NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES, KAITLIN ASROW

Proposal and Comment Information

Title: Application Procedures for Board-Supervised Insured Depository Institutions Seeking Approval for a Subsidiary to Issue Payment Stablecoins, R-1900

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Submitter Information

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Please see the attached comment letter from the New York State Department of Financial Services.

KATHY HOCHUL
Governor

KAITLIN ASROW
Acting Superintendent

November 10, 2026

Submitted electronically

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: GENIUS Act Implementation – Application Procedures for Board Supervised Insured Depository Institutions Seeking Approval for a Subsidiary To Issue Payment Stablecoins

I. Introduction:

The New York State Department of Financial Services ("DFS") welcomes the opportunity to respond to the publication of a notice of proposed rulemaking by the Board of Governors of the Federal Reserve System (the "Board") of a proposed application process (the "Proposal") for a subsidiary ("Sub") of a State-chartered 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 Board'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 Board's approval process to ensure that consideration of the application takes into account all relevant information and 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 authority and decision making of States as critical components of the system's ongoing success.

DFS itself has long been a leader in promoting responsible innovation. 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 Board to approve an Applicant without State input would prevent the important collaboration and sharing of expertise across the Board 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 response to Question 9 in the Proposal.

II. Detailed Comments

1. The Proposal does not reflect the process outlined in the GENIUS Act.

The Proposal departs from the application process outlined in the GENIUS Act by omitting 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 Board, 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.

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 Board's own precedents, which recognize the importance of working with State regulators on matters related to shared responsibilities. For example, the Board's Commercial Bank Exam Manual, as well as the public websites of multiple Federal Reserve Banks, states that the Board's Supervision Group coordinates its supervisory activities with those of other State banking and insurance regulators.[1] The dual banking system is premised upon and requires this collaboration between State and Federal regulators.

The Board 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 Board, and the State regulator will be invited to all substantive meetings. Among other revisions, proposed Sec. 247.30(b)(1) 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 Board, and State banking regulators are aligned on the role that State regulators will play in the application process contemplated by the Proposal.

2. Response to Question 9

Question 9*: Section 5(c) of the GENIUS Act states that the Board may establish any other factors to be considered. Should the Board consider establishing any additional factors? For example, consistent with the framework's prioritization of the safety and soundness of insured State member banks that seek to issue payment stablecoins through a Board-supervised PPSI, should the Board consider evaluating as a separate factor whether, in the judgment of the*

[1] *See, e.g.,* the portion of Section 1000.1 of the Commercial Bank Examination Manual entitled "Coordination of Supervisory Activities: Coordination with Other Banking Agencies;" the "Supervision" page of the website of the Federal Reserve Bank of New York: "The Supervision Group coordinates its supervisory activities with those of other federal and state authorities, including…state banking and insurance regulators, who have primary supervisory responsibility over certain types of entities;" the "How will I Be Supervised?" page of the Federal Reserve Bank of Kansas City, which in multiple locations contemplates examinations conducted "joint[ly] with the [relevant] state banking agency."

Board, the proposed activities of the Board-supervised PPSI would negatively impact the safety and soundness of the applicant?

Response:

The Proposal should be revised to state that, in addition to the factors set out in the Proposal, the Board will obtain information from State regulators and will consult with State regulators in assessing the application and its impact on the Applicant.

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 Board will obtain critical information about a State banking institution's compliance with State law or how the Board will evaluate such information.[2] For example, the Board 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.[3] The Proposal also does not address how the Board would consider information that a State regulator had issued an order that the acquisition of such a Sub would an unauthorized or unsafe and unsound practice.[4] The Board 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 Board is required to consider as part of any application.[5] This is particularly true where, as here, the State banking institution itself may be assuming significant obligations to any Sub that is an approved PPSI. For example, the Proposal recognizes that the Applicant may make financial commitments to the PPSI.[6] It would be troubling, entirely novel, and inconsistent with the framework of the dual banking system to exclude State regulators from

[2] To the extent the GENIUS Act does not expressly require the Board to consider this information, the Board 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."
[3] *See, e.g.,* New York Banking Law §§ 14(1); 97(4-a).
[4] *See, e.g.,* New York Banking Law § 39(2).
[5] GENIUS Act, Sections 5(c)(1) (financial condition) and 5(c)(3) (competence, experience and integrity).
[6] *See* Application Procedures for Board-Supervised Insured Depository Institutions Seeking Approval for a Subsidiary To Issue Payment Stablecoins, 91 Fed. Reg. 61359 (Sep. 29, 2026), Section 247.30(b)(2)(ii): "…whether it is anticipated that an applicant…would make a financial guarantee or otherwise act to financially support the proposed Board-supervised PPSI (including any related intercompany agreements)."

consideration and participation in the decision making 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.

Additionally, the final rule 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 final rule 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 Board will deny the application. Such a denial is necessary to implement Sec. 5(h) of the GENIUS Act, discussed above, which provides that State regulators retain the right to supervise insured depository institutions and their 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 (david.felsenthal@dfs.ny.gov) with any questions or to provide further information.

Respectfully submitted,



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Acting Superintendent