised IDIs additional opportunities to leverage their existing customer base, payment system networks, risk management, and compliance infrastructures to compete effectively in the digital payments market.

Through the clarification of existing statutory definitions as applied to emerging technologies, the proposed rule could also generate indirect benefits for the economy, including reduced legal uncertainty, and enhanced understanding of the characterization of tokenized deposits and deposit insurance coverage rules. Under the clarity offered by the proposed rule, some IDIs may therefore choose to invest in innovations with greater confidence, potentially leading to more efficient payment mechanisms relative to the baseline.

The requirements established by the proposed rule, consistent with the GENIUS Act, would promote safety and soundness of FDIC-supervised PPSIs. The proposed rule includes a number of safeguards to protect payment stablecoin holders, such as the standards related to minimum reserve requirements, composition of reserves, and redemption policies, among others.

C. Expected Costs

The proposed rule's expected direct costs are divided into two distinct categories for discussion. First, the analysis identifies and quantifies the direct compliance costs associated with changes in reporting, recordkeeping, and disclosure requirements to affected institutions as a result of the proposed rule. Second, the analysis discusses a broader set of operational costs to all affected institutions that, although they may not be

quantifiable given the inherent degree of uncertainty about market developments, would still be material to the evaluation of the proposed rule's overall impact on the economy.

1. Reporting, Recordkeeping, and Disclosure Costs

The FDIC recognizes significant heterogeneity in the compliance costs imposed by the proposed rule across the population of FDIC-supervised PPSIs and FDIC-supervised custodians, given their variation in size, structure, and internal processes. For purposes of fulfilling the requirements of the Paperwork Reduction Act, the FDIC has estimated the average costs associated with the recordkeeping, reporting, and disclosure requirements in the proposed rule.[53] While these costs only represent a portion of the total compliance costs imposed by the proposed rule, these costs can help estimate a minimum level of the expected costs incurred by the affected populations. The following subsections describe, respectively, the one-time costs related to implementing the systems used to comply with the proposed rule's recordkeeping, reporting, and disclosure requirements and the ongoing costs related to maintaining these systems.

Implementation / Initial Set-Up Burden

FDIC-supervised PPSIs would be required under the proposed rule to create and maintain systems of records of reserve management and internal audit procedures, and establish contingency and restoration plans. In addition, they would be required to submit weekly reports to the FDIC, notify the FDIC under certain circumstances (such as for a significant redemption request),[54] and provide monthly public reports on reserve composition and public disclosures of redemption policies.[55] Large PPSIs that are not

[53] These requirements are described fully in Section VI.B.
[54] Proposed 12 CFR 350.1(b)(24).
[55] A complete list of Paperwork Reduction Act requirements is described fully in Section VI.B.

subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 would also be required to have a registered public accounting firm audit their annual financial statements.[56] FDIC-supervised custodians, pursuant to part 350, subpart B of the proposed rule would also be required to establish and maintain policies and procedures associated with protecting customer payment stablecoin reserves, payment stablecoins, private keys, cash, and other property.

To establish the systems to comply with the requirements listed above, the FDIC estimates that FDIC-supervised PPSIs would incur an average of 922 hours of burden in their first year.[57] While the FDIC estimates that between 5 and 30 PPSIs would fall under the FDIC's supervisory authority under the proposed rule, for purposes of its Paperwork Reduction Act estimates, the FDIC assumes that: (1) 10 FDIC-supervised IDIs would seek approval for their subsidiary to become a PPSI each year over the first three years after the proposed rule is finalized and (2) there would be approximately 30 FDIC-supervised custodians, some of which may also be FDIC-supervised PPSIs themselves. At an estimated hourly labor compensation rate of $112.31,[58] ten new FDCI-supervised

[56] Proposed 12 CFR 350.7(j).
[57] Details of the burden hours for each requirement are described fully in Section VI.B.
[58] Bureau of Labor Statistics: National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2024); Employer Cost of Employee Compensation (March 2024); and Employment Cost Index (March 2024 and September 2025). For the implementation burden associated with the proposed rule, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers (11–0000): 20 percent; Lawyers (23–0000): 45 percent; Compliance Officers (13–1040): 25 percent; and IT specialists (15–0000): 10 percent. For the ongoing reporting burden associated with the proposed rule, the FDIC estimated the following labor allocation: Executives and Managers: 20 percent; Lawyers: 10 percent; Compliance Officers: 50 percent; IT specialists: 10 percent; Financial Analysts (13-2051); and Clerical workers (43-0000): 5 percent each. For the ongoing recordkeeping burden associated with the proposed rule, the FDIC estimated the following labor allocation: Executives and Managers: 15 percent; Lawyers: 5 percent; Compliance Officers: 50 percent; IT specialists: 10 percent; Financial Analysts: 15 percent; and Clerical workers: 5 percent. For the ongoing disclosure burden associated with the proposed rule, the FDIC estimated the following labor allocation: Executives and Managers: 15 percent; Lawyers: 10 percent; Compliance Officers: 50 percent; IT specialists: 10 percent; Financial Analysts: 10 percent; and Clerical workers: 5 percent.

PPSIs each year would incur an aggregate $1.04 million in estimated costs to comply with the proposed rule's implementation requirements, as described above. [59] As a conservative estimate, if 30 FDIC-supervised PPSIs entered in a single year, this one-time cost would rise to an estimated $3.11 million.

Ongoing Burden

For the purpose of estimating the ongoing compliance costs under the proposed rule, each FDIC-supervised PPSI is expected to incur, on average, approximately 1,000 hours of annual burden to comply with the proposed recordkeeping, reporting, and disclosure requirements.[60] At an estimated hourly labor compensation rate of $112.31, as described above, the estimated total annual ongoing cost to FDIC-supervised PPSIs would be upwards of $3.37 million per year under the upper-bound assumption that 30 FDIC-supervised PPSIs would be approved under the proposed rule.[61]

2. Broader Operational Costs to Affected Institutions

FDIC-supervised PPSIs are expected to incur operational expenses—beyond those associated with reporting, recordkeeping, and disclosure—related to the range of permitted activities that would fall under proposed § 350.3, including issuing and redeeming payment stablecoins, managing eligible reserves, and providing custodial or safekeeping services. Commensurate with their risk profile and business model, FDIC-supervised PPSIs would also be expected to incur operational costs associated with risk management, including the implementation of information technology and security practices (proposed § 350.6), and maintain minimum capital and an operational backstop

[59] The FDIC estimates that none of these PPSIs will be small for purposes of the Regulatory Flexibility Act.
[60] Details of the burden hours for each requirement are described fully in Section VI.B.
[61] In addition, FDIC-supervised custodians are expected to incur approximately one hour of burden per year.

(proposed § 350.9). The FDIC recognizes that seeking PPSI status and issuing payment stablecoins would be, nonetheless, a voluntary, market driven activity resulting from the strategic decisions to engage in the payment stablecoin market. Therefore, an FDIC-supervised IDI would generally only engage in these activities if the projected revenue generated through, for example, transaction-based fees and/or enhanced customer retention, were expected to outweigh the aggregate operating and compliance costs associated with those activities.

Part 350, subpart B of the proposed rule would also establish requirements for FDIC-supervised custodians that are engaged in the business of providing custodial or safekeeping services for payment stablecoin reserves or payment stablecoins used as collateral. To the extent that custody requirements for payment stablecoins and related assets differ from existing requirements, FDIC-supervised custodians engaging in custody and safekeeping services may experience some incremental costs under the proposed rule. The FDIC does not have the data necessary to quantify these costs but expects that they would generally be mitigated by the ability of an FDIC-supervised IDI to leverage existing custody and safekeeping infrastructure and expertise. Furthermore, FDIC-supervised IDIs would generally only engage in these services if the projected revenue generated through custody and safekeeping were expected to outweigh the aggregate operating and compliance costs associated with those activities.

In addition, the proposed rule would provide clarity to all IDIs with respect to deposit insurance coverage under the FDI Act for deposits held at IDIs that serve as reserve assets of a PPSI's payment stablecoin, as well as clarify the treatment of tokenized deposits, specifically, that the elements of the statutory definition of "deposit"

under the FDI Act apply irrespective of technology. In this case, these clarifications in the proposed rule would not alter or amend existing legal or regulatory requirements for FDIC-insured depository institutions, and as such would not impose direct costs on IDIs.

D. Indirect Effects on the Banking System and the Broader Economy

In addition to the benefits and costs discussed above, the proposed rule could have indirect effects across the banking system and the broader economy, relative to the baseline in which the GENIUS Act were not enacted.

One potential impact of the proposed rule, relative to the baseline, could be driven by shifts in the composition and aggregate volume of deposits. Under the proposed rule, some depositors may choose to transition a portion of their holdings from transactional demand deposit accounts (including retail checking accounts) into payment stablecoins to access faster settlement, programmable transaction capabilities, smart contract integration, as well as other features. Such shifts would alter the nature of deposits across the banking system. The implementation of the proposed rule could simultaneously attract a new set of participants into the banking system. Specifically, a Federal regulatory framework for the payment stablecoin market could draw in capital from individuals and entities outside of the regulated banking system, both existing digital payment consumers and those who would not participate under the baseline specifically due to the lack of regulatory clarity, as well as international participants seeking a dollar-denominated payment system offered within a Federally regulated framework.

The FDIC does not have the data necessary to estimate the net effect on deposits resulting from the proposed rule. The outcome would depend on several factors, including the rate of payment stablecoin adoption across different segments of the

population, the strategic responses of institutions utilizing existing payment technologies, and the development of the digital asset market more broadly.

In the event that a large redemption request were to place operational stress on FDIC-supervised PPSIs, the proposed rule would mitigate this risk through the reserve asset composition requirement specified in proposed § 350.4(e), which would limit those assets backing outstanding payment stablecoins to safe, highly-liquid assets. Combined with regular reporting and third-party attestations, monthly attestations by a registered public accounting firm, and the monthly report on reserve composition, the proposed reserve asset composition requirement would ensure that the expansion of the payment stablecoin market occurs within a supervised framework that prioritizes the stability of the broader financial system.

As discussed in section III.A.9, the proposed amendments to § 324.22 on regulatory capital may result in changes in the capital ratios, relative to the baseline, of an FDIC-supervised IDI with a consolidated PPSI subsidiary. The FDIC does not have the data to quantify these effects; however, the risk of inflated capital ratios through balance sheet management activities intended to improve the FDIC-supervised IDI's regulatory capital position rather than serve the operations and/or business needs of its PPSI would be mitigated by the FDIC's supervision of the parent IDI and corresponding PPSI subsidiary.

For these reasons, the FDIC does not expect that the proposed rule would increase risks to the Deposit Insurance Fund (DIF) or undermine the stability of the financial system. This expectation is in part supported by the structural requirements of the GENIUS Act and the specific prudential guardrails established in the proposed rule. By

maintaining a strict legal and operational separation between payment stablecoin issuance and insured deposits, the proposed rule would ensure that the DIF would not be exposed to the specific liquidity or market risks associated with payment stablecoin redemption.

Given the economic effects discussed above, the FDIC expects that the benefits of the proposed rule justify its costs.

The FDIC invites comments on all aspects of the supporting information provided in the Expected Effects section. The FDIC is particularly interested in comments on any material economic effects that the agency has not identified.

V. Alternatives Considered

The FDIC is proposing to amend its regulations to implement certain provisions of the GENIUS Act. Because the amendments are statutorily mandated, the FDIC has not considered a "no action" alternative. Although the FDIC has not developed any alternative proposals, the FDIC will consider any alternative regulatory approaches raised by commenters, especially any that are directly responsive to the questions for commenters set forth above.

VI. Regulatory Analysis

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[62] However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule would not, if promulgated, have a significant economic

[62] 5 U.S.C. 601 *et seq*.

impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to $850 million.[63]

Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-insured institutions.

The FDIC estimates the effects of the required mandates of the proposed rule on small FDIC supervised entities. As noted in Section IV, the FDIC utilizes a pre-statutory baseline under which the GENIUS Act is considered unenacted. Under this baseline, specifically, FDIC-supervised IDIs do not issue payment stablecoins given the lack of regulatory clarity surrounding such activities; to the extent any such activity occurs, it is conducted on a highly limited or experimental basis under existing general authorities. Absent the GENIUS Act, no formal Federal framework exists to coordinate and homogenize the issuance of payment stablecoins, leaving the market to operate under a fragmented regulatory framework and limited Federal guidance.

As previously discussed, the proposed rule would apply to all FDIC-supervised PPSIs and certain IDIs or FDIC-supervised IDIs that would choose to provide custodial and safekeeping services or hold reserves for payment stablecoins.[64] As of the quarter ending September 30, 2025, the FDIC insures 4,388 depository institutions, of which

[63] The SBA defines a small banking organization as having $850 million or less in assets and determines an organization's assets by averaging the assets reported on its four quarterly financial statements for the preceding year. *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). Following these regulations, the FDIC uses an FDIC-supervised institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC-supervised institution is "small" for the purposes of the RFA.

[64] *See* 12 U.S.C. 5903(a)(7).

3,062 are "small," and supervises 2,778 IDIs, of which 2,064 are considered "small" for the purposes of RFA.[65]

For those "small" IDIs or FDIC-supervised IDIs that choose to provide custodial and safekeeping services or hold reserves for payment stablecoins, the FDIC expects that the direct impact of the proposed rule would be insignificant. Most IDIs perform custodial and safekeeping services under the baseline; the proposed rule would only impose *de minimis* incremental costs on these IDIs.

For those "small" IDIs that would have a PPSI subsidiary the FDIC expects that the direct impact of the proposed rule may be significant. The FDIC recognizes considerable uncertainty regarding the number of FDIC-supervised PPSIs that would emerge under the proposed framework. For the purposes of this analysis, the FDIC estimates that the number of FDIC-supervised PPSIs would likely range between 5 and 30 in the first few years after the enactment of the proposed rule. Given the early stages of the payment stablecoin market, this range accounts for significant uncertainty regarding the volume of future participants. The population of FDIC-supervised PPSIs under the proposed rule could be higher or lower depending on market demand, strategic operational choices of eligible institutions, and future developments in the digital landscape. By utilizing this range, the FDIC aims to establish an estimate that serves as the basis for evaluating the economic effects of the proposed rule, while acknowledging the inherent uncertainty resulting from a lack of historical precedent.

Because an FDIC-supervised PPSI must be a subsidiary of an IDI, the FDIC expects that the initial adopters of this technology will likely be larger institutions with

[65] Call Reports, September 30, 2025.

the compliance infrastructure and capital necessary to support payment stablecoin issuance. As such, the FDIC anticipates that most, if not all, FDIC-supervised PPSIs would not be "small" entities as defined by the SBA. Therefore, the FDIC believes the proposed rule is unlikely to have a significant economic impact on a substantial number of small entities.

However, given the lack of historical precedent and the evolving nature of the payment stablecoin market, the FDIC conservatively assumes that, for the purpose of this analysis, all the entities falling within the previously discussed scope of 5 to 30 potential FDIC-supervised PPSIs could be "small" entities. By adopting this conservative assumption, the FDIC aims to provide a comprehensive estimate of the potential economic impact on "small" entities.

Even assuming the unlikely scenario that all, *i.e.*, the upper-bound number of 30 entities, would be "small" and that all 30 entities would be significantly impacted by the proposed rule, the number of affected small entities would still make up less than 1.5 percent of all FDIC-supervised small entities. The FDIC does not consider 1.5 percent to be a substantial number of small entities.

In light of the foregoing, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. The FDIC is particularly interested in comments on any significant effects on small entities that the agency has not identified.

B. Paperwork Reduction Act

This notice of proposed rulemaking has been reviewed for compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq*.). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has reviewed the notice of proposed rulemaking and determined that it would introduce new information collection requirements pursuant to the PRA. The FDIC is seeking a new control number for these information collection requirements and will submit them to OMB for review and approval.

Proposed Information Collection

Title: Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions

OMB Control No.: 3064-NEW.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The proposed rule would establish regulatory requirements for FDIC-supervised permitted payment stablecoins issuers as mandated by the GENIUS Act, as well as provide further clarity for FDIC-supervised custodians.

The information collection requirements in the proposed rule are as follows:

Reporting Requirements

Section 350.4(d) would require PPSIs to demonstrate the capability to access and monetize identifiable reserve assets.

Section 350.4(h)(2) would require the Chief Executive Officer and Chief Financial Officer of a PPSI to submit to the FDIC a certification as to the accuracy of the previous month-end report.

Section 350.4(i)(1) would require PPSIs to notify the FDIC in writing when identifiable reserves become less than the required amount.

Section 350.5(c)(1) would require PPSIs to provide notice to the FDIC when the PPSI is experiencing a significant redemption request.

Section 350.6(c) would require PPSIs to provide AML/CFT and sanctions program certification to the FDIC.

Section 350.7(g) would require PPSIs to provide a confidential weekly report to the FDIC.

Section 350.7(h) would require PPSIs to provide quarterly reports on financial condition to the FDIC.

Section 350.7(i) would require other reports to be submitted upon the FDIC's request.

Section 350.7(j) would require large PPSIs to submit their annual financial statements to the FDIC.

Section 350.7(j)(2)(ii) would require PPSIs to submit a notice of late filing of all or any portion of the financial statement to the FDIC.

Section 350.9(c)(2) would require PPSIs to notify the FDIC if it fails to meet capital or backstop requirements at the end of a quarter.

Section 350.10(c)(2) would allow PPSIs to provide a response to the FDIC in writing regarding the FDIC's determination that an additional capital or backstop is required.

Section 350.10(c)(4) would require PPSIs to submit a plan to reach additional capital or backstop requirements.

Recordkeeping requirements

Section 350.4(a)-(c) would require PPSIs to maintain records identifying separate reserves and calculate the fair value of reserve assets.

Section 350.4(j) would require PPSIs to maintain a written contingency plan to restore compliance after reserves fall below the required amount.

Section 350.4(k) would require PPSIs to notify the FDIC if the PPSI determines to take action that would result in the orderly redemptions of all outstanding payment stablecoins.

Section 350.5(a) and (b) would require PPSIs to establish a redemption policy.

Section 350.6(a)(1) and (2) requires PPSIs to maintain internal auditing systems.

Section 350.6(a)(6) would require PPSIs to require its service providers by contract to implement appropriate measures.

Section 350.6(c) would require PPSIs to certify their AML/CFT and sanctions programs.

Section 350.7(j) would require large PPSIs to audit their annual financial statements.

Section 350.103(b) would require PPSIs to maintain written policies, procedures, and internal controls that are adequate to comply with applicable law.

Disclosure Requirements

Section 350.4(g) would require PPSIs to publish a monthly report on its reserve composition on its website monthly.

Section 350.4(h)(1) would require PPSIs to publish a registered public accounting firm's examination report to their website monthly.

Section 350.5(a) and (b) would require PPSIs to publicly disclose a redemption policy.

Section 350.5(d) would require PPSIs to publicly disclose certain information relating to the PPSI, the payment stablecoin, and fees.

Section 350.6(b)(6) would require PPSIs to notify customers if there is an unauthorized access incident.

Section 350.6(b)(6) would require PPSIs to establish a program to notify customers if there is an unauthorized access incident. The program shall require the delay of customer notice if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the permitted payment stablecoin issuer with a written request for the delay.

Section 350.7(j) would require large PPSIs to make their audited financial statements publicly available on the issuer's website.

Table 1. Summary of Estimated Annual Burden (OMB No. 3064-NEW)					
Information Collection (IC) (Obligation to Respond)	Type of Burden (Frequency of Response)	Number of Respondents	Number of Responses per Respondent	Average Time per Response (HH:MM)	Annual Burden (Hours)
Implementation Burden					
Reporting Requirements					
1. Demonstrate the capability to access and monetize identifiable reserve assets - Section 350.4(d) (Mandatory)	Reporting	10	1	4:00	40
2. Require the CEO and CFO to submit to the FDIC a certification of accuracy - Section 350.4(h)(2) (Mandatory)	Reporting	10	1	4:00	40
3. Notify the FDIC in writing when identifiable reserves become less than the required amount - Section 350.4(i)(1) (Mandatory)	Reporting	10	1	1:00	10
4. Notify the FDIC if the PPSI determines to take action that would result in the orderly redemptions of all outstanding stablecoins – 350.4(k) (Mandatory)	Reporting	10	1	1:00	10
5. Provide notice to the FDIC when the PPSI is experiencing a significant redemption request - Section 350.5(c)(1) (Mandatory)	Reporting	10	1	0:30	5
6. Provide AML/CFT and sanctions program certification to the FDIC - Section 350.6(c) (Mandatory)	Reporting	10	1	20:00	200
7. Confidential weekly report to the FDIC - Section 350.7(g) (Mandatory)	Reporting	10	1	16:00	160

8. Provide quarterly reports of financial condition - Section 350.7(h) (Mandatory)	Reporting	10	1	80:00	800
9. Submit other reports upon request to the FDIC - Section 350.7(i) (Mandatory)	Reporting	10	1	16:00	160
10. Audits for large PPSIs, submission to the FDIC - Section 350.7(j) (Mandatory)	Reporting	1*	1*	4:00	4
11. Notify FDIC if PPSI fails to meet capital or backstop requirements at the end of a quarter - Section 350.9(c)(2) (Mandatory)	Reporting	10	1	4:00	40
12. Optional response to the FDIC in writing - Section 350.10(c)(2) (Voluntary)	Reporting	10	1	1:00	10
13. Submission of a plan to reach additional capital or backstop requirements - Section 350.10(c)(4) (Mandatory)	Reporting	10	1	1:00	10
14. Late filing of Audits - Section 350.7(j)(2)(ii) (Mandatory)	Reporting	1*	1*	8:00	8
Recordkeeping Requirements					
15. Maintain records identifying separate reserves and calculate the fair value of reserve assets - Section 350.4(a)-(c) (Mandatory)	Recordkeeping	10	1	40:00	400
16. Written contingency plan to restore compliance after reserves fall below required amount - Section 350.4(j) (Mandatory)	Recordkeeping	10	1	8:00	80
17. Establish a redemption policy - Section 350.5(a) and (b) (Mandatory)	Recordkeeping	10	1	8:00	80
18. Internal auditing system - Section	Recordkeeping	10	1	80:00	800

350.6(a)(1) and (2) (Mandatory)					
19. Require service providers by contract to implement appropriate measures - Section 350.6(a)(6) (Mandatory)	Recordkeeping	10	1	4:00	40
20. Program to notify customers if there is an unauthorized access incident - Section 350.6(b)(6) (Mandatory)	Recordkeeping	10	1	4:00	40
21. Certify AML/CFT and sanctions programs program - Section 350.6(c) (Mandatory)	Recordkeeping	10	1	20:00	200
22. Audits for large PPSIs, annual financial statement - Section 350.7(j) (Mandatory)	Recordkeeping	1*	1*	480:00	480
23. Implement written policies, procedures, and internal controls that are adequate to comply with applicable law - Section 350.103(b) (Mandatory)	Recordkeeping	30	1	8:00	240
Third-Party Disclosure Requirements					
24. Publish a monthly report on reserve composition monthly - Section 350.4(g) (Mandatory)	Third-Party Disclosure	10	1	40:00	400
25. Publish a registered public accounting firm's examination report to website monthly - Section 350.4(h)(1) (Mandatory)	Third-Party Disclosure	10	1	8:00	80
26. Publicly disclose a redemption policy - Section 350.5(a) and (b) (Mandatory)	Third-Party Disclosure	10	1	1:00	10

27. Publicly disclose certain information relating to the PPSI, the payment stablecoin, and fees - Section 350.5(d) (Mandatory)	Third-Party Disclosure	10	1	8:00	80
28. Program to notify customers if there is an unauthorized access incident - Section 350.6(b)(6) (Mandatory)	Third-Party Disclosure	10	1	4:00	40
29. Audits for large PPSIs, statements made publicly available - Section 350.7(j) (Mandatory)	Third-Party Disclosure	1*	1*	8:00	8
Ongoing Burden					
Reporting Requirements					
30. Demonstrate the capability to access and monetize the identifiable reserve assets - Section 350.4(d) (Mandatory)	Reporting (On Occasion)	20	1	12:00	240
31. Require the CEO and CFO to submit to the FDIC a certification of accuracy - Section 350.4(h)(2) (Mandatory)	Reporting (Monthly)	20	12	0:15	60
32. Notify the FDIC in writing when identifiable reserves become less than the required amount - Section 350.4(i)(1) (Mandatory)	Reporting (On Occasion)	1*	1*	4:00	4
33. Notify the FDIC if the PPSI determines to take action that would result in the orderly redemptions of all outstanding stablecoins – 350.4(k) (Mandatory)	Reporting (On Occasion)	1*	1*	4:00	4

34. Provide notice to the FDIC when the PPSI is experiencing a significant redemption request - Section 350.5(c)(1) (Mandatory)	Reporting (On Occasion)	1*	1*	0:30	1
35. Provide AML/CFT and sanctions programs certification to the FDIC - Section 350.6(c) (Mandatory)	Reporting (Annual)	20	2	1:00	40
36. Provide confidential weekly report to the FDIC- Section 350.7(g) (Mandatory)	Reporting (Weekly)	20	52	2:00	2,080
37. Provide quarterly reports of financial condition to the FDIC - Section 350.7(h) (Mandatory)	Reporting (Quarterly)	20	4	10:00	800
38. Other reports to be submitted upon FDIC request - Section 350.7(i) (Mandatory)	Reporting (On Occasion)	20	1	40:00	800
39. Audits for large PPSIs, submission to the FDIC - Section 350.7(j) (Mandatory)	Reporting (Annual)	1*	1	1:00	1
40. Late filing of Audits - Section 350.7(j)(2)(ii) (Mandatory)	Reporting (On Occasion)	1*	1	2:00	2
41. Notify FDIC if PPSI fails to meet capital or backstop requirements at the end of a quarter - Section 350.9(c)(2) (Mandatory)	Reporting (On Occasion)	1*	1*	1:00	1
42. Optional response to the FDIC in writing - Section 350.10(c)(2) (Voluntary)	Reporting (On Occasion)	1*	1	1:00	1
43. Submission of a plan to reach additional capital or backstop requirements - Section 350.10(c)(4) (Mandatory)	Reporting (On Occasion)	1*	1*	40:00	40

Recordkeeping Requirements					
44. Maintain records identifying separate reserves as and calculating the fair value of reserve assets - Section 350.4(a)-(c) (Mandatory)	Recordkeeping (Daily)	20	250	0:15	1,250
45. Maintain a written contingency plan to restore compliance after reserves sink below required amount - Section 350.4(j) (Mandatory)	Recordkeeping (On Occasion)	20	1	1:00	20
46. Establish a redemption policy - Section 350.5(a) and (b) (Mandatory)	Recordkeeping (On Occasion)	20	1	1:00	20
47. Internal auditing system - Section 350.6(a)(1) and (2) (Mandatory)	Recordkeeping (On Occasion)	20	1	480:00	9,600
48. Require service providers by contract to implement appropriate measures - Section 350.6(a)(6) (Mandatory)	Recordkeeping (On Occasion)	20	1	4:00	80
49. Certify AML/CFT and sanctions program - Section 350.6(c) (Mandatory)	Recordkeeping (Annual)	20	2	1:00	40
50. Audits for large PPSIs, annual financial statement - Section 350.7(j) (Mandatory)	Recordkeeping (Annual)	1*	1	40:00	40
51. Maintain written policies, procedures, and internal controls that are adequate to comply with applicable law - Section 350.103(b) (Mandatory)	Recordkeeping (Annual)	30	1	1:00	30
Third-Party Disclosure Requirements					
52. Publish a monthly report on reserve composition - Section 350.4(g) (Mandatory)	Third-Party Disclosure (Monthly)	20	12	9:00	2,160

53. Publish a registered public accounting firm's examination report to their website monthly - Section 350.4(h)(1) (Mandatory)	Third-Party Disclosure (Monthly)	20	12	1:00	240
54. Publicly disclose redemption policy - Section 350.5(a) and (b) (Mandatory)	Third-Party Disclosure (On Occasion)	20	1	1:00	20
55. Publicly disclose certain information relating to the PPSI, the payment stablecoin, and fees - Section 350.5(d) (Mandatory)	Third-Party Disclosure (On Occasion)	20	1	1:00	20
56. Notify customers when there is an unauthorized access incident - Section 350.6(b)(6) (Mandatory)	Third-Party Disclosure (On Occasion)	20	1	1:00	20
57. Program to notify customers when there is an unauthorized access incident - Section 350.6(b)(6) (Mandatory)	Third-Party Disclosure (On Occasion)	20	1	1:00	20
58. Public Audits for large PPSIs, statements made publicly available - Section 350.7(j) (Mandatory)	Third-Party Disclosure (Annual)	1*	1	1:00	1
				Total Annual Burden (Hours):	***22,110***

Source: FDIC.
Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

* The FDIC does not expect that it will be common to have respondents or responses in this IC. The FDIC is using this placeholder to preserve the collection

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the address listed in the **ADDRESSES** section. Written comments and recommendations for this information collection also should be sent within 60 days of publication of this document to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function.

C. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),[66] in determining the effective date and administrative compliance requirements for new regulations that impose additional

[66] 12 U.S.C. 4802(a).

reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The FDIC invites comments that further will inform its consideration of the RCDRIA.[67]

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[68] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the *Federal Register* after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand, including the following

Questions on Plain Language

Question 140: Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?

Question 141: Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?

Question 142: Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?

[67] 12 U.S.C. 4802(b).
[68] Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

Question 143: Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?

Question 144: What else could the FDIC do to make the proposed rule easier to understand?

E. Executive Orders 12866 and 14192

Executive Order 12866, as amended, directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is a "significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the SUPPLEMENTARY INFORMATION of this document, the FDIC has assessed the costs and benefits of this rulemaking and has made a reasoned determination that the benefits of this rulemaking justify its costs. Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule, if finalized as

proposed, is not expected to be a regulatory action under Executive Order 14192.

List of Subjects

12 CFR Part 324

Capital

12 CFR Part 330

Bank deposit insurance

12 CFR Part 350

Custody, Insured state nonmember bank, Insured state savings association, Payment stablecoin, Permitted payment stablecoin issuer, Safekeeping

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR parts 324, 330, and 350 as follows:

PART 324 – CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

1. Revise the authority citation for part 324 to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412, 5903(a)(4)(C); Pub. L. 102-233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102-242, 105 Stat. 2236, 2355, as amended by Pub. L. 103-325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102-242, 105 Stat. 2236, 2386, as amended by Pub. L. 102-550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111-203, 124 Stat. 1376, 1887 (15 U.S.C. 78o-7 note), Pub. L. 115-174; section 4014 § 201, Pub. L. 116-136, 134 Stat. 281 (15 U.S.C. 9052).

2. Amend § 324.22 by adding paragraph (i) to read as follows:

§ 324.22 Regulatory capital adjustments and deductions.

* * * * *

(i) *Permitted Payment Stablecoin Issuers*. Notwithstanding any other provision in this section, an FDIC-supervised institution that is consolidated with a permitted payment

stablecoin issuer as defined in § 350.1 of this chapter must make the following adjustments when calculating its capital ratios under § 324.10:

(1) Deconsolidate any permitted payment stablecoin issuer from the FDIC-supervised institution's balance sheet;

(2) Deduct from common equity tier 1 capital any amount of positive retained earnings that originated from the permitted payment stablecoin issuer to the extent not paid out as dividends to the FDIC-supervised institution; and

(3) Exclude any investment in (to the extent not deducted under paragraph (i)(2) of this section) and receivable from the permitted payment stablecoin issuer when calculating standardized total risk-weighted assets, advanced approaches risk-weighted assets, average total consolidated assets, and total leverage exposure, as applicable.

3. Amend § 324.401(g) by, in the first sentence, removing "under in § 324.22(a), (c), and (d)" and adding "under § 324.22(a), (c), (d), and (i)" in its place.

PART 330 - DEPOSIT INSURANCE COVERAGE

4. Authority for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(*l*), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

5. Amend § 330.1 by revising paragraph (e) to read as follows:

* * * * *

(e) ***Deposit account records*** means account ledgers, signature cards, certificates of deposit, passbooks, corporate resolutions authorizing accounts in the possession of the insured depository institution and other books and records of the insured depository institution, regardless of the technology or type of recordkeeping utilized, which relate to

the insured depository institution's deposit taking function, but does not mean account statements, deposit slips, items deposited or cancelled checks.

* * * * *

6. Amend § 330.3 by adding a new paragraph (k) to read as follows:

* * * * *

(k) *Technology used to record deposits*. The technology or type of recordkeeping utilized by an insured depository institution to record deposit liabilities does not affect whether those liabilities constitute "deposits."

* * * * *

7. Amend § 330.11(a) by adding paragraph (3) to read as follows:

§ 330.11 Accounts of a corporation, partnership or unincorporated association.

(a) * * *

(3) Notwithstanding any other provision of this part, deposits at an insured depository institution held as reserves for a payment stablecoin, as defined in the Guiding and Establishing National Innovation for U.S. Stablecoins Act, are deposits of the permitted payment stablecoin issuer's and insured as corporate deposits for purposes of this part.

* * * * *

PART 350—PAYMENT STABLECOIN

8. Amend part 350 to read as follows:

***Authority*:** 12 U.S.C. 1819(Tenth); 12 U.S.C. 5901–5916.

Subpart A—Requirements and Standards for Permitted Payment Stablecoin Issuers

350.0 Purpose and scope.

Subpart A— Requirements and Standards for Permitted Payment Stablecoin Issuers

§ 350.0 Purpose and scope.

(a) *Purpose*. Subpart A implements certain provisions of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (12 U.S.C. 5901 *et seq*.) (GENIUS Act) authorizing the FDIC to issue regulations under the Act with respect to permitted

payment stablecoin issuers that have been approved by the FDIC and for which the FDIC is the primary Federal payment stablecoin regulator.

(b) *Scope*. This subpart applies to all permitted payment stablecoin issuers for which the FDIC is the primary Federal payment stablecoin regulator.

§ 350.1 Definitions.

(a) To the extent not otherwise defined in this subpart, the terms used in this subpart have the same meaning given to them as in section 2 of the GENIUS Act (12 U.S.C. 5901).

(b) For purposes of this subpart, the following definitions apply:

(1) *Affiliate* means a person that controls, is controlled by, or is under common control with another person.

(2) *Bank Secrecy Act* means:

(i) Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(ii) Chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 *et seq*.); and

(iii) Subchapter II of chapter 53 of title 31, United States Code and notes thereto (31 U.S.C. 5311 *et seq*.).

(3) *Customer* means a person that purchases (through any consideration) the products or services of a permitted payment stablecoin issuer directly from the permitted payment stablecoin issuer.

(4) *Demand deposit* has the meaning given that term at 12 CFR 204.2(b). The term includes demand deposits in tokenized form.

(5) *Deposit* means "deposit" as defined in section 3(*l*) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)). The term includes deposits in tokenized form.

(6) *Digital asset* means any digital representation of value that is recorded on a cryptographically secured distributed ledger.

(7) *Distributed ledger* means technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions.

(8) *Distributed ledger protocol* means publicly available and accessible executable software deployed to a distributed ledger, including smart contracts or networks of smart contracts.

(9) *Eligible financial institution* means either:

(i) A Federal Reserve Bank; or

(ii) A person that is eligible to hold reserve assets in custody under section 10(a) of the GENIUS Act (12 U.S.C. 5909(a)) and that:

(A) Complies with the applicable requirements in section 10(b), (c), and (d) of the GENIUS Act, including with applicable implementing regulations issued by the relevant primary Federal payment stablecoin regulator, primary financial regulatory agency, State bank supervisor, or State credit union supervisor; and

(B) If applicable, enters into a custody agreement with a permitted payment stablecoin issuer documenting the person's compliance with paragraph (ii)(A) of this section, and has implemented policies and procedures as to ensure compliance.

(10) *Fair value* means fair value as determined under GAAP.

(11) *GAAP* means generally accepted accounting principles as used in the United States.

(12) *Insured credit union* has the meaning given to that term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(13) *Insured depository institution* has the meaning given that term in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

(14) *Monetary value* means a national currency or deposit (as defined in section 3(*l*) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*))) denominated in a national currency.

(15) *National currency* means—

(i) A Federal Reserve note (as the term is used in the first undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 411));

(ii) Money standing to the credit of an account with a Federal Reserve Bank;

(iii) Money issued by a foreign central bank; or

(iv) Money issued by an intergovernmental organization pursuant to an agreement by two or more governments.

(16) *Outstanding issuance value* means the total consolidated par value of all of a permitted payment stablecoin issuer's payment stablecoins issued.

(17) *Payment stablecoin means:*

(i) A digital asset—

(A) That is, or is designed to be, used as a means of payment or settlement; and

(B) The issuer of which—

(I) Is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of monetary value; and

(II) Represents that such issuer will maintain, or creates the reasonable expectation that it will maintain, a stable value relative to the value of a fixed amount of monetary value; and

(ii) Does not include a digital asset that is a—

(A) National currency;

(B) a deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), including a tokenized deposit recorded using distributed ledger technology; or

(C) Security, as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b), section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2).

(18) *Permitted payment stablecoin issuer* has the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

(19) *Person* means an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

(20) *Primary financial regulatory agency* has the meaning given that term in in 12 U.S.C. 5301(12)(B) or (C).

(21) *Private key* means the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger.

(22) *Registered public accounting firm* has the meaning set forth in section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(12)).

(23) *Reserve asset* means an asset maintained by a permitted payment stablecoin issuer of a type enumerated in § 350.4(e).

(24) *Significant redemption request* means a circumstance in which aggregate redemption requests exceed 10 percent of the outstanding issuance value within a single 24-hour period.

(25) *Subsidiary* has the meaning given that term in section 3(w)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(4)).

(26) *United States Coins and Currency* means U.S. coins and currency as described in 31 U.S.C. 5103.

§ 350.2 Severability.

The provisions of this subpart are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the FDIC's intention that the remaining provisions shall continue in effect.

§ 350.3 Activities.

(a) *Permitted activities*. A permitted payment stablecoin issuer may only:

(1) Issue payment stablecoins;

(2) Redeem payment stablecoins;

(3) Manage reserves related to the issuance or redemption of payment stablecoins, including purchasing, selling, and holding reserve assets or providing custodial services for reserve assets, consistent with applicable State and Federal law;

(4) Provide custodial or safekeeping services for payment stablecoins, required reserves, or private keys of payment stablecoins, consistent with subpart B of this part;

(5) Undertake any other activities that directly support any of the activities described in paragraphs (a)(1) through (4) of this section;

(6) Undertake activities that are incidental to any of the activities described in paragraphs (a)(1) through (4) or that are digital asset service provider activities (as defined in section 2(7)(A) of the GENIUS Act to be exchanging digital assets for monetary value, exchanging digital assets for other digital assets, transferring digital assets to a third party, acting as a digital asset custodian, or participating in financial services relating to digital asset issuance) or are incidental thereto that are authorized by the FDIC;

(7) Assess fees associated with purchasing or redeeming payment stablecoins;

(8) Pay fees to facilitate customer transactions; and

(9) In undertaking any activity contemplated by the GENIUS Act (12 U.S.C. 5901 *et seq*.), act as principal or agent with respect to any payment stablecoin.

(b) *Prohibitions*. A permitted payment stablecoin issuer shall not:

(1) Use any combination of terms relating to the United States Government, including, but not limited to “United States,” “United States Government,” and “USG” in the name of a payment stablecoin;

(2) Market a payment stablecoin in a manner that a reasonable person would perceive the payment stablecoin to be legal tender, issued by the United States; or guaranteed or approved by the Government of the United States;

(3) Directly or through implication represent that payment stablecoins are backed by the full faith and credit of the United States, guaranteed by the United States Government, or subject to Federal deposit insurance;

(4) Pay the holder of any payment stablecoin any form of interest or yield (whether in cash, tokens, or other consideration) solely in connection with the holding, use, or retention of such payment stablecoin;

(i) The FDIC presumes that a permitted payment stablecoin issuer is paying interest or yield (whether in cash, tokens, or other consideration) to the holder of a payment stablecoin solely in connection with the holding, use, or retention of such payment stablecoin if:

(A) The permitted payment stablecoin issuer has a contract, agreement, or other arrangement with an affiliate of the issuer or related third party to pay interest or yield to the affiliate or related third party;

(B) The affiliate or related third party identified in paragraph (b)(4)(i)(A) of this section or, if the person is a related third party, an affiliate of such related third party has a contract, agreement, or other arrangement to pay interest or yield (whether in cash, tokens, or other consideration) to a holder of any payment stablecoin issued by the permitted payment stablecoin issuer solely in

connection with the holding, use, or retention of such payment stablecoin; and

(C) To the extent the person, or an affiliate of the person, identified in paragraph (b)(4)(i)(A) is a related third party of the permitted payment stablecoin issuer because the permitted payment stablecoin issuer issues payment stablecoins on the related third party's behalf or under the related third party's branding, the arrangement identified in paragraph (b)(4)(i)(B) of this section considers the holder of the payment stablecoin to be the holder of a payment stablecoin issued by the permitted payment stablecoin issuer on the related third party's behalf or under the related third party's branding.

(ii) For purposes of paragraph (b)(4)(i) of this section, a related third party means:

(A) A person offering to pay interest or yield to payment stablecoin holders as a service; and

(B) Any person that the issuer issues payment stablecoins on the person's behalf or under the person's branding.

(iii) A permitted payment stablecoin issuer may rebut the presumption in paragraph (b)(4)(i) of this section by submitting written materials that, in the FDIC's judgment, demonstrate that the contract, agreement, or other arrangement is not prohibited under this paragraph (b)(4) of this section and not an attempt to evade the prohibition;

(5) Pledge, rehypothecate, or reuse any reserve assets required under § 350.4(a) either directly or indirectly, including through a third-party custodian of the reserve assets, except for the purpose of:

(i) Satisfying margin obligations in connection with investments in permitted reserves under § 350.4(e)(5) or (6);

(ii) Satisfying obligations associated with the use, receipt, or provision of standard custodial services; or

(iii) Creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins, such that reserves in the form of Treasury bills with a maturity of 93 days or less may be sold as purchased securities in repurchase agreements, provided that either:

(A) The repurchase agreements are cleared by a clearing agency registered with the Securities and Exchange Commission; or

(B) The permitted payment stablecoin issuer receives prior written approval from the FDIC. All repurchase agreements under this paragraph (b)(5) wherein the Treasury bills that are sold as purchased securities have a maturity of 93 days or less are approved by the FDIC;

(6) Engage in any activity that the FDIC determines is done in evasion of the requirements, standards, or prohibitions found in section 4 of the GENIUS Act (12 U.S.C. 5903) or this part 350;

(7) Market a product in the United States as a payment stablecoin, or issue a payment stablecoin, unless the product or payment stablecoin is issued in compliance with the GENIUS Act and part 350; or

(8) Provide a customer credit, directly or indirectly, to enable the customer to purchase or otherwise acquire payment stablecoins from the permitted payment stablecoin issuer.

(c) *Pegged Payment Stablecoins*. The use of terms directly related to a national currency to which the value of the payment stablecoin is pegged shall not be considered a violation of paragraphs (b)(1) and (2).

§ 350.4 Reserve assets.

(a) *Reserve requirement.* A permitted payment stablecoin issuer shall:

(1) maintain identifiable reserves fully backing the outstanding payment stablecoins of the permitted payment stablecoin issuer, the reserve asset value of which will at all times meet or exceed the total outstanding issuance value of payment stablecoins issued by the permitted payment stablecoin issuer;

(2) monitor issuance and redemption of outstanding payment stablecoins to ensure compliance with this section; and

(3) either maintain reserves directly or keep reserves within the custody of eligible financial institutions.

(b) *Reserve Asset Value.* For purposes of calculating the reserve asset value of the reserve assets backing each outstanding payment stablecoin issued by the permitted payment stablecoin issuer, reserve assets shall be valued at fair value, with the exceptions of United States coins and currency which shall be valued at face value.

(c) *Identifiable Reserves.* The reserves maintained by a permitted payment stablecoin issuer shall be readily identified as backing outstanding payment stablecoins issued and differentiated from assets not backing payment stablecoins. If a permitted payment stablecoin issuer issues more than one publicly distinguishable brand of payment stablecoin, reserves shall be separately identifiable by each brand of payment stablecoin and each brand of payment stablecoin shall independently comply with § 350.4(a). The permitted payment stablecoin issuer shall maintain segregated pools of reserves for each brand of payment stablecoin, each of which shall be kept and recorded separately, unless prior written approval is received from the FDIC allowing for commingling.

(d) *Monetization Capability*. A permitted payment stablecoin issuer shall demonstrate the operational capability to access and monetize the identifiable reserve assets, commensurate with the permitted payment stablecoin issuer's risk profile and business model.

(e) *Reserve Composition.* The assets serving as identifiable reserves fully backing the outstanding payment stablecoins are limited to:

(1) United States coins and currency (including Federal Reserve notes);

(2) money standing to the credit of an account with a Federal Reserve Bank;

(3) funds held as demand deposits or other deposits that may be withdrawn upon request at any time at an insured depository institution or insured shares held by an insured credit union (including any foreign branches or agents, including correspondent banks, of an insured depository institution);

(4) Treasury bills, notes, or bonds with a remaining maturity of 93 days or less, or issued with a maturity of 93 days or less;

(5) money received under repurchase agreements with the permitted payment stablecoin issuer acting as a seller of securities and with an overnight maturity that are backed by Treasury bills with a maturity of 93 days or less provided the money is received consistent with one or more of the allowable exceptions to rehypothecation, reuse, or pledging as circumscribed in 12 U.S.C 5903(a)(2);

(6) reverse repurchase agreements with the permitted payment stablecoin issuer acting as a purchaser of securities and with an overnight maturity that are collateralized by Treasury notes, bills, or bonds on an overnight basis, subject to overcollateralization in line with standard market terms, that are:

(i) tri-party;

(ii) centrally cleared through a clearing house registered with the Securities and Exchange Commission; or

(iii) bilateral with a counterparty that the issuer has determined to be adequately creditworthy even in the event of severe market stress; and

(7) securities issued by an investment company registered under section 8(a) of the Investment Company Act of 1940 (15 U.S.C. 80a‑8(a)), or other registered Government money market fund, and that are invested solely in underlying assets described in paragraphs (e)(1) through (6) of this section.

(f) *Asset diversification and concentration*. A permitted payment stablecoin issuer shall on each business day limit its exposure to any one eligible financial institution, regardless of instrument type, to no more than 40 percent of its reserve assets.

(g) *Monthly Report on Reserve Composition.* A permitted payment stablecoin issuer, for each publicly distinguishable brand of payment stablecoin issued, shall by close of

business on the last day of each month, prepare and publish on its website using a format substantially similar to the template provided in table 1 a report containing as of close of business on the last day of the previous month: the total number of outstanding payment stablecoins issued by the permitted payment stablecoin issuer and the value and composition of the identifiable reserves described in § 350.4(e), including the average tenor and geographic location of custody of each category of reserve assets. Monthly disclosures are not required to include specific information on the institutions, branches, or counterparties involved in the holding of reserve assets.

Table 1 to § 350.4(g) – Monthly Composition Template

As of YY/YY/YYYY **In thousands of U.S. Dollars**		**Amount**	**Geographic location**	**Average Tenor**
NUMBER OF OUTSTANDING PAYMENT STABLECOINS[69]				
1				
2				
3				
4	**TOTAL OUTSTANDING PAYMENT STABLECOINS**			
VALUE OF RESERVE ASSETS				
5	Deposits:			
6	Insured deposits			
7	Uninsured deposits			
8	Treasury bills, Treasury notes, or Treasury bonds			

[69] List different brands of payment stablecoin separately, if applicable. To the extent that different brands of payment stablecoins are secured by segregated reserve assets, permitted payment stablecoin issuers should publish a composition table for each distinct payment stablecoin and describe the mechanism for how the assets are separately secured.

9	Money received under repurchase agreements			
10	Reverse repurchase agreements			
11	Securities issued by an investment company solely invested in qualifying reserve assets			
12	Reserves in tokenized form[70]			
13	**Total Reserve Assets[71]**			
14	Outstanding repurchase agreement liabilities			
15	**Total Reserve Assets net of Outstanding Repurchase Agreement Liabilities**			

(h) *Monthly certification; examination of reports by registered public accounting firm.*

(1) By close of business on the last day of each month, a permitted payment stablecoin issuer shall have a registered public accounting firm examine the information disclosed in the previous month-end report required by this subsection and the registered public accounting firm will issue a written report with findings to the permitted payment stablecoin issuer's audit committee (or board of directors, if no audit committee). The registered public accounting firm's examination report must be published on the website of the permitted payment stablecoin issuer at the same time as the month-end report required under paragraph (g); and

[70] Permitted payment stablecoin issuers must separately list any reserves in tokenized form by category of reserve asset, using multiple rows if appropriate.

[71] Do not double count any reserve assets that may be listed in more than one row for purposes of computing the total.

(2) *Certification.* Each month, the Chief Executive Officer and Chief Financial Officer (or the persons performing the equivalent functions) of a permitted payment stablecoin issuer shall submit to the FDIC a certification as to the accuracy of the previous month-end report, including a copy of the written report prepared in § 350.4(h)(1).

(i) *Failure to meet minimum reserve assets requirement*.

(1) In the event that a permitted payment stablecoin issuer determines or has reasonable grounds to suspect that the aggregate reserve asset value of identifiable reserves backing outstanding payment stablecoins is less than the amount required under paragraph § 350.4(a), the permitted payment stablecoin issuer shall notify the FDIC in writing, with a description of measures to be taken pursuant to § 350.4(j), as appropriate. The FDIC in its sole discretion may determine whether the measures are viable and, if not, the FDIC may:

(i) direct the permitted payment stablecoin issuer to suspend or reduce issuance of payment stablecoins until the aggregate reserve asset value of identifiable reserves backing outstanding payment stablecoins exceeds the outstanding issuance value of payment stablecoins;

(ii) direct the permitted payment stablecoin issuer to take measures to restore the aggregate reserve asset value of identifiable reserves until the aggregate reserve asset value of identifiable reserves backing outstanding payment stablecoins exceeds the outstanding issuance value of the payment stablecoins; or

(iii) direct the permitted payment stablecoin issuer to execute an orderly redemption of all outstanding payment stablecoins.

(j) *Restoration Plan.* A permitted payment stablecoin issuer shall have a written contingency plan with measures to be taken by it to restore compliance with requirements in § 350.4(a)(1) or (e) or § 350.9 if the permitted payment stablecoin issuer falls below those requirements.

(k) *Orderly Redemptions in Exigent Circumstances*. If a permitted payment stablecoin issuer determines to take actions that would result in the orderly redemptions of all outstanding payment stablecoins, the permitted payment stablecoin issuer shall notify the FDIC.

§ 350.5 Redemption.

(a) *Redemption policy.* A permitted payment stablecoin issuer shall establish, implement, and publicly disclose its redemption policy. The redemption policy shall include, at a minimum, the following information:

(1) The timeframe in which the permitted payment stablecoin issuer will redeem payment stablecoins issued by the permitted payment stablecoin issuer for a fixed amount of monetary value and the timeframe under which the permitted payment stablecoin issuer is required to redeem payment stablecoin under paragraph (b)(1) of this section;

(2) A statement explaining the limitation in paragraph (b)(2) of this section;

(3) A statement explaining the scenarios under which the redemption period may be extended as described in paragraph (c) of this section;

(4) A statement with clear instructions on how a payment stablecoin holder can redeem a payment stablecoin, including a link to the website(s) where a payment stablecoin holder can redeem the payment stablecoin; and

(5) The minimum number of payment stablecoins, if any, that the permitted payment stablecoin issuer will redeem, provided that the permitted payment stablecoin issuer shall redeem any number greater than or equal to one payment stablecoin, subject to appropriate screening and onboarding.

(b) *Redemption policy requirements*. A permitted payment stablecoin issuer's redemption policy shall provide clear and conspicuous procedures for timely redemption of outstanding payment stablecoins:

(1) That timely redemption may not exceed two business days following the date of the requested redemption; and

(2) That any discretionary limitations on timely redemptions can only be imposed by the FDIC.

(c) *Timeliness extended in certain scenarios*.

(1) A permitted payment stablecoin issuer experiencing a significant redemption request shall provide immediate notice to the FDIC.

(2) A permitted payment stablecoin issuer that experiences a significant redemption request may request an extension to the timeframe provided in paragraph (b)(1), and the FDIC may, in its discretion, grant or deny the extension request.

(d) *Disclosures and fees associated with purchase and redemption*. A permitted payment stablecoin issuer shall:

(1) Publicly, clearly, and conspicuously disclose in plain language and in a format that is readily noticeable, readily understandable, and segregated from other information:

(i) The name of the permitted payment stablecoin issuer that issues the payment stablecoin;

(ii) That the permitted payment stablecoin issuer is the entity that is obligated to convert, redeem, or repurchase the payment stablecoin for a fixed amount of monetary value;

(iii) The link to the monthly composition report of the relevant permitted payment stablecoin issuer's reserves required under § 350.4(g); and

(iv) All fees associated with purchasing or redeeming payment stablecoins, if any.

(2) Update the disclosures in paragraph (d)(1)(iv) if there are any changes in fees associated with purchasing or redeeming payment stablecoins and provide at least seven calendar days' prior notice of the change, unless the change is a decrease in fees, including by securely delivering the notice to current customers for whom the permitted payment stablecoin issuer has contact information;

(3) Publish the disclosures in paragraph (d)(1) and any updates made in accordance with paragraph (d)(2) on the permitted payment stablecoin issuer's website; and

(4) Include the disclosures in paragraph (d)(1) and any updates made in accordance with paragraph (d)(2) in any customer agreements that it provides.

§ 350.6 Risk management.

(a) *General operational and managerial standards.*

(1) *Internal controls and information systems.* A permitted payment stablecoin issuer shall have internal controls and information systems to support effective risk management that are appropriate to the size and complexity of the permitted payment stablecoin issuer and the nature, scope, and risk of its activities and that provide for:

(i) An organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies;

(ii) Effective risk assessment;

(iii) Timely and accurate financial, operational, and regulatory reporting, including with respect to the reports required under this part;

(iv) Adequate procedures to monitor, safeguard, manage, and control assets, including reserve assets; and

(v) Compliance with applicable laws and regulations.

(2) *Internal audit system.* A permitted payment stablecoin issuer shall have an internal audit system that is appropriate to the size and complexity of the permitted payment stablecoin issuer and the nature, scope, and risk of its activities and that provides for:

(i) Adequate monitoring of the system of internal controls through an internal audit function, or for a permitted payment stablecoin issuer whose size, complexity or scope of operations does not warrant a full-scale

internal audit function, a system of independent reviews of key internal controls;

(ii) Independence and objectivity;

(iii) Qualified persons;

(iv) Adequate independent testing and review of internal controls and information systems;

(v) Adequate documentation of tests and findings and any corrective actions; and

(vi) Verification and review of management actions to address deficiencies.

(3) *Interest rate exposure.* A permitted payment stablecoin issuer shall manage interest rate risk in a manner that is appropriate to the size and complexity of the permitted payment stablecoin issuer and the complexity of its assets and liabilities.

(4) *Asset growth.* A permitted payment stablecoin issuer's asset growth shall be commensurate with risk management and operational capabilities.

(5) *Insider and affiliate transactions.* A permitted payment stablecoin issuer shall ensure that transactions between the permitted payment stablecoin issuer and insiders or affiliates (other than the insured depository institution of which it is a subsidiary):

(i) Do not pose significant risks of material financial loss; and

(ii)

(A) Are conducted on terms that are the same or at least as favorable to the permitted payment stablecoin issuer as those prevailing at the time for comparable transactions with or involving non-insiders or non-affiliates; or

(B) In the absence of comparable transactions, are offered on terms and under circumstances that, in good faith would be offered to or would apply to non-affiliates or non-insiders.

(6) *Oversee service provider arrangements*. A permitted payment stablecoin issuer shall:

(i) Exercise appropriate due diligence in selecting its service providers;

(ii) Require its service providers by contract to implement appropriate measures designed to meet the applicable requirements of this part; and

(iii) As appropriate, monitor its service providers to confirm they have satisfied their obligations. As part of this monitoring, permitted payment stablecoin issuers should review audits, summaries of test results, or other equivalent evaluations of its service providers.

(7) *Liquidity.* A permitted payment stablecoin issuer shall:

(i) Appropriately monitor and validate compliance with the requirements of § 350.4; and

(ii) Manage liquidity risk in a manner that is appropriate to the business model and risk profile of the permitted payment stablecoin issuer.

(b) *Information technology and security*.

(1) *Information technology and security program.* A permitted payment stablecoin issuer shall implement a comprehensive framework for information technology and security risks, including a program that assesses and manages information technology and information security risks.

(2) *Required elements of program*. A permitted payment stablecoin issuer's information technology and security program shall include:

(i) An inventory and classification of information technology assets, processes, and sensitivity of data;

(ii) an assessment of the information technology and security risks associated with the issuance of stablecoins;

(iii) Controls supporting and safeguarding the confidentiality, integrity, and availability of information technology;

(iv) Controls for the development, maintenance, and changes to information technology, including controls for testing, storage, and deployment of the code base, including the smart contract code;

(v) Evaluation, validation, and reporting processes to ensure that information technology systems and controls, including smart contracts, are operating as intended;

(vi) Periodic independent testing of controls; and

(vii) A comprehensive and effective program for the identification, assessment, and response to operational and security incidents.

(3) *Safe handling of digital assets*. A permitted payment stablecoin issuer shall develop, implement, and maintain appropriate measures to ensure secure handling of digital assets, including private key management, backup, and recovery incorporating:

(i) Relevant technical, operational, strategic, market, legal, and compliance considerations relating to each digital asset and its underlying ledger; and

(ii) Material developments specifically related to supported digital assets and their underlying ledgers.

(4) *Adjust the program.* A permitted payment stablecoin issuer shall monitor, evaluate, and adjust, as appropriate, the information technology and security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats, and the permitted payment stablecoin issuer's own changing business arrangements, such as mergers and acquisitions, consortia and joint ventures, third-party arrangements, and changes to applicable information systems.

(5) *Notification of unauthorized access.* A permitted payment stablecoin issuer shall maintain an appropriate program to notify its customers if the permitted payment stablecoin issuer becomes aware of an incident of unauthorized access to sensitive customer information. The program shall require the delay of customer notice if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the permitted payment stablecoin issuer with a written request for the delay.

(6) *Information technology resilience.* A permitted payment stablecoin issuer's information technology and security program shall include measures to ensure continuity of operations and recovery of critical functions in the face of disruptions, including by business impact analyses, testing of vulnerabilities, and testing with critical service providers.

(c) *Anti-money laundering and economic sanctions compliance programs required certification.* Not later than 180 days after the date of an approval of an application filed pursuant to section 5 of the GENIUS Act (12 U.S.C. 5904), and on or before April 1 of each year thereafter, a permitted payment stablecoin issuer shall certify that it has implemented anti-money laundering and economic sanctions compliance programs that are reasonably designed to prevent the permitted payment stablecoin issuer from facilitating money laundering, in particular, facilitating money laundering for cartels and organizations designated as foreign terrorist organizations under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) and the financing of terrorist activities, as required by the GENIUS Act. Such certification signed by authorized persons/individuals responsible for overseeing the programs AML/CFT shall be submitted to the appropriate FDIC regional office.

§ 350.7 Audits, reports, and supervision.

(a) *General.* The FDIC will conduct an exam in accordance with the timelines established for the parent insured depository institution outlined in § 337.12. Nothing in this provision precludes the FDIC from examining the permitted payment stablecoin issuer as part of an examination of the insured depository institution of which the permitted

payment stablecoin issuer is a subsidiary and for which the FDIC is the primary Federal banking agency.

(b) *Access to books and records.* Upon request by the FDIC, permitted payment stablecoin issuers shall grant the FDIC prompt and complete access to all officers, directors, employees, agents, and to all relevant books, records, or documents of any type, including distributed ledgers.

(c) *Location of examinations.* The FDIC may conduct examinations of every permitted payment stablecoin issuer, as specified in paragraph (a) of this section, either on-site or remotely.

(d) *Authority to conduct more frequent examinations.* This section does not limit the authority of the FDIC to examine any permitted payment stablecoin issuer as frequently as the FDIC deems necessary, including examinations of a limited scope.

(e) *Recordkeeping requirements.* All permitted payment stablecoin issuers shall maintain a complete set of books and records.

(f) *Records retention policy.* All permitted payment stablecoin issuers shall develop and implement a records retention policy that ensures the permitted payment stablecoin issuer can demonstrate compliance with the GENIUS Act, this part, and all applicable laws and regulations.

(g) *Confidential weekly reporting*. All permitted payment stablecoin issuers must submit to the FDIC a confidential weekly report containing information specified by the FDIC in the form available at www.fdic.gov.

(h) *Reports of financial condition*. A permitted payment stablecoin issuer shall submit to the FDIC a quarterly report on the financial condition of the permitted payment

stablecoin issuer, including, but not limited to, income statement, expenses, balance sheet, reserves, changes in equity, investments, capital, outstanding issuance value, and assets under custody, in a standardized format as prescribed by the FDIC within 30 days of the end of the prior quarter. Forms and instructions are available at www.fdic.gov. Each report of financial condition shall contain a declaration by the permitted payment stablecoin issuer's chief financial officer, or the individual performing an equivalent function, that the report is true and correct to the best of that individual's knowledge and belief. The correctness of the report of financial condition shall be attested by the signatures of the directors and senior management of the permitted payment stablecoin issuer other than the officer, or the individual performing an equivalent function, making such declaration, with the attestation stating that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(i) *Submission of other reports.* All permitted payment stablecoin issuers shall, upon request, submit to the FDIC a report on:

(1) The financial condition of the permitted payment stablecoin issuer;

(2) The systems of the permitted payment stablecoin issuer for monitoring and controlling financial and operational risks; and

(3) Compliance of the permitted payment stablecoin issuer and any subsidiary thereof with the GENIUS Act, and this part.

(j) *Audits*. A permitted payment stablecoin issuer with more than $50,000,000,000 in total outstanding issuance value, that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)),

shall prepare in accordance with GAAP, annual financial statements, which shall include the disclosure of any related party transactions, as defined by GAAP.

(1) A registered public accounting firm must perform an audit and report on the financial statements described in this paragraph (j). The audit shall be conducted in accordance with the Public Company Accounting Oversight Board's auditing standards, or for non-public entities, in accordance with generally accepted auditing standards or the Public Company Accounting Oversight Board's auditing standards.

(2) A permitted payment stablecoin issuer required to prepare an audited annual financial statement under this paragraph shall:

(i) Make the audited financial statements publicly available on the permitted payment stablecoin issuer's website and submit them to the FDIC within 120 days after the end of its fiscal year; and

(ii) If a permitted payment stablecoin issuer is unable to timely file all or any portion of the financial statement described in this paragraph (j)(2)(i), it shall submit a written notice of late filing to the FDIC on or before the deadline for filing the financial statement. The notice shall state the permitted payment stablecoin issuer's inability to timely file all, or specified portions, of its annual financial statement and the reasons for such inability to timely file, in reasonable detail. The late filing notice shall also state the date by which the financial statement will be filed.

§ 350.8 Capital elements.

(a) *Capital elements.* The minimum capital requirement shall consist of common equity tier 1 capital and additional tier 1 capital.

(b) *Common equity tier 1 capital.* Common equity tier 1 capital is the sum of the common equity tier 1 capital elements in this paragraph (b). The common equity tier 1 capital elements are:

(1) Any common stock instruments (plus any related surplus) issued by the permitted payment stablecoin issuer, net of treasury stock, that meet all the following criteria:

(i) The instrument is paid-in, issued directly by the permitted payment stablecoin issuer, and represents the most subordinated claim in a receivership, insolvency, liquidation, or similar proceeding of the permitted payment stablecoin issuer;

(ii) The holder of the instrument is entitled to a claim on the residual assets of the permitted payment stablecoin issuer that is proportional with the holder's share of the permitted payment stablecoin issuer's issued capital after all senior claims have been satisfied in a receivership, insolvency, liquidation, or similar proceeding;

(iii) The instrument has no maturity date, can only be redeemed via discretionary repurchases with the prior approval of the FDIC, and does not contain any term or feature that creates an incentive to redeem;

(iv) The permitted payment stablecoin issuer did not create at issuance of the instrument through any action or communication an expectation that it will buy back, cancel, or redeem the instrument, and the instrument does not include any term or feature that might give rise to such an expectation;

(v) Any cash dividend payments on the instrument are paid out of the permitted payment stablecoin issuer's net income or retained earnings and are not subject to a limit imposed by the contractual terms governing the instrument;

(vi) The permitted payment stablecoin issuer has full discretion at all times to refrain from paying any dividends and making any other distributions on the instrument without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of any other restrictions on the permitted payment stablecoin issuer;

(vii) Dividend payments and any other distributions on the instrument may be paid only after all legal and contractual obligations of the permitted payment stablecoin issuer have been satisfied, including payments due on more senior claims;

(viii) The holders of the instrument bear losses as they occur equally, proportionately, and simultaneously with the holders of all other common stock instruments before any losses are borne by holders of claims on the permitted payment stablecoin issuer with greater priority in a receivership, insolvency, liquidation, or similar proceeding;

(ix) The paid-in amount is classified as equity under GAAP;

(x) The permitted payment stablecoin issuer, or an entity that the permitted payment stablecoin issuer controls, did not purchase or directly or indirectly fund the purchase of the instrument;

(xi) The instrument is not secured, not covered by a guarantee of the permitted payment stablecoin issuer or of an affiliate, and is not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(xii) The instrument has been issued in accordance with applicable laws and regulations; and

(xiii) The instrument is reported on the permitted payment stablecoin issuer's financial statements separately from other capital instruments;

(2) Retained earnings;

(3) Accumulated other comprehensive income (AOCI) as reported under GAAP; and

(4) Notwithstanding the criteria for common stock instruments referenced in paragraph (b)(1) of this section, common stock issued by the permitted payment stablecoin issuer and held in trust for the benefit of its employees as part of an employee stock ownership plan does not violate any of the criteria in paragraph (b)(1)(iii), (iv), or (xi) of this section, provided that any repurchase of the stock is required solely by virtue of the Employee Retirement Income Security Act of 1974 (ERISA) for an instrument of a permitted payment stablecoin issuer that is not publicly-traded. In addition, an instrument issued by a permitted payment stablecoin issuer to its employee stock ownership plan does not violate the criterion in paragraph (b)(1)(x) of this section.

(c) *Additional tier 1 capital.*

(1) Additional tier 1 capital is the sum of additional tier 1 capital elements and any related surplus. Additional tier 1 capital elements are instruments (plus any related surplus) that meet the following criteria:

(i) The instrument is issued and paid-in;

(ii) The instrument is subordinated to payment stablecoin holders, general creditors, and subordinated debt holders of the permitted payment stablecoin issuer in a receivership, insolvency, liquidation, or similar proceeding;

(iii) The instrument is not secured, not covered by a guarantee of the permitted payment stablecoin issuer or of an affiliate, and not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(iv) The instrument has no maturity date and does not contain a dividend step-up or any other term or feature that creates an incentive to redeem;

(v) If callable by its terms, the instrument may be called by the permitted payment stablecoin issuer only after a minimum of five years following issuance, except that the terms of the instrument may allow it to be called earlier than five years upon the occurrence of a regulatory event that precludes the instrument from being included in additional tier 1 capital or a tax event that impacts the taxation of the instrument subject to the additional requirements in 350.8(c)(2);

(vi) Redemption or repurchase of the instrument requires prior approval from the FDIC;

(vii) The permitted payment stablecoin issuer has full discretion at all times to cancel dividends or other distributions on the instrument without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of other restrictions on the permitted payment stablecoin issuer except in relation to any distributions to holders of common stock or instruments that are pari passu with the instrument;

(viii) Any cash dividend payments on the instrument are paid out of the permitted payment stablecoin issuer's net income or retained earnings;

(x) The instrument does not have a credit-sensitive feature, such as a dividend rate that is reset periodically based in whole or in part on the permitted payment stablecoin issuer's credit quality, but may have a dividend rate that is adjusted periodically independent of the permitted payment stablecoin issuer's credit quality, in relation to general market interest rates or similar adjustments;

(xi) The paid-in amount is classified as equity under GAAP;

(xii) The permitted payment stablecoin issuer, or an entity that the permitted payment stablecoin issuer controls, did not purchase or directly or indirectly fund the purchase of the instrument; and

(xiii) The instrument does not have any features that would limit or discourage additional issuance of capital by the permitted payment stablecoin issuer, such as provisions that require the permitted payment

stablecoin issuer to compensate holders of the instrument if a new instrument is issued at a lower price during a specified time frame.

(2) For a callable instrument described in paragraph 350.8(c)(1)(v) to qualify as additional tier 1 capital, the permitted payment stablecoin issuer:

(i) Shall receive prior approval from the FDIC to exercise a call option on the instrument;

(ii) Does not create at issuance of the instrument, through any action or communication, an expectation that the call option will be exercised; and

(iii) Prior to or simultaneously with exercising the call option shall either:

(A) replace the instrument to be called with an equal amount of instruments that meet the criteria under paragraph (b) or paragraph (c); or

(B) demonstrate to the satisfaction of the FDIC that following redemption, the permitted payment stablecoin issuer will continue to hold capital commensurate with its risk.

§ 350.9 Minimum capital and operational backstop.

(a) *Minimum capital requirement.* A permitted payment stablecoin issuer shall hold minimum capital as follows:

(1) *De novo capital requirement.*

(i) A de novo permitted payment stablecoin issuer shall hold minimum capital equal to the greater of:

(A) the amount specified as part of its approval conditions; and

(B) $5 million.

(ii) A de novo permitted payment stablecoin issuer means a permitted payment stablecoin issuer that has received FDIC approval to issue a payment stablecoin within the prior 3 years.

(iii) A de novo permitted payment stablecoin issuer shall hold this minimum amount for 36 months, or for a shorter or longer period as specified as part of its approval conditions or as subsequently determined by the FDIC based on the experience of the permitted payment stablecoin issuer.

(2) *Ongoing capital requirement*.

(i) A permitted payment stablecoin issuer shall:

(A) determine a minimum capital amount commensurate with the level and nature of all risks to which the permitted payment stablecoin issuer is exposed, including risks from off-balance sheet activities; and

(B) maintain an amount of capital that is not less than the amount determined in subparagraph (A).

(ii) A permitted payment stablecoin issuer shall have a process for assessing its overall capital adequacy in relation to its business model and risk profile and a comprehensive strategy for sustaining an appropriate level of capital to maintain ongoing operations.

(iii) A permitted payment stablecoin issuer shall:

(A) as part of the examination process, confidentially disclose to the FDIC the minimum amount determined under subparagraph

(a)(2)(i)(A) upon any change to the minimum amount or as otherwise requested by the FDIC; and

(B) on the quarterly financial condition report required under § 350.7(h), disclose the amount of capital maintained pursuant to subparagraph (a)(2)(i)(B) as of the applicable reporting date.

(b) *Operational backstop.* A permitted payment stablecoin issuer shall maintain assets:

(1) Equal to 12 months of total expenses.

(i) A permitted payment stablecoin issuer shall calculate the amount required under paragraph (b)(1) using:

(A) For any quarter over the prior four quarters during which the permitted payment stablecoin issuer has provided quarterly reports under § 350.7, the amount or amounts reported in such quarterly report or reports;

(B) For any quarter over the prior four quarters during which the permitted payment stablecoin issuer was in operation but in which it did not file a quarterly report under § 350.7, the actual expenses of the permitted payment stablecoin issuer for such quarter or quarters; and

(C) For any other quarter, not described in subparagraphs (A) and (B), reasonably determined expenses, which may include annualizing expenses from other quarters;

(2) Consisting of:

(i) United States coins and currency (including Federal Reserve notes);

(ii) money standing to the credit of an account with a Federal Reserve Bank;

(iii) Demand deposits or shares at a U.S. insured depository institution or insured credit union, respectively; and

(iv) U.S. Treasury bills, notes, or bonds with a remaining maturity of 93 days or less, or issued with a maturity of 93 days or less; and

(3) Separately identified from any reserve assets required under § 350.4(a) or other assets of the permitted payment stablecoin issuer on the reports filed under § 350.4(g).

(c) *Failure to meet minimum capital or operational backstop requirements*.

(1) A permitted payment stablecoin issuer shall comply with its minimum capital and operational backstop requirements at the end of each quarter based on the amounts reported in the most recent report required under § 350.4(g).

(2) A permitted payment stablecoin issuer that fails to satisfy its minimum capital or operational backstop requirement at the end of a quarter shall notify the FDIC in writing, with a description of measures to be taken pursuant to § 350.4(j). The FDIC in its sole discretion may determine whether the measures are viable and, if not, the FDIC may—

(i) direct the permitted payment stablecoin issuer to issue additional common equity tier 1 capital or additional tier 1 capital instruments or acquire additional operational backstop assets;

(ii) direct the permitted payment stablecoin issuer to suspend or reduce issuance of payment stablecoins until the minimum capital or operational backstop requirement is met;

(iii) direct the permitted payment stablecoin issuer to take other measures to restore the minimum capital or operational backstop; or

(iv) execute an orderly redemption of all outstanding payment stablecoins.

§ 350.10 Individual additional capital or backstop requirement.

(a) *Applicability.* The FDIC may require an additional capital or backstop requirement for an individual permitted payment stablecoin issuer as a condition of a permitted activity authorized by the FDIC pursuant to § 350.3(a)(6) or in view of its circumstances. For example, an additional capital or backstop requirement may be appropriate for:

(1) Failure of management to assess an appropriate capital requirement to support ongoing operations consistent with the permitted payment stablecoin issuer's business model and risk profile;

(2) A permitted payment stablecoin issuer that has, or is expected to have, losses resulting in capital inadequacy;

(3) A permitted payment stablecoin issuer that is experiencing significant volatility in payment stablecoin issuance or redemption;

(4) A permitted payment stablecoin issuer with significant exposure due to fiduciary or operational risk;

(5) The permitted activities of a permitted payment stablecoin issuer, including any significant off-balance sheet activities; or

(6) A permitted payment stablecoin issuer that may be adversely affected by the activities or condition of its affiliate(s), or other persons or institutions, with which it has significant business relationships.

(b) *Standards for determination*. The factors to be considered in the determination will vary in each case and may include, for example:

(1) The conditions or circumstances leading to the FDIC's determination that an additional capital or backstop requirement is appropriate or necessary for the permitted payment stablecoin issuer;

(2) The exigency of those circumstances or potential problems;

(3) The overall condition, management strength, and future prospects of the permitted payment stablecoin issuer and, if applicable, its affiliate(s);

(4) The permitted payment stablecoin issuer's liquidity, capital, and stablecoin reserve assets compared to its peer group; and

(5) The views of the permitted payment stablecoin issuer's owners and senior management in any response provided under paragraph (c)(2) of this section.

(c) *Procedures.*

(1) *Notice.* When the FDIC determines that an additional capital or backstop requirement as set forth in § 350.10(a) of this subpart may be warranted for a particular permitted payment stablecoin issuer, the FDIC will notify the permitted payment stablecoin issuer in writing of the proposed additional capital or backstop requirement and the date by which the requirement should be reached (if applicable) and will provide an explanation of why the requirement proposed is considered necessary or appropriate for the permitted payment stablecoin issuer.

(2) *Response.*

(i) The permitted payment stablecoin issuer may respond to the FDIC in writing to the notice as follows:

(A) The response should include any matters which the permitted payment stablecoin issuer would have the FDIC consider in deciding whether an individual additional capital or backstop requirement should be established for the permitted payment stablecoin issuer, what the capital or backstop requirement should be, and, if applicable, when it should be achieved;

(B) Any response shall be delivered to the designated FDIC official within 30 days after the date on which the permitted payment stablecoin issuer received the notice or such other time period as the FDIC determines appropriate based on the condition of the permitted payment stablecoin issuer;

(ii) Failure to respond within the time period specified by the FDIC constitutes a waiver of any objections to the proposed individual additional capital or backstop requirement or the deadline for its achievement.

(3) *Decision.* After the close of the permitted payment stablecoin issuer's response period, the FDIC will decide, based on a review of the permitted payment stablecoin issuer's response and other information concerning the permitted payment stablecoin issuer, whether the individual additional capital or backstop requirement should be established for the permitted payment stablecoin issuer

and, if so, the requirement and the date the requirement will become effective. The permitted payment stablecoin issuer will be notified of the decision in writing. The notice will include an explanation of the decision, except for a decision not to establish an individual additional capital or backstop requirement for the permitted payment stablecoin issuer.

(4) *Submission of plan.* The decision may require the permitted payment stablecoin issuer to develop and submit to the FDIC, within a time period specified, an acceptable plan to reach the additional capital or backstop requirement established for the permitted payment stablecoin issuer by the date required.

(5) *Change in circumstances*. If, after the FDIC's decision in paragraph (c)(3) of this section, there is a significant change in the circumstances that materially affects the permitted payment stablecoin issuer's capital adequacy or its ability to reach the required additional capital or backstop requirement by the specified date, the permitted payment stablecoin issuer may request, or the FDIC may propose to the permitted payment stablecoin issuer, a change in the additional capital or backstop requirement for the permitted payment stablecoin issuer, the date when the minimum shall be achieved, or the permitted payment stablecoin issuer's plan (if applicable). Pending a decision on reconsideration, the FDIC's original decision and any plan required under that decision continues in full force and effect.

Subpart B—Requirements for FDIC-Supervised Entities Engaged in the Custody or Safekeeping of Payment Stablecoin Reserves and Collateral

§ 350.100 Purpose and Scope.

This subpart B sets forth requirements applicable to persons subject to supervision and regulation by the FDIC, including insured State nonmember banks, insured State-licensed branches of foreign banks, insured State savings associations, and permitted payment stablecoin issuers, for which the FDIC is the primary Federal banking agency or primary Federal payment stablecoin regulator, that are engaged in the business of providing custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins pursuant to section 4(a)(7)(A)(iv) (12 U.S.C. 5903(a)(7)(A)(iv)) and section 10 of the GENIUS Act (12 U.S.C. 5909). This subpart also applies to the custody and safekeeping of any other digital asset by a permitted payment stablecoin issuer authorized by the FDIC. The requirements in this subpart shall not apply solely on the basis of engaging in the business of providing hardware or software to facilitate a customer's self-custody or safekeeping of payment stablecoins or private keys. This subpart applies in addition to any other applicable law regarding the provision of custody and safekeeping services of payment stablecoin reserves, payment stablecoins used as collateral, or private keys, and any other digital asset.

§ 350.101 Definitions.

For purposes of this subpart:

(a) *Applicable law* means the law of a state or other jurisdiction governing a custodian's custody relationships, any applicable Federal law governing those relationships, and any applicable court order.

(b) *Custody agreement* means a legally binding contractual agreement between a customer, as the principal, and the custodian, as the agent, that establishes the custodian's duties and responsibilities in providing custody, safekeeping and ancillary services to the customer.

(c) *Customer* means a person for whom or on whose behalf a custodian receives, acquires, or holds payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property received in the course of the provision of custody services for such assets.

(d) *Custodian* means an FDIC-supervised person, including an insured State nonmember bank, insured State-licensed branch of a foreign bank, insured State savings associations, or a permitted payment stablecoin issuer.

(e) *Digital wallet* means a software program or hardware device that stores and manages the private keys associated with a particular unit of a digital asset.

(f) *Person* means an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

(g) *Permitted payment stablecoin issuer* means has the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

(h) *Private keys* means the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger.

(i) *Sub-custodian* means a person that provides custody and safekeeping services to a custodian, including through a digital wallet for which such person controls the associated private keys, with respect to assets of a customer, for which the custodian otherwise serves as an agent under this subpart.

§ 350.102 Severability.

The provisions of this subpart are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the FDIC's intention that the remaining provisions shall continue in effect.

§ 350.103 Custodial and Safekeeping Requirements.

A custodian shall:

(a) Treat payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property it receives, acquires, or holds on behalf of a customer as belonging to such customer and not as the property of the custodian;

(b) Take appropriate steps to protect the customer's payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property from claims of creditors of the custodian and any sub-custodian, as applicable, that are commensurate with the custodian's size, complexity, and risk profile and with the nature of the applicable assets for which it provides custodial or safekeeping services including through adopting, implementing, and maintaining written policies, procedures, and internal controls that are adequate to comply with applicable law; and

(c)

(1) Maintain possession or control of the customer's payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property that

is held directly, including in a digital wallet for which the custodian controls the associated private keys; however, a custodian may maintain the customer's property through the use of a sub-custodian if consistent with applicable law, provided the custodian maintains adequate safeguards and internal controls reasonably designed to provide the custodian with oversight of such sub-custodian's compliance with the requirements of this subpart;

(2) With regards to any payment stablecoin or payment stablecoin reserve in the form of an asset in tokenized form held in custody or safekeeping under this subpart, a custodian, or sub-custodian, as applicable, maintains control for purposes of paragraph (c)(1) of this section if it can reasonably demonstrate, consistent with the standard of care established by applicable law, that no other party, including the customer or any affiliate of the custodian, can control or transfer the payment stablecoin or stablecoin reserve in the form of an asset in tokenized form using a distributed ledger without the affirmative consent of the custodian or sub-custodian, as applicable. The custodian must have technical safeguards to prevent unauthorized access by its own personnel.

§ 350.104 Commingling Prohibition and Limited Exceptions.

(a) *General prohibition.* A custodian shall not commingle and shall separately account for and segregate the payment stablecoin reserves, payment stablecoins, cash, and other property of a customer from the custodian's assets.

(b) *Exceptions.* The prohibition in paragraph (a) of this section shall not apply as follows:

(1) *Omnibus account*. An insured State nonmember bank, insured State-licensed branch of a foreign bank, and insured State savings association that provides

custodial or safekeeping services may, for convenience, hold in an omnibus account the payment stablecoin reserves, payment stablecoins, cash, and other property of more than one customer so long as the payment stablecoin reserves remain identifiable as required under § 350.4(c);

(2) *Payment stablecoin reserves held as cash*. An insured State nonmember bank, insured State-licensed branch of a foreign bank, and insured State savings association that provides custodial or safekeeping services, including as a sub-custodian, for payment stablecoin reserves that are in the form of cash may hold such cash in the form of a deposit liability, provided such treatment is consistent with applicable law; or

(3) *Transfers and settlements*. Consistent with applicable law, a custodian may withdraw and apply the share necessary of the payment stablecoin reserves, payment stablecoins, cash, and other property of the customer to transfer, adjust, or settle a transaction, or transfer of assets may be withdrawn and applied to such purposes, including the payment of commission, taxes, storage, and other charges lawfully accruing in connection with the provision of services to the customer by the custodian.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC on April XX, 2026.
Debra A. Decker
Executive Secretary.