



The GENIUS Act at a Glance

The GENIUS Act establishes a federal licensing framework for payment stablecoins. While it aims to modernize digital finance, it risks undermining the proven dual regulatory system governing non-bank financial institutions—Money Services Businesses (MSBs)—under both federal and state law.

Core Position

Non-bank issuance of payment stablecoins = regulated money transmission.

Therefore, such activity must remain subject to:

FinCEN AML oversight under the Bank Secrecy Act (BSA); and

State-issued Money Transmitter Licenses (MTLs) under existing state laws.

Four Clarifications Required in Statute

1. Affirm MSB Classification: Non-bank stablecoin issuance is “money transmission” under 31 CFR §1010.100(ff) and must comply with MSB laws.
2. Clarify Legal Classification: Define payment stablecoins as “digital payment instruments” rather than “digital assets.”
3. Reinforce FinCEN Authority: Confirm FinCEN’s exclusive AML supervisory jurisdiction over all stablecoin activity.
4. Preserve State MTLs: Ensure state-issued MTLs remain valid, enforceable, and not federally preempted.

Technical Fix: Payment Stablecoin Definition

Why This Matters:

This definitional change is not cosmetic—it determines the regulatory classification of stablecoins and avoids systemic misalignment across federal law.



Legislative Memo

Why the GENIUS Act Must Be Amended

Prepared by FedMSB

Replacing “digital asset” with “digital payment instrument” makes clear that stablecoins are payment vehicles, not speculative financial assets.

It ensures proper oversight and avoids accidental SEC/CFTC jurisdiction.

Risk of Politicized Centralization

The GENIUS Act, as drafted, gives discretionary licensing power to the OCC (a Treasury bureau).

Lacking explicit protections, this opens the door to regulatory capture or politicized charter issuance.

The U.S. MSB industry is deeply concerned about credible reports that politically connected financial entities have already made significant inroads into the cryptocurrency sector and have launched branded stablecoin products.

Constitutional Vulnerability

If passed without statutory clarity, the Act may be subject to constitutional litigation for displacing state licensing regimes without due process or clear congressional intent.

Summary of Recommendations

- ✓ Codify MSB status of non-bank issuers
- ✓ Reaffirm FinCEN AML authority
- ✓ Protect state MTL validity
- ✓ Redefine payment stablecoin as “digital payment instrument”