AMERICAN BANKERS ASSOCIATION, HEATHER TREW

Proposal and Comment Information

Title: Permitted Payment Stablecoin Issuer Customer Identification Program, R-1885

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Submitter Information

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Comment Attached

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The Honorable Jonathan Gould
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Office of the Comptroller of the Currency
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Chairman Kevin Warsh
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20th Street and Constitution Avenue N.W.
Washington, D.C. 20551

Chairman Travis Hill
Federal Deposit Insurance Corporation
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Re: Notice of Proposed Rulemaking on Permitted Payment Stablecoin Issuer Customer Identification Program, 91 Fed. Reg. 37234 (June 22, 2026) RIN 1506-AB74 (FinCEN); Docket ID OCC-2026-0331 (OCC); Docket No. R-1885 and RIN 7100-AH18 (FRB); and RIN 3064-AG28 (FDIC)

Dear Acting Director Casanova, Comptroller Gould, Chairman Warsh, and Chairman Hill:

The American Bankers Association (ABA)[1] welcomes the opportunity to comment on the notice of proposed rulemaking (NPRM) issued by Treasury's Financial Crimes Enforcement Network, along with the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the National Credit

[1] The American Bankers Association is the voice of the nation's $26.1 trillion banking industry, which is composed of small, regional and large banks that together employ over 2 million people, safeguard $20.5 trillion in deposits and extend $13.7 trillion in loans.

Union Administration (NCUA) on June 22, 2026.[2] The proposed rule is intended to implement the directives in the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act)[3] to treat permitted payment stablecoin issuers (PPSIs) as financial institutions under the Bank Secrecy Act (BSA) and for PPSIs to maintain an effective customer identification program (CIP). Banks[4] and other types of financial institutions are already required to maintain formal CIP programs —although many digital asset service providers are not[5].

I. Summary

We commend FinCEN and the federal banking agencies for jointly proposing CIP requirements for PPSIs to promote regulatory consistency and a uniform standard. ABA supports requiring PPSIs to implement CIP programs like banks and many other financial institutions but recommends three changes prior to finalization. First, PPSI CIP obligations should not be limited to customers with whom PPSIs have a "formal relationship," a banking concept used in banks' 2003 CIP rule designed to exclude de minimis transactions that does not accurately PPSI business operations or activities and could exclude significant primary market activity the rule should capture. Instead, the rule should state that purchasing or redeeming a payment stablecoin directly from the issuing PPSI first requires opening an account with the PPSI and triggers CIP requirements. Second, illicit finance risk must be managed in both primary and secondary markets. Requiring prospective customers to open accounts with the PPSI before direct purchase from or redemption by the PPSI would allow PPSIs to reject customers who decline to provide CIP information, provide obviously fraudulent information, or otherwise fail the PPSI's onboarding standards. Furthermore, to avoid critical gaps that could facilitate potentially illicit activity, secondary market actors including exchanges and other virtual asset service providers must be subject to equivalent regulation and examination. Third, CIP collection requirements should remain uniform across financial institutions. Adding an unexplained "date of formation" requirement for legal entity customers creates uncertainty and could interfere with PPSIs' ability to rely on CIP collected by other financial institutions, including their own parent banks.

Our member banks are central to the payment stablecoin ecosystem—including as custodians of PPSI reserve assets and PPSI affiliates. ABA supports the responsible development of payment stablecoin markets on terms that are safe, sound, and compliant with U.S. law. We have a significant interest in ensuring that the regulatory framework established by the GENIUS Act is clear, workable, and appropriately calibrated, and that the rules designed to protect the U.S. financial system and U.S. national security are appropriately tailored, but broadly applicable across payment forms and types of financial institutions.

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[2] Notice of Proposed Rulemaking on Permitted Payment Stablecoin Issuer Customer Identification Program, 91 Fed. Reg. 37234 (June 22, 2026); https://www.federalregister.gov/documents/2026/06/22/2026-12460/permitted-payment-stablecoin-issuer-customer-identification-program .

[3] Guiding and Establishing National Innovation for U.S. Stablecoins Act, Pub. L. 119-27 (July 18, 2025); https://www.govinfo.gov/app/details/PLAW-119publ27.

[4] *See* 31 C.F.R. § 1020.220 (FinCEN); 12 C.F.R. § 21.21(c)(2) (OCC); 12 C.F.R. § 326.8(b)(2) (FDIC); and 12 C.F.R. § 208.63(b)(2) (FRB).

[5] As discussed below, certain digital asset service providers are subject to FinCEN regulation as money services businesses, a category of financial institution that is not obligated to maintain CIP programs under FinCEN's rules. *See* 31 C.F.R. § 1022; 31 C.F.R. § 1010.220.

II. The rule should eliminate the "formal relationship" requirement.

When Congress passed the USA PATRIOT Act in 2001, Treasury was directed to tailor CIP regulation to the actual activities of financial institutions and their customers.[6] CIP would need to reflect the realities of how each category of financial institution carried out its authorized and regulated activities and interacted with its customers, creating a workable rule that focused on higher-risk activities, while carving out lower-risk and de minimis activities. As one example, Treasury intended to exclude "occasional" transactions and "infrequent" purchases from the scope of the rule.[7] In response to commenters' concerns regarding the CIP NPRM, in the final 2003 CIP rule for banks, Treasury altered the definition of "account" to exclude products and services where a "formal banking relationship" is not established.[8] This gating measure made sense for banks — effectively differentiating individuals for whom banks had continuing legal obligations under other regulatory regimes, such as the financial privacy rules,[9] from those it did not. But it does not describe PPSIs' legal or business model. It does not make sense for PPSIs.

Pursuant to the GENIUS Act, PPSIs are authorized to engage in four activities: issue U.S. dollar-backed payment stablecoins, redeem U.S. dollar-backed payment stablecoins, manage reserve assets on at least a 1:1 basis, and provide custodial services, as well as activities that directly support these authorized actions.[10] However, the PPSI CIP NPRM anticipates a concerning loophole related to stablecoin redemption. GENIUS does not require PPSIs to establish "formal relationships" or even "accounts" in order to engage in these authorized activities. In the preamble, the PPSI CIP NPRM suggests that an individual approaching a PPSI, seeking to redeem a payment stablecoin issued by that PPSI —but acquired from a third-party exchange (rather than from the PPSI itself)— could potentially fall outside the scope of the PPSI CIP NPRM:

> Unlike with other types of financial institutions with CIP requirements, an individual with no established relationship with a PPSI could hold a PPSI's product, specifically a payment

[6] USA PATRIOT Act Pub. L. 107-6 § 326 (see (l)(3) (3) FACTORS TO BE CONSIDERED.—In prescribing regulations under this subsection, the Secretary shall take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available") (Oct. 26, 2001); https://www.govinfo.gov/content/pkg/PLAW-107publ56/pdf/PLAW-107publ56.pdf.

[7] Joint Notice of Proposed Rulemaking OCC, FRB, Office of Thrift Supervision, NCUA, Department of the Treasury Customer Identification Programs for Banks, Savings Associations, and Credit Unions, 67 Fed. Reg. 48290, 48291 (July 23, 2002) ("In addition, the term 'account' is limited to banking and business relationships established to provide 'ongoing' services, dealings, or other financial transactions to make clear that this term is not intended to cover infrequent transactions such as the occasional purchase of a money order or a wire transfer"); https://www.govinfo.gov/content/pkg/FR-2002-07-23/pdf/02-18191.pdf.

[8] OCC, FRB, OTS, NCUA, Treasury Final Rule Customer Identification Programs for Banks, Savings Associations, and Credit Unions; 68 Fed. Reg. 25090, 25092 (May 9, 2003); ("The definition of 'account' also has been changed to include a list of products and services that will not be deemed an 'account.' The preamble for the proposed rule had used the term 'ongoing services' to define accounts covered by the final rule, and had referred to the exclusion of 'occasional' transactions and 'infrequent' purchases (which arguably would require a bank to monitor all transactions for repetitive contacts). By contrast, the final rule clarifies that 'account' excludes products and services where a formal banking relationship is not established with a person, such as check cashing, wire transfer, or the sale of a check or money order.); https://www.occ.gov/news-issuances/federal-register/2003/68fr25090.pdf.

[9] *Id.* at fn. 7.

[10] Pub. L. 119-27, §4(a)(7).

> stablecoin, and then seek to engage directly with a PPSI for a financial service. For example, an individual who has no established relationship with the PPSI could acquire a payment stablecoin from, for example, an exchange, and seek to redeem it with the PPSI. That redemption *could* establish an account with the PPSI and make the individual a customer. FinCEN requests comment on whether the CIP proposal should be refined or clarified to account for such activity.[11]

Under this scenario, the prospective customer bought the PPSI's payment stablecoin from a third party, and thus did not already have an account with the PPSI from the initial purchase. The preamble appears to imply that there is a question as to whether the prospective customer could redeem the payment stablecoin directly from the PPSI that issued it *without first opening an account with the PPSI*. However, redeeming an acquired payment stablecoin directly from the issuing PPSI is clearly one of the enumerated activities authorized by GENIUS and encompassed within the rule's proposed definition of "account." Regardless of how the customer acquired the payment stablecoin— presumably from a FinCEN-regulated exchange that should have its own CIP requirements— the separate act by the prospective customer seeking to redeem the payment stablecoin from its PPSI issuer should trigger CIP program requirements for the PPSI. Requiring this account to be opened in the context of a "formal relationship" provides no additional benefit and instead creates potential confusion.

With respect to primary market activity, regardless of how a PPSI chooses to structure its authorized business activities, PPSIs must have obligations to collect customer information from individuals and entities purchasing or redeeming PPSI-issued payment stablecoins directly from the PPSI. We recommend in the context of primary market activity and for purposes of this CIP rule, the PPSI CIP rule should clarify a prospective customer seeking to purchase or redeem a payment stablecoin from the issuing PPSI must first open an account with the PPSI, prior to purchase or redemption. Without this clarity, PPSIs would have the burden of determining when a "formal relationship" was established, potentially excluding customers with whom it is engaging in primary market activity, and therefore undermining the effectiveness of this rule.

II. Illicit finance risk must be managed in both primary and secondary market transactions.

We agree that a sensible distinction exists between primary and secondary market activity, and this CIP rule is intended to regulate primary market activity by PPSIs. However, it is extremely important that in addition to PPSIs engaging in primary market activity, secondary market actors, including exchanges and other virtual asset services providers, collect and retain their customers' identifying information. Many —but not all— such actors are regulated as "money services businesses" (MSBs) under FinCEN's existing regulations,[12] however, MSBs are not required to implement formal CIP programs[13]. Furthermore, not all regulated secondary market actors are regularly examined, which

[11] 91 Fed. Reg. 37234, 37239 (emphasis added).
[12] *See e.g.*, Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies; FIN-2019-G001 (May 9, 2019); https://www.fincen.gov/system/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf.
[13] *See* 31 C.F.R. § 1022; 31 C.F.R. § 1010.220.

increases potential illicit finance risk. Entities whose business model is exchanging value that substitutes for currency, including payment stablecoins, must be regulated, including through the application of appropriately rigorous CIP requirements, to avoid gaps that could facilitate illicit financial flows.

Regulating secondary market actors is an important step toward managing illicit finance risk in secondary market transactions. If a purchaser or redeemer of payment stablecoins wishes to remain unidentified by the PPSI, that purchaser or redeemer could use the services of a third party who maintains a "formal relationship" with the PPSI to purchase or redeem the payment stablecoins,[14] but is not themselves a "financial institution" for purposes of the BSA. In that case, that third party would not be subject to CIP requirements, nor examination by a federal banking agency. If that third party is not a regulated financial institution intermediary, it would be entirely up to the voluntary business practices of the third party as to whether they retained their own customer records, collected any minimum amount of information, or took any verification steps. In such cases, the CIP record collection and retention requirements would only identify straw buyers or redeemers and effectively stop with the PPSI. FinCEN should provide guidance to PPSIs regarding monitoring any non-FI third parties who appear to be acting on the behalf of others to avoid illicit finance risk.

However, by removing the "formal relationship" requirement from the PPSI CIP rule, and clearly establishing a requirement that prospective customers open accounts with the PPSI prior to transacting with the PPSI could potentially help mitigate both primary and secondary market illicit financial risk. By ensuring the PPSI must collect customer identification information prior to account opening and retain records of it, this approach would both benefit the PPSI and discourage illicit financial activity —should the prospective customer seeking to purchase or redeem payment stablecoins from the PPSI decline to provide the requested information, provide obviously fraudulent information, or otherwise fail the PPSI's onboarding standards, the PPSI would decline to onboard that customer. Holding secondary market actors to this same standard would ensure the prospective customer could not easily skirt the PPSI's identification requirements, reducing illicit finance risk in the secondary market.

III. CIP information collection requirements should remain uniform.

Although the PPSI CIP NPRM in other ways closely hews to the CIP rules applicable to other financial institutions, it deviates from the existing CIP rules in one key respect: it requires PPSIs to collect a "date of formation" for legal entity customers.[15] This is a new requirement —Congress did not include it in the USA PATRIOT Act, nor is it part of any existing CIP rule. The PPSI CIP NPRM does not provide any explanation for including this new requirement, including any analysis of how this new information collection would assist in identifying customers. We do not opine at this time regarding the utility of mandating a "date of formation" collection for legal entity customers. However, we do note that by including *any* new minimum requirement that deviates from existing CIP requirements, the proposed rule threatens the ability of PPSIs to rely on CIP

[14] *Id.* at 37270; *see* proposed 31 C.F.R. § 1033.100(b).
[15] *Id.* at 37271; s*ee* proposed 31 C.F.R. § 1033.220(a)(2)(i)(A)(2) ("Date of birth, for an individual; or date of formation, for a person that is not an individual").

performance by another financial institution, which is expressly contemplated in both this PPSI CIP NPRM, and by existing CIP rules.

Given that one of the three pathways authorized by the GENIUS Act for PPSIs to legally operate is as a subsidiary of an insured depository institution approved by its primary banking agency to issue stablecoins, it is particularly concerning that a mandatory information collection and retention requirement for that subsidiary would potentially differ from that of the CIP rules for banks.

IV. Conclusion

ABA and its members support this joint approach taken by FinCEN and the federal banking agencies in this notice of proposed rulemaking, and support this requirement, provided these three key issues are addressed. We stand ready to participate in any additional consultative processes on these issues. If you have any questions, please contact Heather Trew at htrew@aba.com. We appreciate the opportunity to comment and look forward to continued engagement.

Sincerely,

Heather Trew
SVP & Counsel (Illicit Finance)
American Bankers Association