



May 15, 2026

Submitted electronically

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: GENIUS Act Implementation – Response to Questions

I. Introduction:

The New York State Department of Financial Services (“DFS”) welcomes the opportunity to respond to the publication by the Federal Deposit Insurance Corporation (“FDIC”) of a proposed application process¹ (the “proposal”) for a subsidiary (“Sub”) of a State-chartered non-member insured depository institution (“Applicant” or “insured State banking institution”) to become a permitted payment stablecoin issuer (“PPSI”) pursuant to Section 5 of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (the “GENIUS Act”).

Our primary observation is that the FDIC’s proposal inappropriately excludes State regulators from the PPSI application process. Once approved, a PPSI will be subject to supervision by the State chartering authority of the Applicant, and the PPSI’s activities, obligations, and financial risks will ultimately adhere to its Applicant parent. The State regulator with primary supervisory responsibility for the Applicant must be both informed and consulted during the FDIC’s approval process, to ensure that consideration of the application takes into account all relevant information and that the State regulator is able to prepare for supervision of the Sub, fully informed by the application process.

Robust involvement of State regulators in the consideration of an Applicant is consistent with the established norms of our nation’s dual banking system, respecting the sovereign

¹ Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions, 90 Fed. Reg. 59409 (Dec. 19, 2025).

authority and decision making of States as critical for the system’s ongoing success. DFS itself has long been a leader in promoting responsible innovation, and it has done so by evolving its regulatory framework to account for new market entrants and new activities while maintaining and enforcing the core expectation that each of its banking institutions is operated in a safe and sound manner. Congress recognized the importance of State regulators retaining their traditional authority over insured State banking institutions when it carefully crafted the preemption provisions of Section 5(h) of the GENIUS Act. Allowing the FDIC to approve an Applicant without State input would prevent the important collaboration and sharing of expertise across the FDIC and States, such as New York, in supervising PPSI-type activity.

The full proposal should be reconsidered to balance the respective roles of State and Federal government more appropriately. In addition, we have the following specific responses to Questions 1, 3, and 4 in the proposal.

II. Responses to Questions 1, 3, and 4

***Question 1:** Does the proposed rule adequately reflect the application process outlined by Congress in the GENIUS Act? How could the proposed rule be improved to better align with the GENIUS Act’s application requirements?*

Response:

No, the proposed rule does not reflect the application process outlined in the GENIUS Act, because it does not reflect the integral role for State regulators codified in the GENIUS Act. In order to implement the GENIUS Act appropriately, State regulators should receive all application materials at the time they are submitted, be involved in each substantive conversation between the Applicant and the FDIC, and have their views on any application formally requested and given appropriate consideration.

Background: Section 5(h) of the GENIUS Act expressly reserves State authority to “charter, license, supervise or regulate an insured depository institution . . . chartered in such State” and to “supervise a subsidiary of such insured depository institution . . . that is [an

approved PPSI].”² This section clearly preserves the State’s role in regulating the activities of its insured State banking institutions.

In order to exercise this role, State regulators need to be fully informed about the application and its impact on the Applicant and Sub. To the extent that the proposed structure or activities of the Sub threaten the safety and soundness of the parent, the State regulator will need to take appropriate steps, including potentially preventing the parent from establishing the Sub. While the State regulators have authority to demand information from the Applicant and the Sub, sharing PPSI application information is both a critical and efficient step for the State regulator to assess the supervisory impact of the application.

Consulting with State regulators in the consideration of an application would be consistent with the FDIC’s own precedents, which recognize the importance of working with State regulators on matters related to shared responsibilities. For example, the FDIC closely involves State regulators in a State banking institution’s application for deposit insurance.³ The FDIC also works closely with State regulators in the process of supervising State-chartered nonmember banks.⁴ As these examples demonstrate, the dual banking system is premised upon and requires collaboration between State and Federal regulators.

The FDIC should accordingly revise the proposal to include State regulators in the application process: the proposal should clarify that an Applicant’s home State regulator will be copied on the application and all subsequent correspondence and information submitted as part of an application to the FDIC, and that the State regulator will be invited to all substantive meetings. Among other revisions, proposed Sec. 203.52(c) should be amended to require the Applicant to file a copy of the application with the relevant State regulator. These changes would help ensure that expectations among insured State banking institutions, the FDIC, and State

² GENIUS Act, Sec. 5(h).

³ See *Deposit Insurance Applications, Procedures Manual*, Federal Deposit Insurance Corporation, at 7 (Dec. 2019) (“In general, it is expected that all meetings with organizers or their representatives will be conducted jointly with the chartering authority to promote information sharing and avoid duplication of efforts.”).

⁴ The FDIC is a signatory of the Nationwide State/Federal Supervisory Agreement that allocates responsibilities between Federal and State regulators in the supervision and examination of multi-state State banks, among others. See *Nationwide State/Federal Supervisory Agreement* (Nov. 14, 1996), available at https://www.csbs.org/sites/default/files/2017-11/nationwide_state_fed_supervisory_agmnt.pdf

banking regulators are aligned on the role that State regulators will play in the application process contemplated by the proposal.

***Question 3:** Are the proposed filing content requirements appropriate to garner sufficient information for the FDIC to evaluate the factors described in section 5(c) of the GENIUS Act? Is it clear what information the FDIC would expect the contents of a filing to contain under the proposed rule? Are there additional types of information the FDIC should consider? Should the FDIC seek to remove any of the proposed types of information? If so, please explain how the addition or removal of such information would facilitate the FDIC's consideration of the factors.*

Response:

The proposal should be revised to state that the FDIC will obtain information from State regulators and will consult with State regulators in assessing the application.

Background: As discussed above, the GENIUS Act does not displace State regulation of State banking institutions, including their Subs. The proposal does not address how the FDIC will obtain critical information about a State banking institution's compliance with State law or how the FDIC will evaluate such information.⁵ For example, the FDIC does not state how it would consider information that a State-chartered banking institution's application to invest in, or own the stock of, the Sub had been denied or is still awaiting action from its State regulator.⁶ The proposal also does not address how the FDIC would consider information that a State regulator had issued an order that the acquisition of such a Sub would constitute an unauthorized or unsafe and unsound practice.⁷ The FDIC should welcome State regulators into the application process by consulting with them during the process. State regulators are subject matter experts on their regulated entities and one of the best sources for information on certain key factors—such as an institution's financial resources and the competence, integrity, and experience of its management—that the FDIC is required to consider as part of any application.⁸ This is particularly true where, as here, the State banking institution itself may be assuming significant

⁵ To the extent the GENIUS Act does not expressly require the FDIC to consider this information, the FDIC has authority pursuant to Section 5(c)(5) to consider “[a]ny other factors . . . that are necessary to ensure the safety and soundness of the permitted payment stablecoin issuer.”

⁶ See, e.g., New York Banking Law §§ 14(1); 97(4-a).

⁷ See, e.g., New York Banking Law § 39(2).

⁸ GENIUS Act, Sections 5(c)(1) (financial condition) and 5(c)(3) (competence, experience and integrity).

obligations to any Sub that is an approved PPSI. For example, the proposal recognizes that certain activities related to the PPSI may be conducted by the Applicant (as opposed to by the PPSI itself) and that the Applicant may make financial commitments to the PPSI.⁹ In particular, it would be troubling, entirely novel, and inconsistent with the framework of the dual banking system to exclude State regulators from consideration and participation in the decision making process regarding an arrangement where an insured State banking institution may be committing to provide source-of-strength assurances or other types of financial guarantees.

Given that these types of commitments go to the heart of an Applicant's safety and soundness, it would be irresponsible to disregard the independent prudential judgment of State regulators and exclude them from the assessment. Commitments such as these have the potential to meaningfully increase an institution's material financial risk, the consequences of which will fall squarely on State regulators to address. Further, State regulators will be responsible for supervising any Sub approved to be a PPSI; involvement in the application process is critical to ensuring that the relevant primary regulator has sufficient information to begin properly supervising the PPSI as soon as it is authorized to begin activity.

***Question 4:** Among the factors to be considered and listed in section 5(c), the FDIC may establish any other factors to be considered. The FDIC is not proposing to establish other factors beyond those listed in the GENIUS Act as indicated by the proposed rule. Should the FDIC consider other factors? If so, please describe the additional factors that the FDIC should consider and why they would be necessary to consider whether the activities of the applicant would potentially be unsafe or unsound.*

Response:

The proposal should include compliance with State law by the Applicant and any Subs as an additional factor in reviewing an application. As discussed above, the status of the Applicant and the Sub under State law is a critical component of any PPSI determination. The proposal should state expressly that if State regulators determine that an Applicant's operation of a PPSI Sub would be inconsistent with the safety and soundness of the Applicant, the FDIC will deny the application. Such a denial is necessary to implement Sec. 5(h) of the GENIUS Act, discussed

⁹ 90 Fed. Reg. at 59411-12.

above, which provides that State regulators retain the right to supervise insured depository institutions and the relevant subsidiaries.

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Thank you for the opportunity to provide comments on the proposal. Please do not hesitate to contact David Felsenthal, Assistant Deputy Superintendent for Strategy [REDACTED] with any questions or to provide further information.

Respectfully submitted,

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Kaitlin Asrow

Acting Superintendent