May 1, 2026

Office of the Comptroller of the Currency

400 7th Street, SW, Suite 1E-216

Washington, DC 20219

Attn: Comment Processing

Docket ID OCC-2025-0372

Dear Comptroller Gould:

On behalf of the Competitive Enterprise Institute, I appreciate the opportunity to submit comments on OCC-2025-0372, the OCC's Notice of Proposed Rulemaking implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act).[1] Implementation of the GENIUS Act will have

[1] 91 Fed. Reg. 10202 (Mar. 2, 2026).

significant economic consequences for consumers, businesses and the competitiveness of the U.S. in payments technology. CEI believes the OCC must ensure that this implementation minimizes harmful red tape and does not exceed what the law requires.

About CEI

The Competitive Enterprise Institute (CEI) is a non-profit public interest organization committed to advancing the principles of free markets and limited government. CEI has a longstanding interest in applying these principles to the rulemaking process and has frequently commented on issues related to oversight of rulemaking and the regulatory process.

Our mission is to advance the freedom to prosper for American consumers, entrepreneurs, and investors striving for a better life for themselves and their families. We also believe American adults should be allowed to make choices in the marketplace -- weighing the costs and benefits of these choices -- without overreaching government bureaucracies limiting their options, even if justified as ostensibly "for their own good."

CEI also pursues public-interest litigation on behalf of consumers and small businesses to ensure that federal agencies follow the requirements of the underlying laws and, when applicable, the Administrative Procedure Act, and to ensure that agencies act within the constraints of the U.S. Constitution. We are particularly concerned with what we call "regulation without representation" – the process of laws effectively being made by unelected regulatory agencies instead of the people's representatives in Congress in contravention of the intent of the Founders in writing the U.S. Constitution.

At CEI, we have long championed private-sector innovation that promotes financial inclusion and warned about government red tape that contributes to the problem of the unbanked. We are excited about the potential improvement in Americans' financial well-being enabled by innovations such as cryptocurrency, blockchain, and other forms of financial technology (fintech). We have called for the removal and relaxation of regulations inhibiting these innovations. However, we also strongly oppose subsidies to this sector – as we oppose subsidies to any business sector – as well as regulations on one type of business with the intention

of boosting another.[2] In summation, we believe that adherence to equal treatment and the rule of law is essential to the successful governance of all U.S. industries, old and new.

What the GENIUS Act does and does not do

Stablecoins are electronic tokens pegged to a stable value of units of assets or currencies. Initially created as a mechanism to ease the trading of cryptocurrencies such as Bitcoin, stablecoins now top $300 billion in market value and have become an essential tool in distributing the U.S. dollar worldwide. These facts motivated Congress last year to enact the GENIUS Act to create legal certainty for a certain subset of stablecoins the law deems as "payment stablecoins."

The GENIUS Act creates a regulatory path for firms issuing payment stablecoins to obtain a degree of legal certainty in return for adhering to certain rules about reserves and redemption of the assets to which the stablecoins they issue are pegged. This law was not enacted to regulate all cryptocurrencies nor even all stablecoins outside of the "payment stablecoin" category. In implementing the GENIUS Act for firms under its jurisdiction, the OCC must pay attention to what the law does and does *not* authorize or require.

As stablecoins and cryptocurrencies are frontier technologies – producing beneficial innovations but also disrupting traditional business practices in financial markets -- there are many contentious debates about what policies should apply to them. Some of these measures are being debated currently as Congress considers the CLARITY Act to govern market structure for the entire cryptocurrency industry.

However, unless these policies are spoken to specifically in the GENIUS Act, they should *not* be of concern to the OCC in implementing this rule. The OCC, as with all government agencies, must adhere to the Constitution's Article I, Section 1, that gives all lawmaking powers to Congress and only grants to the Executive Branch the power to implement the laws that have been enacted. While the technology

[2] Comment letter of the Competitive Enterprise Institute to Consumer Financial Protection Bureau on Personal Financial Data Rights Rule Reconsideration, October 21, 2025, https://cei.org/wp-content/uploads/2025/10/CEI-comments-on-cfpb-1033.pdf

regulated by the OCC may change, the regulatory process governed by the Constitution and laws such as the Administrative Procedure Act must stay fixed.

In implementing the GENIUS Act, the OCC should be mindful of heightened litigation risks that now exist for the issuance of regulations that exceed statutory authority. In 2024, the Supreme Court changed significantly the legal landscape for agencies offering novel interpretations of statutes to justify new authority. In *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, the Court jettisoned the "*Chevron* deference" precedent that largely defers to regulatory agencies' interpretation of the powers granted to them by law. *Loper Bright* held that courts must exercise independent judgment in determining whether an agency has acted within its statutory authority and may no longer defer to agency interpretations as allowed under *Chevron U.S.A. v. Natural Resources Defense Council*, 104. S. Ct. 2778.

Also under *West Virginia v. EPA*, 142 S. Ct. 2587 (2022), sweeping mandates affecting the stablecoin market that now tops $300 billion could trigger application of the "major questions doctrine," particularly if regulatory agencies were to assert authority over issues of vast economic and political significance without clear congressional authorization. The OCC must keep *Loper Bright* and *West Virginia* in mind to ensure mandates issued as part of regulations do not exceed statutory authority, potentially triggering litigation as well as unnecessary costs to stablecoin issuers and users.

In laying out its considerations in implementing the GENIUS ACT, the OCC puts forth one interpretation of the law that raises particular concern for CEI. This is the mandate of "one brand" per company for payment stablecoin issuers.

OCC should scrap "one brand" limit from final rule

In the proposed rule, the OCC states that it is considering limiting issuers to "one brand" of payment stablecoins. This mandate under consideration would prevent a payment stablecoin issuer from issuing stablecoins under more than one brand name.

The only authority OCC cites for issuing this mandate from the GENIUS Act is the law's language allowing the OCC to "carry out the requirements" of the law "and to prevent evasion thereof." The OCC granting itself such powers from language concerning generalized housekeeping authority is problematic. The authority to

"carry out the requirements" of a statute and prevent evasion does not authorize the creation of new substantive market restrictions absent clear congressional direction.

The proposed rule admits that under this mandate, the OCC is considering banning "white label" arrangements in which issuers produce stablecoins for different firms under different names. This is a common practice among various industries, including supermarkets that contract with manufacturers to produce private label food and drink brands.[3] By increasing the number of brands in a given market, white label arrangements increase competition to the benefit of consumers.

These arrangements would likely have similar beneficial effects in the stablecoin market. Fintech startups and community banks that don't have the resources to produce payment stablecoins on their own could rely on issuers, and market these stablecoins under their firms' names to their customers.

The OCC concedes in the proposed rule that white label arrangements "can allow parties to leverage the experience and expertise of a permitted payment stablecoin issuer and facilitate a broader range of stablecoins in the market." Yet the proposed rule then asserts – without presenting any significant data – that such arrangements "may also foster uncertainty about reserve assets and encourage contagion and run risk among brands of payment stablecoins."

Not only does this assertion lack data, it seems to defy logic. The payment stablecoins issued under different names would still have to meet GENIUS Act requirements for redemption and reserves. Therefore, the likelihood seems remote that the risk of run could be ignited simply because of a different name.

Conclusion: Follow the law, gather the data and do no harm

The "one brand" limit should be scrapped from the final rule both due to the lack of data and – more importantly – due to the lack of any authorization for such a policy from the language of the GENIUS Act. In implementing other provisions of

[3] Carla Tardi, "Understanding White Label Products: How They Work for Businesses," *Investopedia*, April 3, 2026, https://www.investopedia.com/terms/w/white-label-product.asp.

the law, CEI urges the OCC to also exercise restraint before foisting costly regulations that may lack adequate data and may also exceed the law.

CEI appreciates the opportunity to present its views on this important matter and will continue to engage in dialogue with the OCC about GENIUS Act implementation and other matters that affect entrepreneurs, investors and consumers. If you have any questions, please feel free to contact me.

Sincerely,

John Berlau

Director of Finance Policy & Senior Fellow

Competitive Enterprise Institute