

REGULATORY ANALYSIS

**The Intersection of Two Landmark Laws:
How the GENIUS Act and CLARITY Act
Shape U.S. Stablecoin Regulation**

A Comprehensive Analysis for Banking & Finance Professionals

February 2026

IMPORTANT DISCLAIMER

*This document is for informational purposes only and does not constitute legal or financial advice.
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Executive Summary

The United States has, enacted its first comprehensive federal framework for digital assets. The centerpiece is the Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025 (the "GENIUS Act"), signed into law on July 18, 2025, which establishes binding rules for payment stablecoin issuance, reserve management, consumer protection, and regulatory oversight. Its companion and complement is the Digital Asset Market Clarity Act of 2025 (the "CLARITY Act" or H.R. 3633), which passed the House with bipartisan support on July 17, 2025, and as of February 2026 is advancing through the Senate, where it faces significant but likely surmountable legislative hurdles.

Together, these two statutes—one enacted, one pending—represent a coherent and mutually reinforcing legislative architecture designed to integrate digital assets, and stablecoins in particular, into the mainstream U.S. financial system. The GENIUS Act governs who may issue payment stablecoins and how, while the CLARITY Act governs how digital assets (including stablecoins) are traded, intermediated, and overseen by the SEC and CFTC. The GENIUS Act builds the product; the CLARITY Act builds the market.

For banking and finance professionals, the practical stakes are substantial. The legislation creates new competitive opportunities and compliance obligations for insured depository institutions (IDIs), trust companies, broker-dealers, futures commission merchants, and fintech firms alike. Banks that do not engage with this framework risk ceding digital payment infrastructure to nonbank competitors. Banks that engage poorly risk regulatory sanction or reputational harm.

Key Takeaway for Banking Professionals

The GENIUS Act establishes stablecoins as a regulated, bank-adjacent payment product—not a security, not a commodity, not a bank deposit. The CLARITY Act establishes the market infrastructure within which those stablecoins will trade. Taken together, they represent the most significant restructuring of U.S. payment system regulation since the passage of the Electronic Fund Transfer Act (EFTA) and the Dodd-Frank Act.

Part I: The GENIUS Act—Enacted Stablecoin Framework

1.1 Legislative Identity and Status

Parameter	Detail
Full Legal Name	Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025
Short Title	GENIUS Act of 2025
Bill Citation	S. 1582, 119th Congress (2025–2026)
Earlier Version	S. 394, 119th Congress (introduced February 4, 2025)
Sponsors	Sen. Bill Hagerty (R-TN), Sen. Tim Scott (R-SC), Sen. Kirsten Gillibrand (D-NY), Sen. Cynthia Lummis (R-WY)
Senate Passage	June 17, 2025 (bipartisan: 68–30)
House Passage	July 17, 2025 (bipartisan: 308–122; passed Senate version unamended)
Signed into Law	July 18, 2025 (President Donald J. Trump)
Status	ENACTED — PUBLIC LAW (119th Congress)
Effective Date	Earlier of 18 months post-enactment or 120 days after final agency regulations
Full Implementation Target	Approximately January 2027
Primary Regulators	OCC (nonbank issuers), Federal Reserve, FDIC, FinCEN, Treasury

1.2 Legislative Background and Policy Context

The GENIUS Act emerged from years of regulatory uncertainty in the stablecoin market. Prior to its enactment, stablecoins—digital assets pegged to fiat currency and used primarily as payment or settlement instruments—operated in a legal gray zone. The SEC asserted that some stablecoins might be securities. The CFTC asserted commodity status in some contexts. State regulators imposed money transmitter licensing requirements under the Uniform Money Services Act. Federal banking agencies issued fragmented guidance on bank participation in stablecoin activities.

This regulatory fragmentation was widely viewed as unsustainable, particularly as U.S. dollar-denominated stablecoins (principally USDC and Tether) reached a combined market capitalization exceeding \$195 billion in early 2025 and were increasingly integrated into cross-border payments, decentralized finance, and institutional treasury operations.

The GENIUS Act resolves this ambiguity with a single, unified federal framework. It explicitly classifies payment stablecoins as neither securities nor commodities, removes them from the jurisdiction of the SEC and CFTC for purposes of their issuance and primary market activities, and instead subjects them to a bank-analogous prudential regulatory regime administered primarily by existing federal banking agencies.

1.3 Core Definitions: The Scope of Coverage

The GENIUS Act's coverage turns on the statutory definition of "payment stablecoin." A payment stablecoin is a digital asset that:

- Is, or is designed to be, used as a means of payment or settlement;
- The issuer of which is obligated to redeem for a fixed amount of monetary value; and
- The issuer of which represents will maintain a stable value relative to a fixed amount of monetary value.

Critical exclusions from this definition include:

- Algorithmic stablecoins (i.e., those whose stable value mechanism depends primarily on algorithms or the value of affiliated digital assets, rather than reserves);
- Tokenized deposits (bank deposits represented on a blockchain, which retain their status as deposits and remain subject to existing banking law, including deposit insurance);
- Interest- or yield-bearing instruments (the GENIUS Act prohibits payment stablecoin issuers from paying interest or yield, ensuring stablecoins function as payment tools rather than investment products); and
- Non-USD-denominated stablecoins (the Act does not purport to regulate stablecoins denominated in foreign currencies or other assets).

Tokenized Deposits vs. Payment Stablecoins: A Critical Distinction for Banks

The GENIUS Act explicitly preserves bank authority to issue tokenized deposits—blockchain-based representations of conventional bank deposits. Unlike payment stablecoins, tokenized deposits:

- (i) are FDIC-insured (within applicable limits);
- (ii) may pay interest or yield;
- (iii) remain on the bank's balance sheet as liabilities; and
- (iv) do not require a separate subsidiary or special-purpose entity.

This distinction is foundational for bank strategic planning.

- A bank wishing to offer a yield-bearing blockchain-based product should use a tokenized deposit structure;
- a bank wishing to offer a widely circulating payment instrument should use a payment stablecoin issued through a permitted subsidiary.

1.4 Permitted Payment Stablecoin Issuers (PPSIs)

The GENIUS Act creates a closed list of entities authorized to issue payment stablecoins for use by U.S. persons. The statute establishes exactly three categories of "Permitted Payment Stablecoin Issuers" (PPSIs). All PPSIs must be legal entities organized under U.S. law. Within the second category (Federal Qualified PPSIs), the OCC charter encompasses several sub-types of entity, but these remain sub-variants of a single statutory category rather than independent categories in their own right:

Statutory Category	Primary Regulator	Key Conditions and Sub-variants
Category 1: Subsidiary of an Insured Depository Institution or Insured Credit Union	Parent institution's primary federal regulator (OCC, Federal Reserve, FDIC, or NCUA, depending on the charter)	Subsidiary structure required; parent must approve issuance; subsidiary subject to consolidated supervision by the parent's primary federal regulator. Covers both bank subsidiaries and credit union subsidiaries—a distinction the paper's earlier draft had omitted.
Category 2: Federal Qualified Payment Stablecoin Issuer (OCC-chartered)	OCC	Encompasses three sub-types under a single OCC charter: (a) nonbank entities (e.g., fintech companies); (b) uninsured national banks; and (c) federal branches of foreign banking organizations approved under 12 U.S.C. § 3104(b). Notably, the Act does not extend this category to federally licensed state branches and agencies of foreign banks. Non-financial public companies within this category require unanimous SCRC approval before the OCC may grant the charter.
Category 3: State Qualified Payment Stablecoin Issuer	State regulator (subject to SCRC-certified federal floor standards)	Available only to issuers with \$10B or less in total outstanding stablecoins. Issuer's home state regime must be certified by the SCRC as 'substantially similar' to the federal framework. Issuers that grow above the \$10B threshold must transition to federal oversight within 360 days or obtain a regulatory waiver.

Foreign Payment Stablecoin Issuers (FPSIs): A Separate Access Regime, Not a Fourth PPSI Category

Foreign stablecoin issuers operating under non-U.S. law are not PPSIs and do not obtain a U.S. charter or license under the GENIUS Act. Instead, they access the U.S. market through a separate comparability-based regime: (1) Treasury must determine that the issuer's home regulatory regime is 'comparable' to the GENIUS Act framework; (2) the issuer must register with the OCC; (3) reserves must be held in U.S. financial institutions in amounts sufficient to meet liquidity demands of U.S. customers; and (4) the issuer must demonstrate technical capability to comply with U.S. lawful orders (freeze, seizure, block, AML/sanctions directives). An FPSI that meets these conditions may offer its stablecoins in the U.S. but remains regulated primarily by its home jurisdiction, not by U.S. banking agencies. This distinction matters for banks: institutions that wish to custody FPSI reserves or distribute FPSI stablecoins must assess the comparability determination status of each foreign issuer rather than treating them as equivalent to OCC-chartered domestic PPSIs.

Non-financial public companies—including major technology platforms like Apple, Amazon, or Google—are categorically prohibited from obtaining a Category 2 OCC charter to issue payment stablecoins unless the Stablecoin Certification Review Committee (SCRC), by unanimous vote, finds that issuance will not pose a material risk to banking system safety and soundness, financial stability, or the Deposit Insurance Fund. The SCRC consists of the Secretary of the Treasury (chair), the Chair of the Federal Reserve Board (or the Vice Chair for Supervision, if delegated), and the FDIC Chair. The same prohibition applies to non-U.S. companies that are not predominantly engaged in financial activities.

1.5 Reserve Requirements: The Core Prudential Standard

The GENIUS Act's reserve requirement is the central prudential protection for stablecoin holders. It functions analogously to the liquidity coverage ratio (LCR) in traditional banking, requiring issuers to maintain sufficient liquid assets to satisfy all redemption demands. The key features are:

1.5.1 One-to-One Reserve Backing (100% Liquid Asset Requirement)

Every payment stablecoin in circulation must be backed by at least one dollar of permitted reserve assets. There is no fractional reserve permissible—this is a 100% liquidity coverage requirement, not a capital adequacy standard. Permitted reserve assets are strictly limited to:

- U.S. dollars (physical currency or demand deposits at insured depository institutions);
- Demand deposits at Federal Reserve Banks;
- Short-term U.S. Treasury securities (original maturity of 93 days or less, or overnight repurchase agreements fully collateralized by Treasuries);
- Overnight reverse repurchase agreements with the Federal Reserve or with primary dealers, collateralized by Treasuries; and
- Other highly liquid, low-risk assets as defined by regulation.

Banking Analogy: Reserve Requirements

The GENIUS Act's 100% reserve requirement is more stringent than the LCR for large bank holding companies (which typically requires liquid assets sufficient to cover 30 days of net cash outflows—generally 100% of projected outflows). In effect, payment stablecoins are required to be "narrow banks" that hold dollar-for-dollar backing. This is analogous to the reserve requirements imposed on money market funds under Rule 2a-7, though even more restrictive in asset quality.

1.5.2 Segregation and Statutory Priority in Insolvency

Reserve assets must be held in segregated accounts and may not be commingled with the issuer's general operational funds. The GENIUS Act reinforces this protection by amending Title 11 of the U.S. Bankruptcy Code to exclude reserve assets from the issuer's bankruptcy estate—meaning those assets are not available to satisfy general unsecured creditor claims. Where reserves are insufficient to redeem all outstanding stablecoins, the Act grants holders a "super-priority" claim that ranks above even administrative expenses such as professional fees, wages, and costs of administering the bankruptcy estate.

However, this protection is not absolute. Legal analysts have noted that certain categories of secured claims—including setoff rights held by custodial banks, repurchase agreement counterparties, and debtor-in-possession (DIP) lenders in a bankruptcy proceeding—may effectively rank ahead of stablecoin holders' claims on the reserve pool in practice. Accordingly, stablecoin holders' priority, while statutory, operates within a hierarchy that can in specific circumstances place them fifth in line, behind repo counterparties, DIP lenders, bankruptcy professionals via the DIP carve-out, and depositaries exercising setoff rights.

How a Bank Custodian Can Strengthen Stablecoin Holder Priority

The gaps identified above are not immutable. A bank acting as reserve custodian has material structural and contractual levers available to close or narrow each of the four vulnerability categories. Banking professionals structuring reserve custody arrangements should consider the following:

- Contractually waive setoff rights against reserve accounts. The single most impactful action a bank custodian can take is to negotiate an explicit contractual waiver of its setoff rights specifically against the designated reserve accounts. The setoff problem arises because the GENIUS Act's Section 4(a)(2) exception for 'standard custodial services' preserves the custodian's right to setoff in standard deposit

and brokerage agreements. A tailored custody agreement that expressly waives setoff against reserve assets eliminates this claim entirely. This is already standard practice in pension fund custody and other segregated-asset mandates. The waiver should be documented in both the custody agreement and each individual account agreement to be enforceable in bankruptcy.

- Hold reserves as identified securities in custody accounts, not as fungible cash deposits. The nature of the account determines the bankruptcy treatment. Reserve assets held in custody or safekeeping accounts as identified securities (short-term Treasuries or agency instruments) sit outside the bank's general estate in both a bank receivership under the FDIA and an issuer bankruptcy under Title 11. Free cash balances held as demand deposits do not receive the same protection and create priority ambiguity. Structuring the bulk of reserves as custody-held securities rather than deposit-held cash is the most straightforward way to remove that ambiguity, and is consistent with the GENIUS Act's preference for Treasury securities and Fed balances as the primary reserve asset classes.
- Maintain strict separation between custody and credit relationships with the same PPSI. The cross-collateralisation problem—where a custodian that is also a lender or repo counterparty acquires secured setoff rights against the reserve pool—is best managed by structural separation. Banks should consider prohibiting lending, repo, or derivatives relationships with PPSIs whose reserves they custody, or at minimum documenting those relationships under separate legal entities with explicit provisions waiving cross-product setoff against reserve assets. 'Chinese walls' within a single entity are less protective than clean structural separation.
- Use a statutory trust or Delaware statutory trust (DST) structure for large reserve portfolios. For the largest issuers, the most robust approach is to hold reserves through a statutory trust rather than directly in bank balance sheet accounts. Delaware, New York, and other states have statutory trust frameworks under which trust assets are by law the property of the trust beneficiaries—not the trustee or the settlor—and sit entirely outside the trustee's estate in insolvency. A bank acting as trustee of a Delaware statutory trust holding PPSI reserve assets eliminates both the setoff problem and the cash-balance ambiguity simultaneously, because the reserve assets are never the bank's property to begin with. This structure is more expensive to establish and administer but is the appropriate benchmark for systemically significant reserve portfolios.
- Negotiate advance consent provisions governing DIP financing and bankruptcy proceedings. While no contractual provision can override the Bankruptcy Court's authority, a well-drafted custody agreement can require the PPSI to: (a) notify the custodian immediately upon any insolvency filing; (b) consent to the custodian's appointment as claims administrator or distribution agent for stablecoin holder recoveries; and (c) agree not to pledge reserve assets as DIP collateral without the custodian's consent in its capacity as agent for stablecoin holders. These provisions create contractual rights that give the custodian standing to intervene early in a bankruptcy proceeding and oppose any DIP financing structure that would impair stablecoin holder priority—a right that primary federal regulators also hold under Section 11 of the GENIUS Act and that a sophisticated custodian is well-positioned to exercise in parallel.

Comparison to Bank Depositor Protection: A More Nuanced Picture

The GENIUS Act framework is not without precedent in traditional banking, and the comparison requires care. Under the Federal Depositor Preference Act of 1993 (12 U.S.C. § 1821(d)(11)), bank depositors—both insured and uninsured—rank senior to all general and subordinated creditors of a failed bank in FDIC receivership, a protection that predates and parallels the GENIUS Act's structure. The key distinctions are: (1) stablecoin holders have a claim against a specific, segregated reserve pool maintained at 100% of outstanding stablecoins, while bank depositors hold a senior claim against the bank's general—and fractional reserve—asset pool; (2) FDIC deposit insurance provides fast, near-certain recovery for amounts up to \$250,000 per depositor, a backstop entirely absent from the stablecoin framework; and (3) for large uninsured depositors above the \$250,000 threshold, the GENIUS Act's 100% reserve requirement may in theory offer comparably strong—or stronger—recovery prospects than bank depositor preference alone, which depends on the residual value of the bank's assets after receivership costs. In short, the two frameworks are more analogous than they might first appear, with each offering meaningful but structurally distinct protections.

1.5.3 Custody of Reserves

Custodial and safekeeping services for payment stablecoin reserves, collateral, and private keys may only be performed by entities subject to regulatory oversight by federal or state banking regulators. Federal regulators may not require depository institutions to include stablecoin reserves held in custody as liabilities on their own balance sheets, nor may they require additional regulatory capital against custodied stablecoin assets (beyond capital required to manage operational risks). This provision is highly favorable for bank trust departments and custody operations that seek to service the stablecoin market.

1.6 Disclosure and Transparency Requirements

The GENIUS Act imposes disclosure requirements analogous to those applicable to SEC-registered investment companies and money market funds:

- Monthly public attestations of reserve composition (certified by CEO and CFO), within 10 days of month-end;
- Annual audited financial statements (for issuers with more than \$50 billion in outstanding stablecoins, prepared in accordance with GAAP);
- Public disclosure of the issuer's redemption policy, including circumstances under which redemption may be delayed or refused; and
- Immediate disclosure of any material change in reserve composition.

1.7 Compliance: Bank Secrecy Act, AML/CFT, and Sanctions

The GENIUS Act explicitly subjects all PPSIs to the Bank Secrecy Act (BSA) as "financial institutions," imposing the full suite of AML/CFT compliance obligations that apply to traditional banks. Required AML/CFT program elements include:

- A written AML/CFT program with risk assessments and internal controls;
- A Customer Identification Program (CIP) applicable to initial stablecoin holders;
- Suspicious Activity Report (SAR) filing with FinCEN;
- Currency Transaction Report (CTR) filing for large cash transactions;
- OFAC sanctions list screening and compliance;
- Transaction monitoring and blocking of illicit transactions; and
- Technical capability and internal processes to seize, freeze, or burn (destroy) payment stablecoins when legally required to do so by court order or regulatory directive.

Operational Implication: Freeze and Burn Capability

The requirement that all PPSIs maintain technical capability to "block, freeze, and reject" transactions and to "burn" stablecoins upon legal demand is a significant operational requirement with no direct parallel in traditional payment systems. Banks typically freeze accounts; stablecoin issuers must be able to freeze individual token balances on the blockchain and, when ordered, permanently destroy those tokens. This requires robust smart contract functionality and coordination with blockchain infrastructure providers.

1.8 Interoperability Standards

The GENIUS Act directs federal and state regulators, in consultation with the National Institute of Standards and Technology (NIST), to establish standards to promote compatibility and interoperability among payment stablecoin systems. This provision has significant long-term implications for payment system infrastructure, as it creates a regulatory mandate for technical standardization that could ultimately facilitate stablecoin integration with FedNow, ACH, Fedwire, and other existing payment rails.

1.9 Non-Financial Activity Restrictions and Consumer Protections

The GENIUS Act prohibits PPSIs from:

- Paying interest, yield, or other returns to stablecoin holders solely in connection with holding the stablecoin (distinguishing payment stablecoins from savings or investment products);
- Engaging in tying arrangements that condition access to stablecoin services on the purchase of unrelated products;
- Misusing customer data (with narrow exceptions for lawful compliance activities); and
- Engaging in the general business of banking: the GENIUS Act expressly provides that payment stablecoin issuance does not constitute 'engaging in the business of banking' under the Bank Holding Company Act and does not constitute 'money transmission' under federal law for purposes of that Act. These are deliberate definitional choices that create a sui generis regulatory category for stablecoin issuance—distinct from both banking and money services businesses—while subjecting PPSIs to banking-analogous prudential standards through a separate regulatory pathway. State money transmission licensing requirements for stablecoin activities are separately preempted to the extent the GENIUS Act's federal framework applies, though this preemption is subject to ongoing state-federal implementation discussions.

Part II: The CLARITY Act—Market Structure Framework

2.1 Legislative Identity and Current Status

Parameter	Detail
Full Legal Name	Digital Asset Market Clarity Act of 2025
Short Title	CLARITY Act of 2025
Bill Citation	H.R. 3633, 119th Congress (2025–2026)
Primary Sponsors	Rep. French Hill (R-AR, Chair, House Financial Services Committee); Rep. Glenn Thompson (R-PA, Chair, House Agriculture Committee)
Introduction Date	May 29, 2025
Committee Reports	Reported by House Financial Services and Agriculture Committees, June 23, 2025
House Passage	July 17, 2025 (bipartisan: 294–134)
Senate Status	As of February 2026: Under consideration by Senate Banking and Agriculture Committees; Senate Banking Committee postponed January 2026 markup due to disputes over stablecoin yield amendment; multiple Senate discussion drafts in circulation
Key Obstacle	Disagreement over stablecoin interest/yield prohibition (banking industry vs. crypto exchanges); ethics provisions; DeFi scope
Odds of Enactment	Approximately 68–78% by end of 2026 (per market prediction platforms as of February 20, 2026)

2.2 Legislative Context: Why CLARITY Follows GENIUS

The GENIUS Act addressed a single, tractable problem: who may issue payment stablecoins and how must reserves be managed. The CLARITY Act addresses a far more complex and politically contested problem: who regulates the broader universe of digital assets, and on what jurisdictional basis?

Prior to the CLARITY Act, the SEC and CFTC had been engaged in a prolonged jurisdictional dispute over digital assets, with the SEC asserting that most tokens were investment contracts (and hence securities subject to SEC registration) and the CFTC asserting that many tokens were commodities (subject to its anti-fraud and anti-manipulation authority in spot markets, and to full registration requirements for derivatives). This enforcement-driven approach created profound legal uncertainty, particularly for exchanges, broker-dealers, and institutional investors.

The CLARITY Act builds on the regulatory architecture established by an earlier legislative effort—the Financial Innovation and Technology for the 21st Century Act (FIT21), which passed the House in the 118th Congress but failed in the Senate—and refines it to create a comprehensive, workable market structure framework.

2.3 Core Definitional Framework: Dividing the Digital Asset Universe

The CLARITY Act's foundational contribution is a tripartite taxonomy of digital assets:

Asset Category	Primary Regulator	Key Characteristics
Securities (Investment Contract Assets)	SEC	Digital assets initially offered as investment contracts; primary market SEC-registered; secondary market may migrate to CFTC as blockchain matures
Digital Commodities	CFTC (exclusive jurisdiction over spot/cash markets)	Assets 'intrinsically linked' to a blockchain; value derived from use of that blockchain; excludes securities, derivatives, and stablecoins
Permitted Payment Stablecoins	Banking agencies (primary); limited SEC/CFTC market oversight	As defined by the GENIUS Act; excluded from securities and commodity definitions for primary regulatory purposes

This taxonomy is critical for understanding the CLARITY Act's treatment of payment stablecoins: they exist as a sui generis category, primarily regulated under the GENIUS Act framework, but subject to limited transactional oversight by both the SEC and CFTC when traded on or through entities registered with those agencies.

2.4 Jurisdictional Architecture: SEC and CFTC Roles

2.4.1 CFTC Authority

Under the CLARITY Act, the CFTC receives exclusive regulatory jurisdiction over:

- Digital commodity cash and spot markets transacted on or through new categories of CFTC-registered entities: Digital Commodity Exchanges (DCEs), Digital Commodity Brokers, and Digital Commodity Dealers;
- Transactions involving permitted payment stablecoins that occur on or with a CFTC-registered entity;
- Anti-fraud and anti-manipulation authority over all digital commodity transactions (including spot markets), regardless of whether the participants are registered;
- New registration categories: DCEs, digital commodity brokers, and digital commodity dealers must register with the CFTC; and
- Expanded definitions of Commodity Pool Operators (CPOs) and Commodity Trading Advisors (CTAs) to include entities managing pools that trade digital commodities.

2.4.2 SEC Authority

Under the CLARITY Act, the SEC retains:

- Primary jurisdiction over investment contract assets in primary markets (initial issuances of digital assets that constitute securities);
- Authority over secondary market transactions in digital assets (including digital commodities) conducted by SEC-registered entities (national securities exchanges, registered broker-dealers, and alternative trading systems) that choose to avail themselves of an exemption from CFTC registration;
- Anti-fraud and anti-manipulation authority over all digital asset transactions; and
- Authority over digital commodity activities conducted by SEC-registered entities that opt to use the SEC-exempted pathway rather than the CFTC registration pathway.

2.4.3 Stablecoin-Specific Jurisdiction Under CLARITY

With respect to payment stablecoins, the CLARITY Act takes a nuanced position: the primary regulatory framework remains the GENIUS Act (OCC and banking agencies). However, when payment stablecoins are traded on or through entities registered with the SEC or CFTC, those agencies have limited anti-fraud and market integrity authority over those transactions. Importantly, the CLARITY Act amends the definition of "commodity" to explicitly exclude payment stablecoins from that category, and correspondingly excludes them from "security" status—reinforcing the GENIUS Act's own exclusions.

2.5 Registration Regimes for Digital Asset Intermediaries

The CLARITY Act creates new registration categories analogous to existing securities and derivatives market infrastructure, but adapted for digital assets. Key new registration categories include:

CLARITY Act Registration Category	Nearest Traditional Analogue
Digital Commodity Exchange (DCE)	Designated Contract Market (DCM) under CEA
Digital Commodity Broker	Futures Commission Merchant (FCM) or introducing broker
Digital Commodity Dealer	Registered swap dealer or dealer-broker
Qualified Digital Asset Custodian	Bank trust department or qualified custodian under Investment Advisers Act
Digital Commodity Pool Operator	Commodity Pool Operator (CPO)
Digital Commodity Trading Advisor	Commodity Trading Advisor (CTA)

Entities that currently serve as SEC-registered broker-dealers or national securities exchanges may, upon notification to (but not full registration with) the CFTC, engage in digital commodity activities on SEC-registered platforms, provided SEC and CFTC regulation is "consistent." This dual-access pathway allows traditional financial intermediaries to enter digital asset markets with reduced incremental regulatory burden.

2.6 Qualified Digital Asset Custodian Requirement

A critical provision for banking professionals: the CLARITY Act creates a new category of regulated entity—the Qualified Digital Asset Custodian (QDAC)—that may include:

- Banks with trust powers (chartered nationally or by states);
- OCC-chartered entities; and
- State-chartered entities subject to equivalent state regulation.

DCEs and digital commodity broker-dealers registered under the CLARITY Act must use QDACs for customer asset safekeeping. This creates a significant commercial opportunity for bank trust departments and creates a new entry point for traditional banking institutions into the digital asset custodian business. The CLARITY Act's Section 310 specifically addresses the treatment of custody activities by banking institutions, providing a statutory basis for IDIs and their subsidiaries to offer digital asset custody—though the primary authorization for on-balance-sheet custody activities at the IDI level derives from existing national bank powers under the National Bank Act and applicable state law, not from the BHCA amendment alone.

2.7 Blockchain System Maturity: The Jurisdictional Migration Mechanism

One of the CLARITY Act's most structurally significant innovations is the "blockchain maturity" standard, which governs both the regulatory status of a digital asset and the disclosure conditions under which it may be listed on a DCE. Understanding this mechanism requires clearly separating two questions that the original draft of this analysis conflated: (1) which assets are eligible to trade on a DCE, and (2) what disclosure regime applies to each.

2.7.1 DCE Listing Eligibility: A Two-Track Framework, Not a Mature-Only Requirement

Contrary to what a narrow reading of the maturity standard might suggest, CFTC-registered DCEs are not limited to listing only those digital commodities whose blockchains have been certified as mature. The CLARITY Act establishes two parallel listing tracks for DCEs:

- **Track 1 — Mature Blockchain Assets:** Digital commodities whose related blockchain has been certified as mature by the SEC may be listed on a DCE with standard pre-listing disclosures (source code, transaction history, and digital commodity economics) and are subject to the full CFTC commodity regulatory framework with no ongoing issuer reporting obligation beyond that applicable to market participants generally.
- **Track 2 — Immature Blockchain Assets:** Digital commodities whose related blockchain has not yet been certified as mature may also be listed on a CFTC-registered DCE, but only where the issuer complies with ongoing disclosure obligations—including semi-annual updates on the asset's development, source code, transaction history, and the issuer's plan and timeline for achieving blockchain maturity. These obligations continue until the blockchain achieves maturity certification.

The DCE itself bears pre-listing publication obligations for both tracks, including source code, transaction history, and digital commodity economics. New trading certifications become effective 20 days after filing unless the CFTC issues a disapproval requiring detailed analysis.

2.7.2 The Maturity Standard Defined

A "mature blockchain system" is defined as a blockchain system, together with its related digital commodity, that is not controlled by any person or group of persons under common control. The CLARITY Act identifies four affirmative criteria for maturity certification: (1) the system must be functional for executing transactions, accessing services, or participating in validation or decentralized governance; (2) the code must be open source; (3) the system must operate on pre-established, transparent rules; and (4) no single person or group may hold 20% or more of the tokens or otherwise exercise unilateral authority over the system's fundamental operation. Maturity is certified by the issuer to the SEC, and the SEC assesses the certification against these criteria.

2.7.3 Why This Determination Is Jurisdictionally Consequential

The maturity determination drives the SEC-to-CFTC jurisdictional migration that is central to the CLARITY Act's regulatory architecture. A digital commodity issued in connection with an investment contract (and thus initially subject to SEC jurisdiction as an investment contract asset) migrates to CFTC jurisdiction as a digital commodity once the underlying blockchain achieves maturity certification. This migration is consequential in three respects:

- **Regulatory regime shift:** Once certified as mature, the asset is no longer treated as a security for secondary market purposes; CFTC anti-fraud, anti-manipulation, and market integrity rules apply rather than SEC disclosure and registration requirements.
- **Issuer obligations:** Ongoing SEC-style periodic reporting obligations terminate upon maturity certification, replaced by the narrower, CFTC-framed disclosure obligations applicable to digital commodity issuers with ongoing material involvement in the blockchain system.
- **Competitive positioning:** The two-track DCE listing framework means that assets with immature blockchains are not excluded from CFTC-regulated markets—they simply carry a higher ongoing disclosure burden while their issuer works toward maturity certification. This creates a structured regulatory on-ramp for early-stage projects rather than an all-or-nothing eligibility gate.

Practical Implication: DCE Listing Strategy for Digital Asset Issuers

For issuers and their legal counsel, the two-track framework means that a DCE listing is available even before blockchain maturity is achieved—but the ongoing disclosure obligations under Track 2 are materially more burdensome than Track 1. Issuers should treat the maturity certification process as a regulatory milestone with commercial significance, analogous to the transition from Regulation A+ or Regulation D reporting to full Exchange Act reporting status—not as a binary eligibility gate for market access.

2.8 Bank Holding Company Act and Banking Institution Amendments

Section 312 of the CLARITY Act ("Digital commodity activities that are financial in nature") makes a targeted, three-part set of changes that banking professionals must understand with precision, because the three components operate at different levels of the banking organizational structure and derive from different statutory authorities.

First, and most narrowly, Section 312 amends BHCA § 4(k) to add digital commodity activities to the enumerated list of activities that are "financial in nature or incidental to a financial activity." This holding-company-level amendment authorizes financial holding companies (FHCs) and their non-bank subsidiaries—such as a separately chartered digital commodity broker or dealer—to engage in digital commodity activities. It is important to be precise here: a BHCA § 4(k) amendment expands the permissible activities of the holding company and its non-bank affiliates. It does not, by itself, enlarge the on-balance-sheet charter powers of the insured depository institution (IDI) sitting within the holding company structure. The charter powers of national banks are governed by the National Bank Act (12 U.S.C. §§ 24 and 92a); state bank powers are governed by state law and FDIA § 24 (12 U.S.C. § 1831a). A BHCA amendment alone does not alter either of those sources of authority.

Second, recognizing this structural limitation, Section 312 also addresses national bank powers directly: it provides that national banks may use digital assets or blockchain systems to conduct activities they are already legally authorized to perform. This is a technology-use clarification rather than a grant of new substantive powers—it confirms that employing blockchain technology as an operational method does not, by itself, trigger new regulatory requirements or forfeit existing exemptions. Notably, it does not grant national banks new principal powers to act as digital commodity dealers or exchanges on their own balance sheet.

Third, Section 312 extends parity to insured state banks: digital asset and blockchain activities that are authorized as principal activities for national banks under this provision are also permissible for insured state banks and their subsidiaries, subject to FDIC § 24 standards. This creates a technology-neutrality floor across the federal banking system but, again, operates within the constraint that new digital commodity dealing powers at the IDI level must still find a basis in existing or separately amended chartering statutes.

Practical Implication: The HoldCo/Bank Distinction Matters for Strategy

The BHCA § 4(k) amendment is valuable for holding companies wishing to establish non-bank subsidiaries (e.g., a separately capitalized digital commodity broker-dealer or dealer) that operate alongside—but legally separate from—the IDI. However, a bank that wishes to conduct digital commodity dealing directly on its own balance sheet, rather than through a holding company affiliate, must still identify authority under the National Bank Act or applicable state law. The OCC's existing interpretive authority (and any future OCC rulemaking under the CLARITY Act's implementation provisions) will be the critical determinant of on-balance-sheet IDI powers. Banks developing digital asset strategies should carefully distinguish between activities appropriately housed in a holding company non-bank subsidiary versus those that can be conducted within the bank itself.

Part III: How the Acts Interact—A Legislative Architecture Analysis

3.1 The Division of Labor: Issuance vs. Market

The most important interaction principle is the deliberate legislative division of labor between the two statutes. Congress enacted the GENIUS Act to govern the supply side of the stablecoin market—who may create payment stablecoins, how they must be backed, and what compliance obligations issuers must meet. The CLARITY Act governs the demand and trading side—how stablecoins (and other digital assets) flow through market infrastructure once they exist.

This division mirrors the structural separation in traditional financial markets between:

- Prudential banking regulation (how banks are capitalized, funded, and supervised) and
- Market structure regulation (how securities and derivatives are traded, cleared, and settled).

In traditional finance, the OCC charters and supervises a bank; the SEC oversees that bank's securities activities; and the CFTC oversees its derivatives activities. The GENIUS Act and CLARITY Act replicate this tripartite structure for digital assets.

The Legislative Architecture Analogy

Think of the GENIUS Act as the National Bank Act or FDIC Act equivalent for stablecoins—establishing who may operate in the space and under what conditions. Think of the CLARITY Act as the Securities Exchange Act of 1934 or the Commodity Exchange Act equivalent—establishing how instruments issued by those entities are traded in markets. Just as a bank must comply with both banking laws and securities laws when it underwrites or deals in securities, a stablecoin issuer under the GENIUS Act must also ensure its stablecoin is treated appropriately under the CLARITY Act framework.

3.2 Definitional Cross-References and Legal Coherence

The CLARITY Act directly incorporates and depends upon the GENIUS Act's definitional work. The CLARITY Act:

- Explicitly defines "permitted payment stablecoin" by cross-reference to the GENIUS Act, ensuring consistency;
- Excludes permitted payment stablecoins from the definition of "digital commodity" under the Commodity Exchange Act, reinforcing the GENIUS Act's exclusion of payment stablecoins from commodity classification;
- Excludes permitted payment stablecoins from the definition of "security" under the Securities Act and Securities Exchange Act, reinforcing the GENIUS Act's exclusion from securities classification; and
- Limits SEC and CFTC jurisdiction over payment stablecoin transactions to those occurring "on or with" registered entities, while leaving primary prudential regulation to banking agencies under the GENIUS Act.

This interlocking definitional structure creates a seamless legal classification: a payment stablecoin is neither a security nor a commodity, but it is subject to limited market integrity oversight when traded through regulated market infrastructure. This classification is more coherent than the pre-GENIUS/CLARITY environment, in which agencies disputed jurisdiction and market participants faced legal uncertainty.

3.3 Complementary Anti-Money Laundering Architecture

Both statutes adopt a consistent approach to AML/CFT compliance, extending Bank Secrecy Act obligations to new categories of digital asset market participants:

Entity Type	BSA Treatment Under Combined Framework
Payment stablecoin issuers (PPSIs)	"Financial institutions" under BSA (GENIUS Act, Sec. 4(a)(5)); full AML/CFT program obligations
Digital Commodity Exchanges (DCEs)	Subject to BSA as financial institutions (CLARITY Act, Sec. 110); AML/CFT program required
Digital Commodity Brokers and Dealers	Subject to BSA; AML/CFT program required (CLARITY Act)
Bank subsidiaries issuing stablecoins	Subject to BSA through parent bank and subsidiary; consolidated AML supervision
Foreign stablecoin issuers (GENIUS Act)	Must establish AML/CFT program equivalent to U.S. standards; U.S. registry with OCC

This architecture ensures that AML/CFT coverage extends across the entire stablecoin value chain—from issuance through distribution, trading, and ultimate redemption—with no regulatory gaps exploitable by bad actors. This is significantly more comprehensive than the pre-legislation environment, where AML obligations for stablecoin issuers were applied unevenly through informal guidance and enforcement actions.

3.4 Interplay on Stablecoin Yield: The Key Tension

The most significant and currently unresolved legislative tension between the two statutes concerns the prohibition on stablecoin yield. The GENIUS Act prohibits payment stablecoin issuers from paying interest, yield, or rewards to stablecoin holders in connection with holding the stablecoin. However, the GENIUS Act does not explicitly prohibit non-issuer intermediaries—such as cryptocurrency exchanges that distribute stablecoins to their customers—from offering yield or rewards on stablecoin balances.

This apparent gap has become the central contested issue in the CLARITY Act's Senate deliberations:

- The banking industry (JPMorgan, Bank of America, Wells Fargo, ABA, ICBA) argues that exchange-paid yield on stablecoins is economically equivalent to deposit interest, creates unfair competition with insured deposits, and risks massive deposit flight from banks to uninsured stablecoin platforms. The banking industry spent approximately \$56.7 million on lobbying in 2025 and is pushing for CLARITY Act amendments that would broadly prohibit yield on stablecoins regardless of who pays it.
- The cryptocurrency industry (Coinbase, Ripple Labs, a16z) argues that the GENIUS Act's restriction was intentionally limited to issuers, that exchange-paid rewards are not the same as issuer-paid interest, and that a broad prohibition would harm innovation, reduce competitiveness, and damage the U.S. stablecoin ecosystem. Coinbase publicly threatened to withdraw support for the CLARITY Act and lobbied aggressively against the banking industry's proposed amendment.
- The Senate Banking Committee postponed its January 2026 markup in response to the controversy over this specific issue. As of late February 2026, the White House was actively mediating between banking and crypto industry representatives, with a target compromise by March 1, 2026.

Unresolved Issue: Stablecoin Yield Loophole

This dispute is not merely technical. If unresolved, exchange-paid yield on stablecoins could represent a significant structural risk to bank deposit franchises. A platform offering 3.5% annually on USDC holdings (as Coinbase has effectively done) competes directly with bank savings accounts without being subject to FDIC insurance obligations, capital requirements, or the Community Reinvestment Act. Banks' concern is legitimate and analytically sound, even if resolution requires politically sensitive compromise.

3.5 Regulatory Objectives: Shared Policy Goals

Notwithstanding the unresolved yield dispute, the GENIUS Act and CLARITY Act share six core regulatory objectives that banking professionals should understand as the framework's underlying policy logic:

3.5.1 U.S. Dollar Dominance and Geopolitical Strategy

Both statutes are explicitly motivated by the goal of reinforcing the U.S. dollar's status as the global reserve currency. By requiring payment stablecoin reserves to consist primarily of U.S. Treasuries and dollar deposits, the GENIUS Act creates structural demand for U.S. government debt from a growing class of issuers. The CLARITY Act's market infrastructure provisions facilitate widespread adoption of dollar-denominated stablecoins in international payments, potentially crowding out euro-, yuan-, or other currency-denominated alternatives.

3.5.2 Consumer Protection Through Prudential Standards

Both statutes apply banking-style consumer protections to new entrants. The GENIUS Act's 100% reserve requirement, statutory segregation and insolvency priority, and monthly disclosure obligations protect stablecoin holders. The CLARITY Act's QDAC requirement, customer asset segregation rules, and anti-fraud authorities protect digital asset traders. Together, they create a coherent consumer protection framework that extends bank-analogous safeguards to the digital asset ecosystem.

3.5.3 Financial Stability and Systemic Risk Management

The GENIUS Act's Stablecoin Certification Review Committee (with Treasury, Federal Reserve, and FDIC participation) provides a systemic risk vetting mechanism for nonbank stablecoin issuers. The CLARITY Act's provisions for FSOC oversight of digital asset markets and the Federal Reserve's role in evaluating master account eligibility for new entities further integrate stablecoin regulation into the broader financial stability framework. Annual GENIUS Act reports to Congress and FSOC on stablecoin industry trends institutionalize ongoing systemic risk monitoring.

3.5.4 Regulatory Clarity to Foster Innovation

Both statutes explicitly reject the "regulation by enforcement" approach that characterized the prior regime. By establishing clear licensing pathways, defined regulatory boundaries, and administrative rulemaking processes with statutory timelines, both statutes create the regulatory predictability that institutional capital requires before committing to digital asset infrastructure investments.

3.5.5 Anti-Fragmentation: Federal-State Coordination

Both statutes acknowledge the existing patchwork of state digital asset regulation (including New York's BitLicense regime and California's Digital Financial Assets Law, which took effect July 1, 2025) while establishing federal floors that preempt inadequate state regimes. The GENIUS Act permits state regulation of smaller issuers (under \$10 billion) only where state regimes are "substantially similar" to the federal framework. This creates a cooperative federalism structure analogous to the OCC/state bank chartering framework, where states may regulate within federal parameters but may not set lower standards.

3.5.6 National Security and Illicit Finance Prevention

The GENIUS Act's technical capability requirement (freeze, seize, burn), OFAC compliance obligations, and Treasury enforcement mechanisms are designed to make payment stablecoins unusable for sanctions evasion and terrorism financing. The CLARITY Act's GAO and Treasury studies on foreign adversary participation in digital asset markets institutionalize ongoing national security monitoring of the digital asset ecosystem.

Part IV: Practical Implications for Banks and Financial Institutions

4.1 Strategic Options for Banks Under the GENIUS Act Framework

As of early 2026, the OCC has reported a significant increase in charter applications from entities seeking to engage in stablecoin-related activities. On December 12, 2025, the OCC issued conditional approvals for five national trust bank charter applications from entities primarily seeking to engage in stablecoin custody and issuance. Major U.S. banks are assessing the following strategic pathways:

4.1.1 Issuing Payment Stablecoins Through a Bank Subsidiary

The most straightforward pathway for established IDIs is to establish a subsidiary as a PPSI regulated by the bank's primary federal regulator (OCC, Federal Reserve, or FDIC). This pathway preserves consolidated supervision, leverages existing regulatory relationships, and positions the bank within the payment stablecoin ecosystem. Key implementation considerations include:

- Subsidiary capitalization and governance (the subsidiary must be adequately capitalized to manage operational and compliance risks of stablecoin issuance);
- Reserve management infrastructure (the subsidiary must establish systems to invest, monitor, and report on reserve assets in real time);
- Smart contract infrastructure (issuance, redemption, freeze, and burn functions must be technically implemented and auditable);
- Integration with existing AML/BSA infrastructure (CIP, transaction monitoring, SAR filing); and
- Redemption policy design (clear, publicly disclosed policies for how and when holders may redeem stablecoins for dollars).

4.1.2 Custodying Reserve Assets for Nonbank Issuers

Banks with strong custody capabilities are positioned to serve as custodians of reserve assets for nonbank PPSIs. The GENIUS Act explicitly limits custodial services for stablecoin reserves to entities subject to federal or state banking regulation. Given the scale of projected stablecoin issuance (market projections suggest the market could grow to over \$2 trillion), reserve custody represents a significant revenue opportunity for banks with robust institutional trust and custody infrastructure.

4.1.3 QDAC Services Under the CLARITY Act

The CLARITY Act's Qualified Digital Asset Custodian requirement creates a second, distinct custodial opportunity. Banks with trust powers may become QDACs for digital commodity exchanges and broker-dealers, providing compliant custody of customer digital assets (including digital commodities and stablecoins). This service is analogous to the "qualified custodian" services banks provide to SEC-registered investment advisers under the Investment Advisers Act, and represents a natural extension of existing institutional trust capabilities.

4.1.4 Participating as Digital Commodity Intermediaries Through Non-Bank Subsidiaries

The CLARITY Act's BHCA § 4(k) amendment authorizes financial holding companies to establish non-bank subsidiaries that engage in digital commodity activities as activities "financial in nature." This enables a bank holding company to charter a separately capitalized affiliate—such as a digital commodity broker-dealer or dealer—that operates alongside the IDI but as a distinct legal entity, leveraging existing securities and derivatives trading expertise. This holding-company-level pathway is the clearest route for banking organizations to enter digital commodity markets under the CLARITY Act framework. Whether national banks may additionally conduct digital commodity dealing directly on their own balance sheet as a principal activity remains subject to OCC interpretive authority under the National Bank Act; the CLARITY Act's technology-use clarification for national banks facilitates blockchain-enabled delivery of existing powers but does not independently grant new dealing powers at the IDI level.

4.2 Reserve Management: Banking Integration Requirements

The requirement that stablecoin reserves be held in specific categories of high-quality assets creates both commercial opportunity and practical constraint for the banking system:

4.2.1 Demand Deposits at IDIs: Wholesale Funding, Not Low-Cost Retail DDA

One of the permitted reserve asset categories is demand deposits at insured depository institutions. This means that a portion of stablecoin reserves may flow onto bank balance sheets as deposits, creating both a commercial opportunity and a set of risk management obligations that are frequently mischaracterized when viewed through a retail banking lens.

The critical analytical error to avoid is treating PPSI reserve deposits as analogous to a bank's retail demand deposit base. They are structurally different in almost every relevant dimension. PPSI reserve deposits are placed by large, sophisticated institutional counterparties — entities that manage 100% reserve portfolios on behalf of stablecoin holders and have a legal obligation to maximize the return on those reserves consistent with the GENIUS Act's permitted asset classes. Their behavior therefore resembles wholesale hot money more closely than stable retail DDA balances, for three compounding reasons:

- **Rate sensitivity:** PPSIs will demand rates competitive with the marginal yield on the alternative reserve assets available to them — principally overnight reverse repos and short-term Treasuries. As of early 2026, those instruments yield materially above zero. A bank seeking to attract PPSI reserve deposits must offer rates at or near these market benchmarks, compressing the net interest margin available on the relationship to a thin and volatile spread. The "low-cost funding" characterization that applies to a retail checking account does not apply here.
- **Non-operational classification for LCR purposes:** Under the Basel III liquidity coverage ratio framework (as implemented in the U.S. under 12 C.F.R. Part 249), deposits from financial institutions — which large PPSIs are likely to be classified as, given their BSA status as financial institutions under the GENIUS Act — are treated as non-operational wholesale funding. Non-operational financial institution deposits carry a 100% assumed outflow rate in the LCR stress scenario, meaning the receiving bank must hold HQLA dollar-for-dollar against the full deposit balance. This eliminates any funding efficiency benefit: the bank that books a \$5 billion PPSI reserve deposit must also hold \$5 billion in qualifying HQLA, generating no incremental lending capacity from the relationship.
- **Run-risk and concentration:** Stablecoin redemption events can propagate rapidly through the reserve deposit relationship. A PPSI facing mass redemptions will withdraw reserve deposits at the bank immediately and in full to fund redemption obligations — a behavioral profile that is categorically more volatile than even the most rate-sensitive retail deposit segment. The size of individual PPSI relationships is also likely to create deposit concentration exposures that require specific supervisory attention under existing concentration risk frameworks.

Reframing the Business Case: Service Fee Revenue, Not Spread Income

For banking professionals modeling the economics of PPSI reserve custody, the appropriate mental model is not the retail deposit franchise but rather the institutional custody and cash management business. The primary revenue driver is not net interest income on a low-cost deposit base — because the margin on near-risk-free-rate institutional deposits is thin and cyclically variable — but rather fee income: account maintenance, reporting, reserve certification support, intraday liquidity provision, transaction processing, and AML/compliance infrastructure services. This is a low-margin, high-volume, operationally intensive service business whose profitability is driven by scale, operational efficiency, and ancillary fee capture rather than spread. Banks that enter the PPSI reserve custody market expecting to fund their lending books cheaply are likely to be disappointed; banks that enter it as an extension of their existing institutional cash management and custody platform are better positioned to evaluate the opportunity accurately.

4.2.2 Short-Term Treasury Securities

The bulk of stablecoin reserves are likely to be held in short-term U.S. Treasuries (93-day or less original maturity). This creates substantial demand for short-duration Treasury instruments from a new class of institutional investors. Banks that serve as broker-dealers for Treasury transactions or that operate government securities desks may see increased order flow from stablecoin issuers managing reserve portfolios. The market impact of trillion-dollar stablecoin reserves invested in short-term Treasuries could influence yield dynamics at the short end of the curve.

4.2.3 Federal Reserve Balances

The GENIUS Act permits stablecoin reserve assets to include balances at Federal Reserve Banks. This raises the significant question of whether nonbank PPSIs should have access to Federal Reserve master accounts. The GENIUS Act explicitly states that nothing in the Act shall be construed as "expanding or contracting legal eligibility" for a Federal Reserve master account. Access to a master account would allow a nonbank PPSI to hold reserve balances directly at the Fed—a potentially significant competitive advantage over issuers that must hold reserves through commercial bank intermediaries. The Fed retains discretion over master account grants and has historically been cautious about extending access to nonbank entities.

Federal Reserve Master Account: The Critical Infrastructure Question

Whether nonbank PPSIs will obtain Federal Reserve master accounts is perhaps the most consequential unresolved implementation question for the banking industry. If the Fed extends master account access broadly, nonbank stablecoin issuers could effectively operate as narrow banks—holding reserves directly at the Fed, bypassing commercial banks as reserve intermediaries. If the Fed restricts access, nonbank issuers will be dependent on commercial banks for reserve holding, creating revenue opportunities for large banks with correspondent banking capabilities.

4.3 Payment System Integration: FedNow, ACH, and Wire Transfer Implications

The GENIUS Act's interoperability mandate (requiring regulators to establish technical standards in consultation with NIST) signals Congressional intent that payment stablecoins should eventually integrate with or operate alongside existing U.S. payment infrastructure. The practical implications for payment system architecture include:

4.3.1 FedNow Interoperability

FedNow, the Federal Reserve's instant payment service launched in July 2023, operates in real time with 24/7/365 availability and achieves finality within seconds. Payment stablecoins also operate on an essentially real-time basis on blockchain infrastructure. The technical challenge of interoperability is significant (different settlement mechanisms, different data formats, different counterparty identification systems), but the policy alignment is strong. The GENIUS Act's NIST interoperability standard process could ultimately result in technical specifications that allow stablecoin transactions to settle into FedNow or vice versa.

4.3.2 ACH Integration

The ACH network processes approximately \$80 trillion in annual transactions but typically requires one to two business days for settlement. Stablecoins offer near-instantaneous settlement, making them a potential competitor to ACH for time-sensitive payments. The likely near-term scenario is complementarity rather than competition: businesses may use stablecoins for immediate settlement of high-value transactions and retain ACH for routine, batch payroll and vendor payment processing. Banks participating in ACH as Originating Depository Financial Institutions (ODFIs) and Receiving Depository Financial Institutions (RDFIs) may see stablecoin-based payments gradually displace ACH volume in specific use cases.

4.3.3 Cross-Border Payment Transformation

The most immediate and commercially significant application of the GENIUS Act framework is cross-border payment. Current correspondent banking-based cross-border payments are slow (one to five days), expensive (average cost of 6-7% for remittances), and opaque (limited real-time tracking). Dollar-denominated stablecoins already provide much faster and cheaper cross-border value transfer on a de facto basis; the GENIUS Act creates a legal framework that makes this use case compliant for regulated financial institutions. Banks with large correspondent banking networks should model the potential revenue displacement from stablecoin-enabled cross-border payment disintermediation.

4.4 Capital, Liquidity, and Safety-and-Soundness Implications for Banks

4.4.1 Capital Treatment of Stablecoin Activities

The GENIUS Act and CLARITY Act leave capital adequacy requirements for stablecoin-related bank activities largely to existing regulatory capital frameworks (Basel III / Basel III endgame standards, as implemented by the Fed, OCC, and FDIC). A complete capital analysis requires addressing two distinct frameworks in parallel, because for the large banking organizations most likely to hold material stablecoin-related balance sheet exposures, the binding constraint may not be risk-based capital at all.

Risk-Based Capital: Favorable Treatment of Reserve Assets

Under the standardized approach to risk-weighted assets (RWA), the reserve asset classes permitted under the GENIUS Act receive highly favorable risk weights:

- U.S. Treasury securities and Federal Reserve balances: 0% RWA under the standardized approach. A bank-subsidiary PPSI holding \$10 billion in Treasuries as reserves generates zero risk-weighted capital requirement under Basel III standardized RWA.
- Short-term demand deposits at IDIs: 20% RWA, reflecting a short-term bank claim. This is the least favorable reserve asset category from a risk-based capital standpoint, though still low in absolute terms.
- Stablecoins held in custody: The GENIUS Act explicitly provides that banking agencies may not require IDIs to hold additional capital against stablecoins held in custody beyond that required to manage operational risk. This is favorable for bank custodians operating under the standardized approach to operational risk capital.
- Bank parent capital for subsidiary PPSI: Banks must factor the consolidated capital implications of a stablecoin-issuing subsidiary into their CCAR and ICAAP modeling, including stress scenarios for rapid redemption events. The subsidiary's assets and liabilities consolidate onto the parent's balance sheet for regulatory capital purposes.

Critical Gap in the Risk-Based Analysis: The Leverage Ratio as Binding Constraint

The favorable 0% risk weight for Treasuries and Fed balances is analytically incomplete for the institutions most likely to operate at material scale in the stablecoin market. The U.S. leverage ratio framework operates entirely independently of risk weights and imposes a dollar-for-dollar capital charge against total on-balance-sheet exposures regardless of asset quality. For Advanced Approaches bank holding companies (generally those with \$700 billion or more in total assets or \$10 trillion or more in assets under custody), the Supplementary Leverage Ratio (SLR) requires Tier 1 capital equal to at least 3% of total leverage exposure, with Global Systemically Important Banks (G-SIBs) subject to an additional SLR buffer of 2%, bringing the effective minimum to 5% at the holding company level and 6% at the IDI level. Critically, the SLR exposure measure includes on-balance-sheet assets at their full accounting value with no RWA adjustment. A \$10 billion Treasury portfolio held by a PPSI subsidiary consolidating into a G-SIB balance sheet increases the group's SLR exposure measure by \$10 billion dollar-for-dollar, requiring approximately \$500 million in additional Tier 1 capital (at the 5% effective minimum) irrespective of the 0% risk weight. For institutions at or near their SLR minimum, this dynamic means that large stablecoin reserve portfolios booked in a bank subsidiary are far less capital-efficient than the risk-based framework alone suggests. This has direct implications for the business case: the return on equity of supporting stablecoin reserve balances must be evaluated against the SLR capital cost, not merely against the zero risk-based capital requirement. Banks operating near SLR constraints may find it structurally more efficient to route stablecoin reserve custody through separately capitalized non-bank holding company affiliates, or to charge custodial fees that adequately price the leverage exposure cost.

The Tier 1 leverage ratio (applicable to all banking organizations, requiring Tier 1 capital of at least 4% of average total consolidated assets for well-capitalized IDIs) similarly imposes a balance-sheet-based charge, though its scope is narrower than the SLR's treatment of off-balance-sheet exposures. For mid-size banking organizations below the Advanced Approaches threshold, the Tier 1 leverage ratio rather than the SLR will be

the relevant leverage constraint, with the same analytical implication: a large Treasury reserve portfolio increases the denominator dollar-for-dollar.

- CLARITY Act provision for netting: The CLARITY Act directs banking agencies to develop capital requirements for financial institutions that address netting agreements involving digital assets, which may affect the capital treatment of digital asset derivatives and collateral arrangements—a provision whose interaction with the SLR exposure measure will require agency clarification, since standard bilateral netting agreements are recognized for SLR purposes only when they meet specific ISDA master agreement standards that may not yet apply to digital asset instruments.

4.4.2 Liquidity Risk Management

From a bank liquidity risk management perspective, stablecoin issuance (or holding stablecoin reserves) presents novel run-risk scenarios:

- Stablecoin redemption events: If a large stablecoin issuer faces a confidence crisis (similar to a bank run), redemptions may be extremely rapid and simultaneous, given the 24/7 availability of blockchain-based redemption. Bank reserve custodians and reserve asset managers must model scenarios in which an issuer faces mass redemption demands requiring immediate liquidation of Treasury positions.
- Intraday liquidity: Stablecoin transactions occur continuously (including on weekends and federal holidays), while most bank settlement infrastructure operates on business day schedules. This timing mismatch creates intraday liquidity demands that traditional liquidity management frameworks may not adequately capture.
- NSFR and LCR implications: As discussed in Section 4.2.1, PPSI reserve deposits placed by large institutional issuers are likely to be classified as non-operational wholesale deposits from financial institutions, carrying a 100% assumed outflow rate under the U.S. LCR rule. Under the NSFR, such deposits would receive 0% Available Stable Funding (ASF), meaning they cannot be used to fund less liquid assets without a corresponding NSFR shortfall. Formal supervisory guidance confirming this classification—and addressing edge cases such as smaller state-chartered PPSIs or deposits placed through intermediate custodians—has not yet been issued as of February 2026, and banks should engage proactively with their primary supervisors on the appropriate treatment before booking material reserve deposit volumes.

4.4.3 Community Reinvestment Act (CRA) Implications

The 2023 CRA modernization rules (which expanded CRA-eligible activities to include community development finance for digital financial services) may create pathways for banks to receive CRA credit for stablecoin-related activities that serve low- and moderate-income communities. For example, a bank that issues stablecoins used for low-cost remittances to underserved communities or that provides digital asset custody services to mission-driven CDFIs could potentially argue for CRA credit. This interaction between the GENIUS Act framework and CRA compliance has not been addressed in agency guidance as of February 2026.

Part V: Gaps, Ambiguities, and Areas of Tension

Despite the significant achievement these statutes represent, banking and finance professionals should be aware of the following areas where legal ambiguity, regulatory gaps, or policy tensions may create compliance uncertainty:

5.1 Stablecoin Yield: The Unresolved Structural Tension

As discussed in Section 3.4, the most commercially significant ambiguity concerns whether exchanges, affiliates, or third parties may effectively circumvent the GENIUS Act's prohibition on issuer-paid yield by offering stablecoin holders interest or rewards through separate arrangements. This gap creates:

- Competitive distortion between bank deposits (fully yield-eligible, FDIC-insured) and exchange-held stablecoins (potentially yield-eligible without FDIC insurance or banking regulation);
- Legal uncertainty for exchange operators who currently offer stablecoin rewards programs; and
- Regulatory risk that the CLARITY Act will be amended (or not enacted) in ways that change the competitive landscape materially.

5.2 Federal Reserve Master Account Access

The GENIUS Act's explicit neutrality on master account access—neither expanding nor contracting existing legal eligibility—leaves unresolved the question of whether nonbank PPSIs may obtain Fed master accounts. The Federal Reserve's 2022 master account guidelines established a tiered eligibility framework that is not easily mapped onto the new PPSI charter category. Until the Fed issues specific guidance on PPSI master account eligibility, significant uncertainty remains about the operational structure of nonbank issuers.

5.3 Foreign Issuer Reciprocity: Implementation Complexity

The GENIUS Act's foreign issuer regime requires Treasury to make "comparability" determinations regarding foreign regulatory regimes. As of early 2026, Treasury has issued an advance notice of proposed rulemaking (ANPRM) soliciting public input on this process, but no final comparability determinations have been made. This creates uncertainty for:

- U.S.-based digital asset platforms that currently list foreign stablecoins (particularly Tether/USDT, which is issued in the British Virgin Islands);
- Foreign banks that wish to issue USD-denominated stablecoins; and
- U.S. financial institutions that hold foreign stablecoin reserves or that provide custody services for foreign issuers.

5.4 DeFi Treatment Under the CLARITY Act

Decentralized Finance (DeFi) protocols present a fundamental challenge for the CLARITY Act's intermediary-focused registration framework. DeFi protocols may facilitate large volumes of digital commodity and stablecoin transactions without any centralized intermediary subject to registration. The CLARITY Act includes a general exclusion for "decentralized finance activities," but the scope of this exclusion—and the treatment of DeFi developers, validators, and smart contract operators—remains highly contested and is one of the key unresolved issues delaying Senate passage. This is important for banks because DeFi protocols are likely to be significant distribution channels for payment stablecoins.

5.5 CLARITY Act Status Uncertainty

Perhaps the most immediate practical uncertainty for banking professionals is the fact that the CLARITY Act has not yet been enacted. The Senate must navigate the stablecoin yield dispute, ethics amendments, DeFi scope issues, and committee jurisdictional questions before a final version can be sent to the President. If the CLARITY Act fails to advance before the November 2026 midterm elections, the next Congress would need to restart the process, potentially with different legislative priorities.

This creates asymmetric timing risk for financial institutions planning digital asset strategies:

- GENIUS Act implementation is proceeding on schedule (Treasury ANPRM published; OCC charter approvals issued; implementation regulations expected by early 2027);
- CLARITY Act market structure provisions—particularly QDAC requirements, the BHCA § 4(k) amendment authorizing holding company digital commodity activities, SEC/CFTC jurisdictional clarity, and DeFi scope—are not yet in effect and may not be for years; and
- Banks planning QDAC services or digital commodity trading may be relying on regulatory architecture that does not yet exist as law.

Part VI: Regulatory Guidance and Implementation Developments

6.1 Treasury Department

On September 19, 2025, the Department of the Treasury published an advance notice of proposed rulemaking (ANPRM) soliciting public comment on potential GENIUS Act implementing regulations. The ANPRM identified the following priority areas for regulatory guidance:

- Regulatory clarity on the scope of "payment stablecoin" and "permitted payment stablecoin issuer" definitions;
- Prohibitions on certain issuances and marketing claims;
- Bank Secrecy Act, AML, and sanctions obligations for PPSIs;
- The balance between federal oversight and state-level regulatory frameworks;
- Comparability determinations for foreign regulatory regimes; and
- Tax treatment of stablecoin transactions.

6.2 OCC

The OCC has been the most active federal banking regulator in the digital asset space throughout 2025, issuing a series of interpretive letters that progressively expanded the scope of permissible crypto-asset activities for national banks and federal savings associations, while also processing the first national trust bank charter applications targeting digital asset activities. Banking professionals should understand the precise scope and limits of each action, as the OCC's "no prior approval required" posture applies specifically to defined non-issuance activities at the bank level—and does not extend to subsidiary PPSI issuance, which remains subject to separate organizational and supervisory processes.

6.2.1 The Supervisory Non-Objection Rescission: Scope and Limits

The foundational OCC action of 2025 was the March 7 publication of Interpretive Letter 1183, which rescinded Interpretive Letter 1179 (November 2021). IL 1179 had required national banks and federal savings associations to notify their OCC supervisory office in advance of engaging in certain crypto-asset activities and to obtain written supervisory non-objection (SNO) before proceeding. IL 1183 eliminated this requirement for a specific, enumerated set of activities:

- Crypto-asset custody services: Holding keys associated with customer cryptocurrency, in both fiduciary and non-fiduciary capacities (originally authorized by IL 1170, July 2020);
- Holding stablecoin reserves: Accepting dollar deposits serving as 1:1 fiat-backed stablecoin reserves, subject to daily verification that reserve balances equal or exceed outstanding stablecoin issuance (originally authorized by IL 1172, September 2020); and
- Distributed ledger node activities and stablecoin payment facilitation: Acting as a node on a DLT network to verify payments, and using stablecoins to facilitate customer payment transactions on a blockchain, including issuance of a stablecoin for payment facilitation purposes followed by exchange for fiat currency (originally authorized by IL 1174, January 2021).

Critical Scope Limitation: What the SNO Rescission Does and Does Not Cover

The rescission of the SNO requirement under IL 1183 means that national banks may engage in the three enumerated activities above—custody, reserve holding for third-party issuers, and stablecoin-facilitated payments—without obtaining prior OCC approval or supervisory non-objection, provided they maintain appropriate risk management controls consistent with safe and sound banking practices. This is materially different from a representation that all stablecoin activities are approval-free. In particular: (1) **Subsidiary PPSI issuance:** A bank that wishes to establish a subsidiary as a PPSI to issue payment stablecoins at scale must follow the standard OCC operating subsidiary establishment process under 12 C.F.R. Part 5, Subpart E. This includes filing a notice or application with the OCC (depending on whether the activity is listed as pre-approved), receiving OCC non-objection, and satisfying applicable capital, governance, and risk management requirements before commencing stablecoin issuance through the subsidiary. The IL 1183 SNO rescission does not affect this process. (2) **Novel or materially expanded activities:** The OCC continues to expect banks to conduct thorough internal risk assessments before engaging in new or expanded crypto-asset activities, and examiners retain full supervisory authority to impose conditions or restrictions through the examination process. The absence of a formal pre-approval requirement does not eliminate supervisory engagement; it shifts the timing from ex ante approval to ongoing examination-based oversight. (3) **State-chartered IDIs:** IL 1183 applies only to OCC-supervised institutions. FDIC-supervised state nonmember banks remain subject to separate FDIC guidance, which as of early 2026 is under active revision following the FDIC's February 2025 release of its supervisory crypto correspondence and Acting Chair Travis Hill's public statement that the FDIC is reevaluating its approach to crypto-related activities.

6.2.2 Subsequent OCC Interpretive Letters: Expanding Permissible Bank-Level Activities

Following IL 1183, the OCC issued three additional interpretive letters expanding specific bank-level digital asset powers, each applicable without prior approval subject to appropriate risk controls:

- IL 1184 (May 7, 2025): National banks and federal savings associations may purchase and sell digital assets held in custody at the custodial customer's direction, and may outsource permissible digital asset activities—including custody and execution services—to third parties, subject to standard third-party risk management requirements under OCC Bulletin 2023-17.
- IL 1186 (November 18, 2025): National banks may hold limited amounts of crypto-assets as principal on balance sheet where reasonably necessary to pay blockchain network fees ("gas fees") for otherwise permissible activities, and may hold crypto-assets to test permissible platforms. Holdings must be kept de minimis relative to the bank's capital and limited to amounts necessary for reasonably foreseeable needs.
- IL 1188 (December 9, 2025): National banks may engage in riskless principal crypto-asset transactions—purchasing an asset from one counterparty for immediate resale to a second counterparty, with no net inventory position in normal circumstances—as part of the business of banking. This is analogous to OCC-recognized securities conduit lending and riskless principal brokerage activities in traditional markets.

6.2.3 National Trust Bank Charter Approvals

On December 12, 2025, the OCC issued conditional approvals for five applications to newly charter or convert existing institutions into national trust banks engaging primarily in digital asset activities. The proposed activities of these institutions include digital asset custody, settlement, clearing, transfer, escrow, staking, trade execution, brokerage, fiduciary and payment agent services, stablecoin issuance, and provision of reserve asset custody services to affiliated stablecoin issuers. Required Tier 1 capital for these institutions ranged from \$6.05 million to \$25 million, reflecting their limited-purpose, non-deposit-taking charters. The OCC has indicated its intent to process future applications on their merits within approximately 120 days of receipt of a complete application. Sidley Austin has reported that among the five approvals is a conditional approval for FMR LLC (the parent of Fidelity Investments) to convert its New York limited purpose trust company into a national trust bank.

These approvals are significant for two reasons: first, they confirm that the OCC's permissive interpretive posture extends to new charter grants, not merely existing bank activities; and second, they establish that stablecoin issuance as a proposed activity at the charter level passes OCC preliminary muster, though conditional approval is not a final charter grant and each institution must satisfy all conditions before commencing operations. OCC Comptroller Jonathan Gould has publicly stated that the OCC is "prepared to work swiftly to implement" the GENIUS Act framework and to put the agency's supervisory expectations "on a firmer legal foundation."—signaling continued regulatory openness to well-prepared applicants.

6.3 CFTC

Since August 2025, the CFTC (under Acting Chairman Caroline Pham) launched a 12-month "Crypto Sprint" to provide regulatory clarity for digital asset activities. Key CFTC developments relevant to the CLARITY Act and stablecoins include:

- The CFTC announced that spot digital assets were available for trading on at least one CFTC-registered designated contract market, a significant step toward implementing the CLARITY Act's market structure framework in advance of statutory enactment;
- CFTC staff issued no-action relief allowing futures commission merchants (FCMs) to accept non-securities digital assets—including payment stablecoins—as customer collateral, subject to specific conditions and notification requirements; and
- The CFTC established a CEO Innovation Council of 12 exchange members to advise on digital asset regulatory frameworks.

6.4 Federal Reserve

The Federal Reserve has been more cautious than the OCC and CFTC in its approach to digital assets and stablecoins. The Fed's primary public statement on the GENIUS Act has been through its participation in the Stablecoin Certification Review Committee, which is responsible for evaluating nonbank PPSI applications that involve non-financial public companies. The Fed's approach to master account access for PPSIs has not yet been publicly articulated through formal guidance, which represents a significant implementation gap.

6.5 Conference of State Bank Supervisors (CSBS) Guidance

In its comment letter on the Treasury ANPRM, the CSBS advocated for several key implementation positions that are relevant to banking professionals:

- Treasury should adopt a broad interpretation of the prohibition on issuer yield payments, including prohibiting affiliates and third parties from circumventing the ban;
- The comparability determination process for foreign issuers should be modeled on the Federal Reserve's comprehensive consolidated supervision assessment for foreign banking organizations;
- PPSIs should be confined to the statutorily defined stablecoin issuance business and should not be permitted to expand into additional financial activities—such as accepting unrelated deposits, making loans, or operating as a general-purpose payments intermediary—that would effectively constitute banking or remittance services beyond the GENIUS Act's defined issuance function. This position requires contextual explanation: the GENIUS Act itself explicitly provides that payment stablecoin issuance does not constitute 'money transmission' for federal purposes and does not constitute 'engaging in the business of banking' under the Bank Holding Company Act. Against that backdrop, the CSBS concern is not that issuance is money transmission—it is that PPSIs might seek to leverage the issuance charter to offer ancillary payment or deposit services that fall outside the issuance function as statutorily defined, thereby recreating the functional equivalent of money transmission or deposit-taking without the licensing and regulatory obligations those activities normally carry. The CSBS position is therefore best understood as advocating a narrow-bank model: PPSIs should issue stablecoins, hold reserves, and process redemptions—and nothing more; and
- State regulatory standards found to be "substantially similar" to the GENIUS Act should be assessed holistically, not provision-by-provision.

Conclusion: A New Era for Digital Finance

The GENIUS Act and CLARITY Act represent the most significant restructuring of U.S. financial regulatory architecture since Dodd-Frank. For banking and finance professionals, the key conclusions are:

- The GENIUS Act is law. Its reserve requirements, licensing regime, AML/CFT obligations, and consumer protection framework are binding on all entities that issue payment stablecoins for U.S. persons. Banks that wish to participate in the stablecoin market must structure their activities within this framework.
- The CLARITY Act is pending but significant. Its key provisions—QDAC requirements, the BHCA § 4(k) amendment enabling holding company non-bank subsidiaries to engage in digital commodity activities, jurisdictional clarity for SEC/CFTC, and DeFi treatment—are not yet law. Banks should engage in scenario planning for both the case where the CLARITY Act is enacted in 2026 and the case where it is delayed or substantially amended. Crucially, banks should also model the distinction between activities authorizable at the holding company level versus those requiring IDI-level charter authority.
- The stablecoin yield dispute is the most immediate commercial risk. If the CLARITY Act is ultimately amended to include a broad prohibition on all forms of stablecoin yield (including exchange-paid rewards), the competitive landscape for stablecoins relative to bank deposits will be significantly different from a world where such yield is permitted.
- Federal Reserve master account access is the most consequential structural question. The Fed's approach to master account grants for nonbank PPSIs will determine whether stablecoin issuers can operate as true narrow banks (holding reserves directly at the Fed) or must rely on commercial banks as reserve intermediaries—with significant implications for bank revenue from stablecoin-related services.
- Implementation is progressing. Treasury's ANPRM, OCC charter approvals, and CFTC no-action relief demonstrate that agencies are actively implementing the GENIUS Act framework. Banks should monitor agency rulemaking closely and submit comments on implementing regulations.
- The time to develop a stablecoin strategy is now. The GENIUS Act's 18-month implementation timeline (expiring approximately January 2027) means that institutions wishing to participate as PPSIs, reserve custodians, or digital asset intermediaries from day one must begin infrastructure investment, regulatory engagement, and organizational design immediately.

Final Thought for Banking Professionals

The GENIUS Act and CLARITY Act collectively define a new chapter in U.S. financial regulation. The legislation deliberately extends bank-analogous regulatory standards to the digital asset ecosystem—not to restrict innovation, but to channel it through the same prudential guardrails that have made the U.S. banking system resilient for generations. Banks that understand this framework deeply will be positioned to serve as the essential infrastructure layer for the stablecoin economy. Banks that ignore it may find themselves disintermediated by nimbler nonbank competitors operating within a framework banks helped design.

Sources and References

This analysis is based on the following primary and secondary sources:

GENIUS Act: S. 1582, 119th Congress (2025–2026); Congress.gov; White House Fact Sheet (July 18, 2025)

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Legal Analysis: Mayer Brown (July 18, 2025); Latham & Watkins (July 2025); Covington & Burling (July 2025); Sullivan & Cromwell (June 2025); Jones Day (July 2025); WilmerHale (July 2025); Arnold & Porter (August 2025); Grant Thornton (2025); American Action Forum (January 2026)

Status Tracking: Latham & Watkins U.S. Crypto Policy Tracker (updated February 2026); Elliptic Regulatory Affairs Blog (February 2026); K&L Gates Crypto in 2026 (January 2026)

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