

## PUBLIC COMMENT: PROPOSED RULE ON APPROVAL REQUIREMENTS FOR ISSUANCE OF PAYMENT STABLECOINS

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Banks pay 0.39 percent on your savings. Stablecoins pay 4 percent. The GENIUS Act makes the second number illegal. Three thousand two hundred bankers signed a letter asking Congress to do this. This comment asks the FDIC to put that fact in the record.

The submitter is a small business owner and consumer advocate participating in the digital asset economy. President Trump signed the GENIUS Act to make the United States the "crypto capital of the world" (White House Fact Sheet, July 18, 2025). The Section 4(a)(11) yield prohibition, and any proposed regulatory expansion of it, constitute textbook regulatory capture: protection of bank oligopoly profits at the direct expense of American consumers and at the expense of the President's stated economic growth agenda.

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### **I. The Record of Regulatory Capture**

The GENIUS Act's yield prohibition was not in the Senate Banking Committee's version of the bill. It appeared later as a Senate floor amendment, added by Senator Bill Hagerty (R-TN), the bill's own lead sponsor (Arnold & Porter, "Incoming Stablecoin Legislation: STABLE and GENIUS Acts," June 2025; compare Arnold & Porter, "New Stablecoin Legislation: Analyzing the GENIUS Act," July 2025). The Banking Committee completed its deliberative process and produced a bill without the prohibition. Hagerty then inserted it on the Senate floor. That sequence is not incidental. It is the mechanism.

Senator Hagerty served as a director of Pinnacle Financial Partners, the second-largest bank holding company in Tennessee, from 2015 to 2017 (Pinnacle Financial Partners press release, pnfpc.com). During his 2020 Senate campaign, he borrowed \$2.5 million from Pinnacle Bank, the same institution where he had previously served as a director, at a time when small businesses were being denied COVID stimulus loans. His top documented finance sector donor is the Blackstone Group (\$85,600). In 2022, he disclosed Signature Bank stock sales valued at \$45,000 to \$150,000 approximately seven months after the legally required 45-day STOCK Act window (Business Insider, July 2022).

Senator Tim Scott (R-SC), Senate Banking Committee Chairman and GENIUS Act co-sponsor, received more than \$5.3 million from banking, securities, and investment interests since 2009. His documented

contributors include Goldman Sachs employees (\$278,000 or more), the Wells Fargo PAC (\$29,000 or more), and Bank of America and JPMorgan Chase combined (\$18,500 or more). Total Finance, Insurance, and Real Estate sector career contributions: \$9,673,204 (The Lever News; OpenSecrets).

Less than four weeks after the GENIUS Act was signed, the American Bankers Association sent a letter addressed to "The Honorable Tim Scott, Chairman," demanding action on stablecoin yields (ABA, August 12, 2025, [aba.com/media/documents](https://www.aba.com/media/documents)). On November 4, 2025, the ABA and 52 state banking associations wrote to Treasury demanding that regulators "define 'interest or yield' broadly so that any economic benefit provided to a stablecoin holder should count." That language did not come from the statute. It came from the banking lobby. It appeared nearly verbatim in the OCC's subsequent rebuttable presumption proposal (OCC Proposed Rule, March 2026). On January 14, 2026, more than 3,200 bankers signed a letter to the US Senate demanding closure of the "stablecoin loophole" (ABA, [aba.com/advocacy](https://www.aba.com/advocacy)).

That is regulatory capture. A regulated industry lobbied for a specific restriction, a sympathetic legislator added it by floor amendment to legislation he sponsored, and the restriction passed. The sequence is documented. The comment names it as such.

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## **II. The Statutory Double Standard**

The GENIUS Act Section 4(a)(11) prohibits stablecoin issuers from paying any form of interest or yield. The same statute explicitly excludes bank tokenized deposits from the definition of payment stablecoin. Banks may issue yield-bearing tokenized deposits freely. Stablecoin issuers may not pay any yield at all. Congress wrote both rules in the same bill.

No banking statute in American history ever prohibited non-bank entities from offering yield-bearing products. The National Bank Act, the Banking Act of 1933, and the Depository Institutions Deregulation and Monetary Control Act (Pub. L. 96-221, 1980) each authorized bank deposit yields, but none of them created an exclusive right for banks to be the only entities offering such products. They regulated the only entities offering such products at the time. The GENIUS Act created this prohibition for the first time, specifically in response to stablecoin competition, at the request of banking industry lobbyists (University of Miami Business Law Review, "The Anticompetitive Effects of Closing the GENIUS Act's Rewards Loophole").

If Section 4(a)(11) were a consumer protection rule, it would apply equally to tokenized deposits and stablecoins, or to neither. It applies only to stablecoins. Banks pay what they choose. Their tokenized competitors may pay nothing.

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## **III. Quantified Economic Harm**

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The American Bankers Association estimates that stablecoin competition puts \$6.6 trillion in US bank deposits at risk (ABA lobbying materials, 2025). Using that figure and FDIC's own documented savings rate of 0.39 percent against stablecoin exchange yields of 4 to 5 percent, the ABA has inadvertently calculated the cost of its own lobbying campaign: approximately \$238 billion per year in consumer interest foregone. That is roughly \$720 per American per year. The ABA is asking this agency to protect those earnings. They are not bank earnings. They are consumer savings.

The Federal Reserve's own research estimates that a \$1 trillion deposit shift would reduce bank lending by \$600 billion to \$1.26 trillion (Jessie Jiaxu Wang, Federal Reserve FEDS Note, December 2025). The ABA cites this to justify restrictions. The lending contraction concern is real. It is not a consumer protection argument; it is a bank capitalization argument. It could be addressed through reserve requirements and liquidity rules applied to stablecoin issuers. Eliminating consumer yield entirely is the least-targeted instrument available and the most profitable for incumbent banks.

The prohibition does not merely redistribute income from consumers to banks. It suppresses \$238 billion in annual consumer purchasing power that would otherwise circulate in the US economy. When consumers receive yield, they spend it, invest it, or save it through other productive channels. The economic multiplier on that suppressed income is a real, aggregate loss. Allowing stablecoin yields to flow to consumers would put \$238 billion per year of additional purchasing power into the US economy. This is not a redistribution argument. It is a growth argument.

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#### **IV. The Expropriation of Reserve Yield**

Stablecoin holders' dollars fund the reserve assets. Those assets earn yield. The GENIUS Act prohibits holders from receiving it.

GENIUS Act reserve requirements mandate that stablecoin issuers hold Treasury securities, Federal Reserve balances, and similar eligible instruments. Those assets earn yield. Part of that yield is not pure issuer profit. It is compensation for inflation expectations embedded in market interest rates. It is what market participants demand in exchange for holding dollar-denominated instruments that will lose real purchasing power over time. By prohibiting yield passthrough, Section 4(a)(11) forces a mandatory, involuntary wealth transfer: the inflation-compensation component of reserve yield flows from stablecoin holders, who bear the inflation loss on their dollar-pegged asset, to stablecoin issuers, who pocket the reserve earnings. The holder provides the capital. The holder bears the inflation risk. The holder is legally prohibited from receiving the return.

Banks face no such constraint. Banks may choose to pass the inflation-compensation component of yields to depositors. Competition pushes them toward it. Stablecoin holders have no such option. The prohibition is absolute. It applies regardless of what the underlying reserve assets earn. The yield on stablecoin reserves is generated by the holders' own pooled capital, and the GENIUS Act prohibits

holders from receiving income generated by their own deposits. This is a property rights argument, distinct from the competitive yield differential argument, and it holds regardless of what market rates happen to be doing.

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## **V. The OCC Expansion Exceeds the Statute**

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Section 4(a)(11) has one subject: the issuer. The OCC's proposed rebuttable presumption has three subjects: the issuer, its affiliates, and any third party. Congress wrote one of those. The OCC invented the other two.

In *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the Supreme Court overturned Chevron deference. Courts now apply ordinary statutory interpretation rather than deferring to agency readings of ambiguous text. The statute says "no permitted payment stablecoin issuer... shall pay the holder." It does not mention affiliates, exchanges, or third parties. Post-*Loper Bright*, agencies cannot fill statutory gaps through interpretive expansion. The OCC's rebuttable presumption would have needed Chevron deference to survive review. That deference no longer exists.

Section 4(a)(11) also contains a qualifier the OCC's proposal ignores: the prohibition applies to payments made "solely in connection with the holding, use, or retention" of a stablecoin. If a consumer receives rewards for transaction activity on an exchange, those rewards are not "solely in connection with holding." They are compensation for activity. Activity-based rewards fall outside the statute's plain text.

Under *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022), agencies claiming authority over matters of vast economic and political significance require clear congressional authorization. Extending the yield prohibition to cover affiliates and the entire exchange ecosystem, potentially affecting hundreds of billions in stablecoin market capitalization, is precisely such a matter. Congress wrote a specific, narrow prohibition. Under *Motor Vehicle Manufacturers Association v. State Farm*, 463 U.S. 29 (1983), any agency expansion beyond that text requires reasoned explanation and empirical evidence of consumer harm. Banking industry competitive concern is not evidence of consumer harm.

The restriction has already failed. Coinbase and Kraken currently offer 4 to 5 percent APY on USDC through exchange rewards (documented publicly). The prohibition did not stop yield. It moved yield into less transparent channels where consumers have less visibility and regulators have less oversight (ProMarket, Becker Friedman Institute, "Regulatory Attempts to Ban Stablecoin Yields Cannot Compete With Economics," March 11, 2026). Expanding the prohibition will deepen that result, not reverse it.

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## **VI. Relief Requested**

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The submitter requests that the FDIC:

1. Decline to adopt the OCC rebuttable presumption framework for affiliate yields in any FDIC rulemaking, including the forthcoming prudential rulemaking.
2. Interpret Section 4(a)(11) according to its plain text: the prohibition applies to issuers, not to affiliates or third parties.
3. Clarify that third-party exchanges may offer rewards on stablecoins without triggering issuer violations, provided the issuer does not directly fund such arrangements.
4. Require empirical evidence of consumer harm before expanding yield restrictions beyond the statutory text. The existence of banking industry lobbying materials is not evidence of consumer harm.
5. Disclose in the final rule preamble all written communications received from banking industry associations or their representatives that informed the agency's interpretation of yield-related provisions, pursuant to APA transparency standards.
6. Commission an independent economic analysis of aggregate consumer costs before finalizing any expansion of yield restrictions. The ABA's own \$6.6 trillion at-risk deposit figure implies approximately \$238 billion per year in foregone consumer interest at current documented yield differentials.
7. Apply the historical precedent Congress established in 1980. When money market funds threatened bank deposit market share, Congress chose competition over prohibition through DIDMCA (Pub. L. 96-221, March 31, 1980) and the Garn-St. Germain Depository Institutions Act (Pub. L. 97-320, October 15, 1982), phasing out Regulation Q rather than banning money market funds. American consumers received higher deposit rates as a result. The right policy response to stablecoin competition is the same.

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Banks pay 0.39 percent. Stablecoins pay 4 percent. The banking lobby spent \$5.3 million in Banking Committee contributions and 3,200 signatures to close that gap in their favor. If the FDIC adopts the OCC's framework, the result is \$238 billion per year in suppressed consumer purchasing power and a deadweight loss to the US economy that serves no consumer protection purpose whatsoever.

President Trump signed the GENIUS Act to make the United States the crypto capital of the world. Expanding the yield prohibition beyond its statutory text puts American stablecoin issuers at a disadvantage relative to foreign competitors who face no such restriction. That is not the President's stated agenda. It is the banking lobby's. The FDIC's mandate is to protect depositors, not bank earnings. The record of \$5.3 million in industry contributions to the Banking Committee Chairman, 3,200 bankers demanding restrictions, and \$238 billion per year in suppressed economic activity is now before this agency. The FDIC should put the consumer, the economy, and the President's stated goals first.

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Respectfully submitted,

**Gabriel Grillo, Founder**

DFK Helper LLC



April 2, 2026

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