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Comment On: OCC-2025-0372-0001
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

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General Comment

See attached file(s)

Attachments

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Comments on Rulemaking: 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

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This comment identifies several implementation issues in the proposed rule that may affect operational feasibility, supervisory clarity, and the reliability of par-value redemption.

1. Liquidity Requirements and Redemption Obligations

The rule requires redemption at par within two business days under normal conditions and permits an extension of up to seven calendar days only upon the occurrence of specified redemption volume thresholds. However, the liquidity structure permits up to 90 percent of reserves to be held in assets with settlement cycles (e.g., T+1 or T+2) that, when combined with internal processing times, creates a material risk of delayed redemption during peak volume. The 10 percent immediate liquidity and 30 percent five-day liquidity thresholds are not calibrated to support the required redemption timelines, particularly during periods of elevated transaction volume. The rule should make clear how issuers are expected to reconcile these obligations without maintaining a significantly higher idle cash balance that does not advance the rule's liquidity objectives, which could disincentivize participation in the federal framework.

2. Monthly CPA Examination Cadence

The requirement for monthly examinations by a registered public accounting firm, as implemented pursuant to the GENIUS Act, exceeds the examination frequency applied to banks, broker-dealers, and money market funds, despite the fact that payment stablecoin issuers hold fully reserved portfolios of high-quality liquid assets. The proposal does not articulate why this level of independent examination is necessary to achieve incremental safety and soundness benefits relative to existing supervisory models applied to comparable asset structures.

A monthly examination cadence risks conflating prudential supervision with continuous audit, rather than aligning oversight intensity with the actual risk profile of the underlying assets. The OCC should consider an alternative framework that combines monthly management attestations with quarterly independent CPA examinations. (The agency could also consider permitting real-time cryptographic proof-of-reserves attestations as a supplemental transparency mechanism, reducing supervisory cost while improving auditability.)

This approach would preserve supervisory rigor while aligning examination practices with established regulatory norms and avoiding unnecessary divergence from proven oversight models, while ensuring that supervisory resources remain focused on material risks that directly affect consumer protection and redemption reliability.

3. Definition of Yield and Customer Incentives

The rule currently presumes that any benefit a customer receives from a related company (like a digital wallet or an app) is a prohibited "yield." This interpretation is drafted in a way that sweeps in far more activity than intended. As written, it could ban common customer perks like fee discounts, "gas fee" credits, or merchant loyalty points that have nothing to do with investment returns. The final rule must distinguish between prohibited yield and ordinary marketing incentives to provide the industry with necessary legal certainty. To resolve this ambiguity, I recommend the following three-part approach:

- **Create a "Safe Harbor":** Clearly state that small, non-cash rewards or promotional credits are not considered "interest."
- **Define "Yield" Clearly:** Distinguish between a share of the profits earned on reserves (which should be banned) and marketing incentives paid out of a company's operating budget (which should be allowed).
- **Simplify the Process:** Provide a clear way for companies to show that their reward programs are separate from the income earned on their stablecoin reserves.

Additionally, an overly broad definition of "yield" risks encroaching on the jurisdiction of other federal agencies, including the SEC, particularly in light of recent litigation concerning digital asset rewards programs. A narrow, function-based definition is necessary to ensure the OCC's regulatory authority remains aligned with the GENIUS Act and does not inadvertently trigger securities-law classification under tests such as the Howey test.

4. Technology-Neutral Standards for Custody and Control

The rule's requirements for "exclusive control" and custody should be drafted to be technology-neutral and functionally defined, rather than favoring particular custody architectures or technical implementations. A brief clarification that technology neutrality is necessary to avoid locking in a single custody model as technology evolves would help ensure consistent supervisory treatment. As currently written, the custody provisions could be read to require centralized or proprietary control mechanisms that are not necessary to achieve the rule's safety and soundness objectives and may unintentionally exclude otherwise compliant technological models.

The OCC should clarify that compliance with "exclusive control" may be satisfied through solid governance, access controls, and enforceable smart-contract logic, and should avoid mandating centralized private-key custody, which would create a single point of failure inconsistent with modern cybersecurity practice.

Ensuring that custody standards focus on outcomes and risk mitigation, rather than specific technical designs, will help prevent regulatory lock-in, promote competition among custodians, and support the GENIUS Act's objective of fostering responsible innovation without compromising supervisory integrity.

5. Tokenized Reserve Assets and Custody Control Constraints

The rule permits tokenized forms of eligible reserve assets, yet the custody provisions require exclusive control of private keys and the ability to prevent any transfer without custodian consent. Many tokenized instruments on public or permissioned blockchains do not support this unilateral veto. The OCC should specify whether the agency intends to permit multi-signature or distributed key-control architectures, and if "exclusive control" can be satisfied through smart contract logic rather than physical key possession.

6. Smart Contract and Multi-Chain Operational Risks Are Not Addressed

Because stablecoins increasingly operate across multiple blockchains, the rule should address the operational risks unique to multi-chain issuance. The rule references smart contracts but provides no standards for code audits, upgradeability, oracle dependencies, or governance. It also does not address multi-chain issuance (where one stablecoin is issued across several blockchains). The OCC should clarify:

- whether reserves must be segregated per-chain or if a consolidated reserve is permitted;
- the regulatory treatment of "bridged" or "wrapped" versions of the stablecoin; and
- standardized expectations for third-party security audits of the underlying smart contracts.

The OCC should also clarify how issuer obligations interact with existing AML/KYC frameworks, particularly where tokens circulate into self-hosted wallets beyond the issuer's operational control.

7. Concentration Limits May Be Unworkable for Large Issuers

The 40 percent per-institution concentration cap creates a practical bottleneck for issuers with large reserve balances, given the limited number of Tier 1 institutions capable of handling tens of billions of dollars in short-term Treasury custody, repo, and settlement. The OCC should replace fixed percentage caps with a "tiered concentration framework" that allows for higher limits when assets are held at Systemically Important Financial Institutions (SIFIs) or are collateralized by U.S. Treasuries, thereby supporting uninterrupted access to reserve assets during periods of elevated consumer redemption demand.

8. Aligning Weighted Average Maturity (WAM) with Existing Market Standards

While the proposed 20-day WAM reflects a prudent approach to liquidity, it is significantly more conservative than the 60-day WAM permitted for Money Market Funds under SEC Rule 2a-7. The OCC should consider aligning the WAM with the proven Rule 2a-7 standard, and should provide empirical evidence demonstrating why a 20-day WAM is necessary for safety and soundness. Absent such evidence, the requirement risks being deemed arbitrary and capricious under the Administrative Procedure Act.

A longer WAM (aligned with 60-day market standards) should be paired with the liquidity calibration suggested in Point 1 above, maintaining strong consumer liquidity protections while relying on established regulatory frameworks with proven consumer-protection outcomes. Alternatively, the OCC could implement this requirement as a two-year "pilot program." This would allow the agency to gather real-world liquidity data before finalizing a permanent threshold.

9. Developing a Tiered Risk Analysis for the Minimum Capital Floor

The $5 million minimum Tier 1 capital floor is an important stability measure; however, a one-size-fits-all approach may inadvertently hinder the innovation objectives of the GENIUS Act. Because payment stablecoin issuers maintain 100% reserve backing—distinct from the fractional-reserve model of traditional banks—the risk profile for smaller entrants is inherently limited. Notwithstanding the statutory concerns raised in Point 9 (below), if the OCC proceeds with capital requirements, it should at least consider adopting a "tiered entry model" where capital requirements scale alongside the volume of tokens in circulation. This would foster a more competitive ecosystem while maintaining the institutional safety the OCC seeks to ensure.

10. Ambiguity in Key Definitions Creates Compliance Uncertainty

Several terms central to compliance are undefined or insufficiently specified, including "acting in concert," "reasonably determined expenses," "adequately creditworthy even in severe stress," and "sufficient to meet demands of U.S. customers." Providing clearer definitions or cross-references to existing regulatory standards would reduce uncertainty and support consistent supervisory application. For example, "acting in concert" could be tied to the existing Change in Bank Control Act definitions. Further, the OCC could adopt the arm's length standard in Regulation W for the definition of "reasonably determined expenses." For "sufficient to meet demands of U.S. customers," the OCC could tie reserve localization to the proportion of tokens held by verified U.S. residents, supplemented by a liquidity buffer calibrated to expected redemption volatility, ensuring the standard is objective without prescribing a rigid formula.

11. Clarifying the Statutory Basis for Additional Capital Layers

The GENIUS Act identifies 1:1 liquid reserve backing and redemption as the primary pillars of safety and soundness. The proposed rule's addition of bank-style capital adequacy requirements and 12-month operational backstops adds a layer of complexity that may exceed the Act's specific focus. The OCC should consider clarifying how these additional capital layers complement the 100% reserve requirement. If the agency intends to impose capital requirements beyond those contemplated in the GENIUS Act, it should provide a clear, data-driven rationale to avoid potential APA concerns regarding the absence of a reasoned basis for the additional prudential burden. Providing a clear bridge between these requirements and the statutory text will help issuers understand the regulatory expectations and ensure the framework is resilient and predictable.

12. Implementing a Risk-Based Reporting Schedule

While frequent supervisory visibility is appropriate for a new and rapidly evolving asset class, permanently elevated reporting frequency does not necessarily improve supervisory outcomes and may dilute examiner focus on material risk indicators**.** A reporting framework that relies on continuous high-volume submissions, regardless of an issuer's risk profile or market conditions, risks prioritizing volume over signal and may obscure emerging issues rather than surface them.

The OCC should adopt a risk-based, trigger-driven reporting model in which baseline reporting occurs on a monthly or quarterly cadence, with enhanced reporting requirements activated by clearly defined events such as rapid changes in outstanding issuance, liquidity stress, reserve composition shifts, or operational incidents. This approach would align reporting intensity with supervisory need, improve the quality and relevance of information available to examiners, and reinforce proportional oversight consistent with established bank supervisory practice.

13. Clarifying Supervisory Alignment for State and Foreign Issuers

The rule establishes parallel supervisory frameworks for state-chartered and foreign payment stablecoin issuers, but the criteria governing when federal oversight is required or when alternative supervision is deemed sufficient are not clearly articulated. State issuers may remain under state supervision if they obtain a waiver, yet issuers exceeding $10 billion in outstanding issuance are subject to mandatory transition to OCC supervision unless waived. This structure creates two supervisory tracks that may be difficult to reconcile in practice and could lead to inconsistent outcomes.

Similarly, foreign issuers are required to maintain U.S. reserve assets "sufficient to meet demands of U.S. customers," but the rule does not define how such sufficiency is to be measured or monitored. The absence of objective thresholds or methodologies introduces uncertainty for issuers and supervisors alike and may result in uneven application across jurisdictions.

The OCC should clarify the criteria by which state and foreign supervisory regimes are evaluated for equivalence, including objective benchmarks for reserve localization, liquidity coverage, and supervisory intensity. Providing transparent standards for when alternative oversight is acceptable would improve predictability, reduce regulatory arbitrage, and support consistent supervision across domestic and foreign issuers.

14. Authority to Order Liquidation After 15 Days of Noncompliance Is Disproportionate

The requirement to begin liquidation after a short period of reserve noncompliance is an extraordinarily severe supervisory remedy and could force the rapid sale of tens of billions of dollars in short-term Treasuries. Such a fire-sale dynamic could transmit stress into the broader Treasury and repo markets, creating a systemic situation that contradicts the OCC's safety-and-soundness mandate. The OCC should implement a "Graduated Remediation Scale" similar to Prompt Corrective Action (PCA), allowing for capital restoration plans and temporary suspension of new issuances before forcing a terminal liquidation of the reserve.

15. Strengthening Bankruptcy Remoteness and Asset Segregation

While the rule mandates 1:1 reserves, it must explicitly define these reserves as being held in a statutory trust or a similarly protected legal "wrapper." The final rule should clarify that reserve assets are not "assets of the estate" of either the issuer or the custodian bank. To ensure this treatment is respected in insolvency proceedings, the OCC should consider using its fiduciary powers under 12 U.S.C. § 92a to require that reserves be held in a statutory trust or equivalent legal structure. This ensures that in the event of an issuer's insolvency, the assets remain legally "remote" and available for immediate customer redemption, fulfilling the primary intent of the GENIUS Act.

16. Conflict of Interest in Affiliate "Yield" Presumptions

The proposed rule introduces a "rebuttable presumption" that the yield ban is violated if an affiliate of the issuer pays any benefit to a holder. The presumption is overly broad and effectively reverses the burden of proof in a way that may be difficult to operationalize. The OCC should replace this presumption with a "Disclosure and Audit" model, where issuers can provide an independent attestation that affiliate rewards are funded by non-reserve operating budgets rather than being forced to prove the negative for every promotional campaign.

17. Addressing the Risk of Custodian Bank De-Risking

Although this issue is not central to the OCC's prudential framework, it is included here to highlight a potential second-order effect that may undermine the rule's intended outcomes.

The combined effect of the proposal's concentration limits, heightened examination requirements, and ongoing reporting obligations may unintentionally incentivize Tier 1 banks to limit or decline stablecoin-related custody and deposit relationships (a dynamic commonly referred to as "de-risking"). This response could constrain access to high-quality custodial services, particularly for smaller or emerging issuers, and undermine the rule's objective of promoting a safe and competitive federal framework, potentially impairing consumers' ability to redeem stablecoins promptly through regulated banking channels.

To mitigate this risk, the OCC should provide supervisory clarity for custodian banks that service compliant, OCC-regulated payment stablecoin issuers. Explicit guidance confirming that such relationships, when conducted in accordance with the final rule, will not be treated as inherently high-risk during bank safety and soundness examinations would help preserve access to regulated banking infrastructure and prevent unintended market concentration, thereby supporting consumer confidence and continuity of service.

18. Supervisory Treatment of Branded Issuance Arrangements

While this issue is not a primary prudential concern, it is raised to prevent interpretive inconsistencies that could arise during implementation.

Certain provisions may be interpreted in a manner that creates uncertainty regarding the treatment of branded or co-branded issuance arrangements. Without clarification, identical products could receive different supervisory treatment solely due to branding, which is unrelated to issuer solvency or reserve management. This could introduce inconsistency unrelated to the core safety and soundness objectives of the rule.

The OCC should clarify that supervisory focus remains on the regulated issuer's solvency, reserve management, and compliance with prudential requirements, rather than on branding or distribution arrangements that do not affect the issuer's risk profile. Such clarification would help ensure consistent consumer protections across distribution models without altering the issuer's prudential obligations.

Conclusion

The technical inconsistencies and liquidity misalignments identified in this comment must be addressed to ensure the federal stablecoin framework is workable on "Day One." By aligning the WAM with market standards, clarifying the yield-ban safe harbors, and adopting technology-neutral custody standards, the OCC can fulfill the GENIUS Act's mandate for a resilient and competitive payment stablecoin ecosystem. These refinements will provide the predictable regulatory environment necessary for an orderly transition from state to federal oversight while securing the primary goal of the Act: guaranteed par-value redemption for all U.S. customers.

Thank you for considering these comments.

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