November 4, 2025

Via regulations.gov

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

Re: Response to Department of Treasury's Advance Notice of Proposed Rulemaking on the Implementation of the GENIUS Act

Solana Policy Institute and DeFi Education Fund appreciate the opportunity to submit this response to the Department of the Treasury's ("Treasury's") Request for Comment on questions relating to the implementation of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (the "ANPRM").

Solana Policy Institute ("SPI") is a U.S.-based nonpartisan nonprofit focused on educating policymakers on how decentralized networks like Solana are the future of the digital economy and why those building on and using them need legal certainty to flourish.

DeFi Education Fund ("DEF") is a U.S.-based nonpartisan research and advocacy nonprofit that advocates for sound policy for decentralized finance ("DeFi"), educates lawmakers about the technical workings and benefits of DeFi, and protects the rights of developers and users to create and use decentralized infrastructure and technology.

I. Introduction

The Guiding and Establishing National Innovation for U.S. Stablecoins Act (the "GENIUS Act" or the "Act") represents a historic milestone in the development of a framework governing digital assets. For the first time, the United States has provided a statutory structure to govern the issuance and use of payment stablecoins that recognizes their potential to modernize payments.

We appreciate Treasury's commitment to implementing the GENIUS Act in a manner that promotes clarity and incentivizes actors to bring innovation onshore.[1] In our view, Treasury can achieve these objectives by keeping in mind these three key principles:

- Control is a defining feature that should determine the scope of actors' regulatory obligations. Actors that custody or can exercise total independent control over user assets or network architecture should be regulated, while those that do not should remain outside that perimeter. This distinction, consistent with the GENIUS Act and existing precedent, ensures oversight while preserving the ability to innovate in open financial systems.
- Implementation of the GENIUS Act should be grounded in function and principle rather than in form. Regulations should define the outcomes to be achieved while remaining technology neutral in how to meet those objectives (in other words, regulation should not entrench one particular technological solution over others). Preserving flexibility for future innovation is essential to ensuring that the regulatory framework is durable as technology evolves and new compliance tools are developed.
- Alignment with the statutory text and existing FinCEN guidance should anchor implementation. Regulations should interpret obligations consistently with the plain language of the Act while harmonizing with established frameworks and prior guidance. This approach helps to reduce legal uncertainty and ensure regulated entities can operate with confidence.

With these principles in mind, SPI and DEF submit the following responses to the ANPRM on the topics of stablecoin issuers and service providers, illicit finance, foreign payment stablecoin issuers, and taxation.

II. Stablecoin Issuers and Service Providers: Issuance and Treatment of Payment Stablecoins

Any additional clarification of the definition of "digital asset service provider" ("DASP") under Section 2(7) or "intermediary" under Section 3(h) should affirm the statutory text of the GENIUS Act, which reflects longstanding concepts articulated by Treasury (Questions 4, 8).

The GENIUS Act defines DASP as "a person that, for compensation or profit, engages in the business in the United States (including on behalf of customers or users in the United States) of (i) exchanging digital assets for monetary value; (ii) exchanging digital assets for other digital assets; (iii) transferring digital assets to a third party; (iv) acting as a digital asset custodian; or

[1] *See* President's Working Group on Digital Asset Markets, Strengthening American Leadership in Digital Financial Technology (2025) ("PWG Report") at 88, https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf.

(v) participating in financial services relating to digital asset issuance."[2] Importantly, the Act excludes from the definition of DASP "(i) a distributed ledger protocol; (ii) developing, operating, or engaging in the business of developing distributed ledger protocols or self-custodial software interfaces; (iii) an immutable and self-custodial software interface; (iv) developing, operating, or engaging in the business of validating transactions or operating a distributed ledger; or (v) participating in a liquidity pool or other similar mechanism for the provisioning of liquidity for peer-to-peer transactions."[3] The text of the Act supports a dividing line focused on custody or control. The technologies explicitly excluded from the DASP definition, such as "a distributed ledger protocol" and "an immutable and self-custodial software interface," share a common feature: they exert no custody or control over underlying assets or transactions. The developers and operators excluded from the DASP definition similarly lack control over user assets. Applying a control-based standard would provide a predictable and coherent rule of interpretation, giving developers and other non-custodial participants the certainty needed to innovate while maintaining consistent treatment of those with similar functions.

The DASP exclusions are also consistent with the Financial Crimes Enforcement Network's 2019 Guidance on Convertible Virtual Currencies (the "2019 FinCEN Guidance"), which recognized that, persons that do not exercise "total independent control" over user assets should not be regulated as if they do.[4] This ensures that regulatory obligations are properly placed on intermediaries who custody or have control over user assets (and can execute transactions on a user's behalf), not technology or developers of noncustodial blockchain technology.

Section 10(e) of the GENIUS Act further supports a control-based approach. Section 10 establishes the minimum federal standards for custodians but expressly excludes "providing hardware or software to facilitate a customer's own custody or safekeeping of the customer's payment stablecoins or private keys"—that is, technology that cannot exert control over the assets. And similarly, while Section 3 describes permitted stablecoin issuers, Section 3(h)(1) exempts certain transactions, including those where no intermediary is involved—again, circumstances where only the user exercises control over their assets. Interpreting Sections 2(7), 3(h)(1), and 10(e) harmoniously points to custody or control as the operative principles governing the scope of the GENIUS Act.

A definition of DASP that improperly misclassifies or captures noncustodial technology or its developers would force persons with no capability of compliance into obligations under the

[2] GENIUS Act Section 2(7)(A).
[3] GENIUS Act Section 2(7)(B).
[4] FinCEN, *Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies*, FIN-2019-G001 at 35 (May 9, 2019), https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf.

Act and its implementing regulations. The statutory text is limited to those actors who exercise custody or control over user assets or execute transactions on their behalf. Affirming that only persons who custody or can exercise total independent control over user assets qualify as DASPs would advance both regulatory certainty and the Act's overarching policy goals.

III. Stablecoin Issuers and Service Providers: Requirements for Issuing Payment Stablecoins

Treasury's interpretation of Section 4(a)(11) must remain aligned with the statute's plain text, which governs only "permitted payment stablecoin issuer[s]" and "foreign payment stablecoin issuer[s]" (Question 14).

Section 4(a)(11) states, "No permitted payment stablecoin issuer or foreign payment stablecoin issuer shall 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." As an initial matter, this text expressly limits the yield prohibition to permitted payment stablecoin issuers ("PPSIs") and foreign payment stablecoin issuers ("FPSIs"). Nothing in the text extends, or suggests extending, this restriction to any third party. Rulemaking cannot be used to circumvent this unambiguous statutory text.

Moreover, the commercial relationship contemplated by the Section 4(a)(11) prohibition is between the PPSI or FPSI and the "holder of any payment of stablecoin." This plain text describes only pro rata distributions from issuers to holders, leaving room for business and other relationships with third parties.

This structure is intentional. Stablecoin adoption and liquidity have historically relied on distribution partnerships between issuers and platforms.[5] These relationships are essential for user onboarding, liquidity provision, and network growth, and payments in connection with those *bona fide* commercial services are not "interest or yield" within the meaning of Section 4(a)(11). If the yield restrictions were interpreted so broadly as to prohibit legitimate commercial arrangements, then GENIUS-compliant issuers would be at a significant disadvantage. Offshore or non-USD stablecoins that are unconstrained by similar restrictions would capture market

[5] The most successful stablecoins—USDT (Tether), USDC (Circle), and BUSD (Paxos)—each benefited from such relationships (with Bitfinex, Coinbase, and Binance, respectively). *See* Arasu Kannagi Basil and Ateev Bhandari, Stablecoin issuer Circle targets $7.2 billion valuation in upsized US IPO, https://www.reuters.com/business/circle-shareholders-aim-raise-896-million-upsized-us-ipo-2025-06-02/ (noting Circle "distributes USDC primarily via its partnership with Coinbase and other third-party distributors"); *see also* Nikhilesh De, Binance Launches Dollar-Backed Crypto Stablecoin With NYDFS Blessing, https://www.coindesk.com/markets/2019/09/05/binance-launches-dollar-backed-crypto-stablecoin-with-nydfs-blessing ("Binance is launching [BUSD] in partnership with the Paxos Trust Company").

share, thereby undermining U.S. interests in maintaining dollar dominance in digital markets.[6] Any regulations should therefore further affirm the statutory text of the GENIUS Act by reflecting that payments for *bona fide* commercial services, such as distribution, promotion, or integration, are not "interest or yield" within the meaning of Section 4(a)(11).

Additionally, the term "solely" in Section 4(a)(11) is a critical modifier. It ensures that the relevant prohibition applies only to payments made in connection with the holding, use, or retention of a stablecoin, which prevents stablecoins from operating as deposit-taking or investment products akin to narrow banks or money market funds. This distinction serves a legitimate policy purpose and should be preserved.[7]

Finally, an overly restrictive interpretation of Section 4(a)(11) would also adversely impact consumers. The economic yield from reserve assets does not disappear when issuers are barred from sharing it with users or partners. The yield simply accrues to the issuer's owners and executives. This outcome does not advance consumer welfare, whereas allowing limited, functionally grounded arrangements for payments tied to legitimate commercial activity aligns with pro-consumer outcomes.

To the extent interested parties seek to expand or redefine the plain language of Section 4(a)(11), the proper avenue is through legislation, not rulemaking.

IV. Illicit Finance

Treasury should adopt a principles-based, technology-neutral framework to implement Sections 4(a)(5)(A)(iv) and 4(a)(6)(B) (Questions 24 and 25).

To avoid constraining innovation, Treasury should refrain from prescribing or entrenching particular technical methods (e.g., specific smart contract designs, ledger architectures, or wallet implementations). Any technology capable of achieving the statutory objectives should be capable of achieving compliance. Overly prescriptive regulation would unnecessarily lock in an early technological standard before the emergence of potentially more effective alternatives.

The purpose of a freeze, for example, is to prevent tokens from being transferred until the relevant restriction is removed. Any technical implementation that can achieve that goal should

[6] *See* PWG Report at 88 ("Genius lays the regulatory groundwork for new financial rails that could significantly increase the scope and influence of the U.S. dollar system.").
[7] Questions will inevitably arise regarding interpretation of what it means to "hold[], use, or ret[ain]" a payment stablecoin. GENIUS Act Section 4(a)(11). In this regard, it may be less burdensome to precisely clarify when yield should *not* be paid rather than to provide details about the circumstances where it is appropriate to do so.

be permissible. Along those lines, technical mechanisms to block or reject specific transactions, or to seize assets pursuant to lawful authority, should be evaluated based on whether they achieve these functional results rather than on their precise technological form.

Defining these capabilities and others required by the GENIUS Act in functional terms will ensure that Treasury's regulatory objectives are achieved while maintaining flexibility for evolving technology.

V. Foreign Payment Stablecoin Issuers: Reciprocity

Treasury should interpret "interoperability" to mean the functional ability of non-USD stablecoins issued overseas to transact effectively with payment stablecoins governed by the GENIUS Act (Question 34).

Foreign-issued stablecoins should have appropriate technical capabilities to facilitate transactions with corresponding controls designed to mitigate illicit finance risk, ensure integrity of underlying reserves, and support compliance with international standards. This reciprocal parity helps maintain confidence in cross-border usage and prevents regulatory arbitrage. At the same time, non-USD stablecoins and USD stablecoins should be capable of being exchanged, transferred, or otherwise used together to facilitate legitimate cross-border payments, settlements, and other on-chain economic activity.[8] This includes the existence of a functional and transparent foreign exchange market between the tokens, allowing for two-way convertibility. Accordingly, jurisdictions that restrict the trade of their stablecoins against GENIUS-compliant stablecoins, prevent effective exchange or redemption, or prohibit U.S. persons from holding their tokens should not be deemed "interoperable" within the meaning of Section 18(d)(1)(C). Such restrictions would impede fair access, distort competition, and undermine the policy goals of interoperability envisioned by the statute.

Any interoperability standards adopted pursuant to Section 12 should focus on functional outcomes, rather than specific technical architectures or protocols. This ensures that future innovations in cross-chain communication, token standards, or settlement mechanisms remain eligible so long as they achieve Section 12's interoperability standards.

VI. Taxation

Updated tax guidance is necessary and urgent to promote the adoption of payment stablecoins (Question 37).

[8] *See* PWG Report at 93 (reflecting one goal of the Act is to "facilitate cross-border flows").

Under existing guidance from the Internal Revenue Service, digital assets, including stablecoins, are treated as property instead of currency.[9] Consequently, any transaction involving a payment stablecoin, whether used to buy goods, pay for services, or transfer value, constitutes a taxable disposition of an asset. Even de minimis fluctuations in value between acquisition and use can trigger capital gains or losses, and each transaction must be tracked and reported.

This property-based classification imposes significant compliance burdens that are inconsistent with using stablecoins as a medium of payment or exchange. Each use of a stablecoin in payment creates a potential taxable event, requiring cost-basis calculations and gain or loss reporting. Retail users and merchants face complex recordkeeping obligations disproportionate to the size of routine transactions. And businesses accepting stablecoin payments encounter heightened administrative complexity, thereby limiting adoption.

To support the GENIUS Act's policy objectives and promote the use of payment stablecoins, the IRS should issue updated guidance addressing their tax treatment. In particular, Treasury and the IRS should consider:

- Clarifying that certain classes of regulated payment stablecoins may be treated as functional currency equivalents when used for payments or settlement;
- Establishing a de minimis exemption for small gains or losses arising from routine payment transactions; and
- Coordinating within Treasury and with other agencies to ensure consistent treatment across regulatory regimes.

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We appreciate the opportunity to provide input on the implementation of the GENIUS Act. By taking a common-sense, principles-based approach consistent with existing guidance, Treasury can achieve its implementation objectives without hindering innovation.

On behalf of DEF,

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On behalf of SPI,

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[9] IRS Notice 2014-21; Digital Assets, Internal Revenue Service, https://www.irs.gov/filing/digital-assets ("For U.S. tax purposes, digital assets are considered property, not currency.").