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GENIUS Act: Waivers and Application Submission Guidance

To

Chief Executive Officers of All National Banks, Federal Savings Associations, and Federal Branches and Agencies; Department and Division Heads; All Examining Personnel; and Other Interested Parties

Summary

The Office of the Comptroller of the Currency is issuing this bulletin to clarify the process for filing applications and requesting waivers under the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act).

Note for Community Banks

The bulletin applies to national banks and their subsidiaries, federal savings associations and their subsidiaries, federal branches and their subsidiaries, foreign payment stablecoin issuers, nonbank entities that seek to be or are approved as federal qualified payment stablecoin issuers, and state qualified payment stablecoin issuers for whom the OCC has regulatory or enforcement authority pursuant to the GENIUS Act.

Highlights

- Payment stablecoin issuers in the United States must comply with the GENIUS Act beginning January 18, 2027, with noncompliance carrying criminal penalties.
- The OCC understands that current stablecoin issuers operating in the United States are likely to request a waiver from certain requirements of the GENIUS Act.

- Any stablecoin issuer with a pending substantially complete application with the OCC on or before January 18, 2027, may request a waiver from the OCC for requirements of the act or final rule.
- The OCC will begin accepting applications upon receiving final approval from the Office of Management and Budget (OMB) of the information collection related to the application forms. The OCC will announce when it begins accepting applications and waiver requests in a press release.
- Once the OCC begins accepting applications, potential applicants and other interested persons will be able to find additional information related to the application and submission requirements, licensing process, GENIUS Act final rule, and other pertinent information at the OCC's [GENIUS Act landing page](#).

Background

Beginning on January 18, 2027, a person generally must be approved as a permitted payment stablecoin issuer to issue a payment stablecoin in the United States (the Prior Approval Requirement). Issuing a payment stablecoin in the United States without being a permitted payment stablecoin issuer carries criminal penalties. The GENIUS Act does not incorporate a

compliance implementation process for existing payment stablecoin issuers currently operating in the United States. Rather, section 5(f) of the GENIUS Act provides that a primary federal payment stablecoin regulator may waive any of the requirements of the act for (1) a subsidiary of an insured depository institution, if the insured depository institution has an application pending for the subsidiary to become a permitted payment stablecoin issuer on January 18, 2027,¹ or (2) an applicant to be a federal qualified payment stablecoin issuer with a pending application on January 18, 2027. The primary federal payment stablecoin issuer may waive the requirements for a period not to exceed 12 months beginning on January 18, 2027. The final rule incorporates this safe harbor. Specifically, section 15.30(g) of the final rule provides that any stablecoin issuer that has a substantially complete application pending with the OCC to become a permitted payment stablecoin issuer may request in writing that the OCC waive requirements of the act or final rule.

The OCC intends to accept applications and waiver requests soon after OMB approves of the information collection related to the application forms. The OCC will issue a press release when it begins accepting applications and waiver requests.

Waivers

The OCC understands that existing stablecoin issuers currently operating in the United States are likely to request a waiver from the Prior Approval Requirement in order to continue issuing payment stablecoins in the United States during the pendency of their applications with the OCC to become permitted payment stablecoin issuers. Such a waiver would facilitate existing stablecoin issuers' continued operations and minimize unnecessary disruption to the stablecoin issuer, stablecoin holders, and the stablecoin market once the GENIUS Act is effective but prior to a stablecoin issuer receiving a decision on its permitted payment stablecoin issuer application. Accordingly, without a waiver, existing stablecoin issuers seeking to comply with the GENIUS Act and the OCC's final rule by the timely submission of substantially complete applications could nonetheless be in violation of the Prior Approval Requirement as of January 18, 2027, if they continue to issue stablecoins despite the issuers' best efforts to comply with the requirement. Such potential noncompliance could have a disruptive impact on the current operations of stablecoin issuers and therefore create uncertainty in the stablecoin market. Avoiding such disruption and uncertainty, any related risks to the broader U.S. economy, and potential inequity to existing issuers are compelling reasons to grant a waiver from this provision for existing issuers currently operating in the United States that have submitted a substantially

complete application before the effective date of the act (“Covered Applicants”). Therefore, consistent with the GENIUS Act and the OCC’s final rule, the OCC generally expects to grant requests for waivers from the Prior Approval Requirement for existing issuers currently operating in the United States unless the OCC’s review of a waiver request identifies more compelling reasons to deny the request.

Covered applicants may request a waiver from the Prior Approval Requirement in the GENIUS Act and any other provision in the GENIUS Act or final rule that the applicant cannot satisfy by the effective date of the act. However, the OCC has not identified compelling, generally applicable reasons to grant waiver requests with respect to requirements of the GENIUS Act or final rule other than the Prior Approval Requirement provision. Rather, issuers have had 18 months from the passage of the act to prepare for compliance with the GENIUS Act’s statutory requirements. Covered applicants should submit a waiver request as soon as practicable after the OCC begins accepting applications and waiver requests.

Similarly, the OCC has not identified compelling, generally applicable reasons to grant waivers under section 5(f) of the Act for stablecoin issuers or prospective stablecoin issuers who are not currently operating or issuing in the United States. Consistent with the OCC’s practice with respect to new bank charters, the OCC

generally expects prospective stablecoin issuers to begin operations in the United States after they have received the agency's approval to do so.

The OCC will evaluate all waiver requests on their merits and will act upon waiver requests in a timely manner and generally by January 18, 2027. Moreover, the OCC expects to limit the length of its waivers to the time necessary to adequately address the reasons for granting the waiver.

Application Submission

Applications by a payment stablecoin issuer seeking to become a permitted payment stablecoin issuer, including applicable waiver requests, should be submitted through the appropriate means as described on the OCC's [GENIUS Act landing page](#), including the prescribed application form and provision of all application materials to the OCC.

As indicated in the final rule, applicants should ensure that submissions are fully responsive to the questions and documentation requirements included in the relevant application form. This includes providing sufficient details on the proposed business plan; management team; reserve assets; issuance and redemption processes; risk management; capital and liquidity; use of shared services model; Bank Secrecy Act/Anti-Money

Laundering/Office of Foreign Assets Control; third-party risk management; enterprise risk management; compliance risk management; and audit functions. Consistent with the GENIUS Act and the final rule, the OCC will review an application and, within 30 days of receiving it, notify the applicant whether it is substantially complete.² If an application is not deemed substantially complete at that time, the OCC will notify the applicant of what information is missing. The applicant may then submit the requested information, and the OCC will review it and respond within 30 days. If the application is still not substantially complete, the OCC will return the application no later than 60 days after the initial notice. The OCC is committed to acting on all applications in a timely manner and no later than 120 days following a determination that an application is substantially complete.

Applicants can find additional information related to the application requirements, licensing process, GENIUS Act final rule, and other pertinent information at the OCC's [GENIUS Act landing page](#).

Further Information

For information concerning the application process contact Chartering, Organization and Structure at GENIUSActLicenseRegister@occ.treas.gov.

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Chartering, Organization and Structure

¹ Thus, the OCC may provide a waiver to an issuer that is a subsidiary of an insured depository institution. The OCC may not, however, provide a waiver with respect to an issuer that is an insured depository institution.

² An application is substantially complete if it contains sufficient information for the OCC to render a decision on whether the applicant satisfies applicable factors.

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