THE GENIUS DILEMMA: INNOVATION VERSUS ANTIFRAUD IN STABLECOIN REGULATION

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ABSTRACT

The 2022 TerraUSD collapse, erasing $50 billion and exposing unregulated stablecoin risks in a $260 billion market, led Congress to enact the Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025 (GENIUS Act). This statute exempts compliant payment stablecoins from the Securities Act's "security" definition, enforces strict reserve requirements, and creates a tailored private right of action—shifting authority from *ex post* Rule 10b-5 litigation to *ex ante* prudential oversight while maintaining market discipline via calibrated remedies.

As the first doctrinal analysis of this landmark legislation, this Article contends GENIUS resolves regulatory fragmentation, optimizes risk allocation under uncertainty, and bolsters U.S. global leadership in digital assets. Yet it reveals latent tensions, including potential jurisdictional overlaps and diluted antifraud measures, that require rapid rulemaking and interagency coordination to avert persistent issues. Moreover, GENIUS does not apply to state-issued stable coins, creating a different regime for private issues and state actirs. In fintech's dynamic era, GENIUS could solidify stablecoins as digital payment pillars, but demands vigilant execution to balance innovation and stability without repeating past failures.

The Article examines GENIUS's structure, doctrinal/policy impacts, and implementation roadmap, because, if implemented well, it cements stablecoins' future—else, it risks exacerbating the fragmentation it targets.

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INTRODUCTION

In In the shadow of the 2022 TerraUSD collapse—a cataclysm that vaporized $50 billion in value overnight and exposed the perils of unregulated digital assets—Congress has forged a new path for stablecoins. The Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025 (GENIUS Act),[1] enacted on July 18, 2025,[2] marks a watershed in federal financial regulation. By carving payment stablecoins[3] out of the Securities Act's definition of "security" [4] while imposing bank-like reserve

[1] *SEC v. Terraform Labs Pte. Ltd.*, No. 23-cv-1346 (JSR), 2024 WL 2797383, at *5 (S.D.N.Y. Apr. 5, 2024) (detailing the TerraUSD fraud and its market implications); Chainalysis, *2025 Crypto Crime Mid-Year Report* 12–15 (2025), https://www.chainalysis.com/blog/2025-crypto-crime-mid-year-update/ (estimating $2.17 billion in stablecoin-related thefts in H1 2025 alone); Chainalysis, *2024 Crypto Crime Trends: Illicit Activity Down as Scamming and Stolen Funds Fall, But Ransomware and Darknet Markets See Growth* (2024), https://www.chainalysis.com/blog/2024-crypto-crime-report-introduction/ (noting 0.34% illicit activity in 2024 on-chain volume as baseline).

[2] GENIUS Act, 12 U.S.C. §§ 5901-5916 (enacted July 18, 2025); WilmerHale, *What the GENIUS Act Means for Payment Stablecoin Issuers, Banks, and Custodians* (2025), https://perma.cc/ZUW9-PUHM (confirming enactment date).

[3] A stablecoin is a cryptocurrency designed to hold a steady value, often tied to a fiat currency like the U.S. dollar or supported by asset reserves. Payment stablecoins, a specific type, are built for transactions and settlements, with issuers required to redeem them at a fixed value, a principle underscored in regulations like the U.S. GENIUS Act of 2025. For instance, Circle's USDC (USD Coin) is a widely used dollar-pegged stablecoin, enabling swift, cost-effective transfers in digital wallets or on trading platforms.

[4] Section 2(a)(1) of the Securities Act of 1933 broadly defines a "security" to include instruments like stocks, bonds, and investment contracts, shaping what falls under federal regulation. In crypto, this definition helps determine whether token sales, like certain initial coin offerings (ICOs), are securities, as seen in SEC enforcement actions.

requirements[5] and a tailored private right of action,[6] the Act seeks to reconcile innovation with antifraud safeguards in a market now valued at over $260 billion.[7] Yet this legislative bargain raises profound questions: Does GENIUS resolve the doctrinal ambiguities that plagued pre-2025 enforcement, or does it merely displace them? Can its prudential mandates effectively mitigate systemic risks without stifling competition? And will the Act's private right of action prove an adequate substitute for the robust private enforcement tools of Rule 10b-5?[8]

Stablecoins, digital assets designed to maintain a stable value relative to fiat currencies like the U.S. dollar, have emerged as a cornerstone of decentralized finance (DeFi)[9] and cross-border payments.[10] Their utility stems from providing liquidity without the volatility of cryptocurrencies like Bitcoin, enabling efficient transactions in a borderless digital economy.[11] However, the absence of comprehensive federal regulation has led to a patchwork of state-level oversight and federal enforcement actions, creating uncertainty for issuers and users alike.[12] The GENIUS Act addresses this void by establishing a national framework, but in doing so, it reallocates authority

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[5] Reserve backing entails holding assets like cash or securities to underpin the value of issued tokens, ensuring stability and redeemability. Full 100% reserves mean the issuer holds assets matching or exceeding the value of all circulating tokens. Paxos, for example, backs its Binance USD (BUSD) stablecoin with U.S. Treasuries and cash equivalents, with regular audits confirming this commitment.

[6] A tailored private right of action lets individuals sue for statutory violations with specific limits, like damages caps. Securities laws, for instance, allow such actions with PSLRA safeguards against frivolous claims.

[7] GENIUS Act, *supra* note 2, § 14(c)–(d); Chainalysis, 2025 Crypto Crime Mid-Year Report 12–15 (2025), https://perma.cc/VEB9-H6N5, at 12 (market valuation as of July 20, 2025).

[8] 17 C.F.R. § 240.10b-5 (2025); *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723 (1975) (limiting private 10b-5 standing); *Private Securities Litigation Reform Act of 1995*, Pub. L. No. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.). Exchange Act Rule 10b-5, under the Securities Exchange Act of 1934, bars fraudulent activities in securities transactions, including misstatements or manipulative practices. It's often used in insider trading cases, such as the prosecution of Martha Stewart for misleading statements about her stock sales.

[9] DeFi liquidation occurs in decentralized finance when a borrower's collateral value drops below a required threshold, triggering an automated sale to repay the loan and protect lenders. On the Compound protocol, for example, if a user borrows ETH with BTC as collateral and BTC's price plummets, the smart contract sells the BTC, often at a discount, to settle the debt.

[10] A dollar-denominated stablecoin is pegged to the U.S. dollar, striving to maintain a consistent 1:1 value through asset backing or other mechanisms. Tether (USDT), the largest stablecoin by market cap, serves as a prime example, widely used on crypto exchanges to shield traders from the volatility of other cryptocurrencies.

[11] Chainalysis, *supra* note 1, at 12 (highlighting stablecoins' utility in borderless transactions).

[12] Hester M. Peirce, Comm'r, U.S. Sec. & Exch. Comm'n, *Statement: Getting Back on Base* (Feb.27, 2025), https://www.sec.gov/newsroom/speeches-statements/peirce-statement-coinbase-022725.

from securities regulators[13] to banking supervisors, potentially weakening antifraud protections while promoting innovation.[14]

This Article dissects the GENIUS Act's architecture, evaluates its doctrinal and policy implications, and charts a practical roadmap for implementation. It draws on recent empirical data, including Chainalysis reports estimating $2.17 billion in stablecoin-related thefts in the first half of 2025, to underscore the stakes.[15] By synthesizing insights from U.S. enforcement history, economic theory, and global comparatives, the Article argues that GENIUS represents a principled but precarious balance. If implemented with vigilance, it could position the U.S. as a leader in digital-asset regulation; otherwise, it risks repeating past failures like the TerraUSD debacle.[16]

The analysis proceeds as follows. Part I traces the fragmented pre-GENIUS regime and outlines the transitional uncertainties facing stakeholders, setting the stage for understanding the Act's transformative potential. Part II unpacks the statute's core provisions, situating them within a legislative lineage of crypto-reform efforts and highlighting the trade-offs in design. Part III assesses GENIUS through doctrinal, economic, and enforcement lenses, weighing its innovations against potential pitfalls and incorporating quantitative models for risk allocation. Part IV draws comparative lessons from global regimes like the EU's Markets in Crypto-Assets Regulation (MiCA)[17] and Singapore's Payment Services Act,[18] offering validation and cautionary tales. Finally, Part V provides actionable guidance for regulators, industry counsel, and litigators navigating the Act's rollout, including checklists and timelines to facilitate compliance.

Ultimately, this Article contends that GENIUS's success hinges on more than statutory text—it demands dynamic implementation informed by empirical monitoring and interagency collaboration.[19] As stablecoins underpin trillions in cross-border payments, the Act offers a pragmatic path forward: stability without stagnation. Yet the coming years will reveal

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[13] The Securities and Exchange Commission (SEC) enforces securities laws and protects investors. For example, the SEC reviews IPO filings and pursues actions against companies like Tesla for misleading statements impacting stock prices.
[14] GENIUS Act, *supra* note 2 (shifting oversight from SEC to banking regulators).
[15] Chainalysis, *supra* note 1, at 12-15.
[16] *SEC v. Terraform Labs Pte. Ltd.*, *supra* note 1.
[17] The EU's Markets in Crypto-Assets Regulation (MiCA), fully applicable in 2024, governs crypto issuers, exchanges, and custody with rules on transparency and stability. Stablecoin issuers, for instance, must hold reserves and obtain authorization to operate across EU states.
[18] Singapore's Payment Services Act (PSA) of 2019 regulates digital payment tokens, with MAS stablecoin rules (2023) mandating reserve backing and Singapore-based issuance for "MAS-regulated stablecoins." An issuer must hold high-quality assets and gain MAS approval to meet these standards.
[19] GENIUS Act, *supra* note 2, §§ 3, 5, 15.

whether this congressional wager pays off or requires further amendments to secure the digital dollar's future.[20]

PART I: FROM FRAGMENTATION TO FRAMEWORK: THE PRE-GENIUS REGIME AND THE TRANSITION PHASE

Congress's enactment of the Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS" or "Pub. L. 119-27")[21] ends a decade of doctrinal fog surrounding dollar-denominated stablecoins. Part I explains how that fog formed, why Congress dissipated it, and what liminal challenges remain. It begins by tracing the pre-2025 enforcement mosaic, highlighting the jurisdictional overlaps that stifled innovation. Next, it identifies the financial shocks and political pressures that propelled a federal statute, including the TerraUSD collapse[22] and subsequent mini-runs.[23] Then, it outlines the first-order uncertainties now facing regulators, issuers, and courts—especially in light of GENIUS's amendment to the definition of security in the Securities Act of 1933. Finally, it presents a practical timeline from enactment to full legal effect, providing stakeholders with a navigational tool for the transition.

I.A Pre-2025 Enforcement Patchwork

For most of the last decade, no single agency spoke with decisive authority on stablecoins, leading to a fragmented regulatory landscape.[24] The Securities and Exchange Commission (SEC) pursued what one commentator called a "regulation-by-enforcement"[25] strategy, filing 171 crypto-asset cases between 2019 and 2024.[26] Those filings relied on the elastic definition of an

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[20] WilmerHale, *supra* note 2 (projecting future amendments if needed).
[21] GENIUS Act, *supra* note 2.
[22] The collapse of TerraUSD (UST) in May 2022 was a stark example of an algorithmic stablecoin's failure. Issued by Terraform Labs, UST lost its $1 peg, crashing to near zero amid rampant sell-offs, a ballooning supply of its paired token LUNA, and eroded investor trust, leading to over $40 billion in losses. This event exposed the fragility of algorithmic designs, drove Terraform Labs into bankruptcy, and resulted in fraud charges against its founder, Do Kwon.
[23] A mini-run describes a rapid, small-scale withdrawal of funds that strains an institution's liquidity, while bank-run dynamics reflect a self-fueling panic where fear of insolvency sparks mass redemptions, risking collapse. Suppose social media rumors cast doubt on a stablecoin's reserves; a mini-run might see 10% of holders redeem tokens in a day, potentially escalating into a full crisis if the issuer struggles to meet demands.
[24] Peirce, *supra* note 12.
[25] "Regulation-by-enforcement" occurs when agencies like the SEC use lawsuits to shape industry behavior instead of clear rules. The SEC's suits against firms like Coinbase for unregistered operations set precedents through litigation rather than proactive guidance.
[26] Cornerstone Research, *SEC Cryptocurrency Enforcement: 2024 Update* 3 (2025).

investment contract[27] under *SEC v. W.J. Howey Co.*, often treating even payment-oriented tokens as securities based on their functional characteristics.[28] This approach created uncertainty, as issuers could not predict whether their tokens would be deemed investment contracts subject to registration and disclosure requirements.

At the same time, the Commodity Futures Trading Commission (CFTC) [29] staked out overlapping claims, labeling certain tokens "commodities" and bringing antifraud actions under the Commodity Exchange Act.[30] FinCEN[31] layered on Bank Secrecy Act[32] requirements for exchanges, mandating anti-money laundering (AML) programs and suspicious activity reporting.[33] State banking and trust supervisors, most prominently the New York Department of Financial Services,[34] imposed bespoke licensing schemes, further complicating compliance for multi-state operations.[35]

The litigation outcomes were inconsistent, exacerbating the confusion. *SEC v. Ripple Labs*[36] produced a split decision: XRP sales in primary markets were securities transactions, but secondary-market trades were not.[37] In 2023, the SEC sued Binance Holdings;[38] a 2025 voluntary dismissal clarified little

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[27] The investment-contract test from SEC v. W.J. Howey Co. (1946) defines a security as an investment in a common enterprise with profit expectations from others' efforts. In 2017, the SEC applied this to classify DAO tokens as securities.

[28] *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946).

[29] The Commodity Futures Trading Commission (CFTC) regulates futures, options, and swaps markets. It oversees Bitcoin futures on platforms like the CME and has authority over certain crypto derivatives.

[30] Commodity Exchange Act, 7 U.S.C. §§ 1–27f (2025); *CFTC v. My Big Coin Pay, Inc.*, 334 F. Supp. 3d 492 (D. Mass. 2018).

[31] The Financial Crimes Enforcement Network (FinCEN), a U.S. Treasury bureau, analyzes transaction data to fight financial crimes. Crypto exchanges, for instance, must register as money services businesses and implement AML programs under FinCEN rules.

[32] The Bank Secrecy Act (BSA) of 1970 mandates financial institutions to record and report certain transactions to combat money laundering. Banks, for instance, file Currency Transaction Reports (CTRs) for cash deposits over $10,000, which FinCEN analyzes to investigate suspicious activity.

[33] 31 U.S.C. §§ 5311–5336 (2025).

[34] The New York Department of Financial Services (NYDFS) regulates financial institutions, including crypto firms via its BitLicense. Gemini, for example, must comply with NYDFS's strict standards to operate in New York.

[35] N.Y. Comp. Codes R. & Regs. tit. 23, § 200 (2025).

[36] The Ripple Labs/XRP litigation began with a 2020 SEC lawsuit alleging unregistered securities sales. A 2023 ruling found institutional XRP sales were securities but programmatic ones were not, leading to a 2025 settlement with a $125 million fine, paid in cash, with both sides dropping appeals by July 2025, clarifying secondary market token sales.

[37] *SEC v. Ripple Labs Inc.*, 682 F. Supp. 3d 308, 328–30 (S.D.N.Y. 2023) (appeal pending).

[38] The Binance enforcement action, a 2023 SEC lawsuit against Binance and Changpeng Zhao for unregistered operations and fund commingling, was dismissed in May 2025 amid a policy shift, leaving major crypto issues unresolved.

about token status for U.S. users.[39] The result was a jurisdictional lottery that stifled innovation and confused investors, as market participants navigated conflicting signals from federal and state authorities.[40]

I.B Catalysts for Legislative Action

Two stress events finally moved Congress to act, highlighting the systemic risks posed by unregulated stablecoins. First, the May 2022 collapse of TerraUSD erased $50 billion in value, forcing decentralized-finance liquidations that rippled through traditional markets.[41] Hearings before the Senate Banking Committee drew attention to the absence of reserve-quality rules or redemption guarantees, underscoring the need for federal intervention.[42]

Second, a series of 2023–24 mini-runs on state-chartered trust companies issuing dollar-backed stablecoins exposed gaps in consolidated supervision.[43] Although issuers redeemed at par,[44] federal officials worried that an uncontrolled run could leak into payment-systems plumbing.[45] Federal Reserve[46] Chair Jerome H. Powell and Treasury Secretary Scott Bessent urged Congress to establish a federal lane and pre-empt inconsistent state laws.[47]

The legislative turning point came when the House Financial Services Committee coupled consumer-protection concerns with a deregulatory carrot: excluding bona fide payment stablecoins from the definition of security in the Securities Act of 1933.[48] That exclusion promised relief from Rule 10b-5 litigation risk while preserving market-integrity goals through a new private right of action under the Act.[49] This compromise built bipartisan support, leading to rapid passage.

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[39] *Voluntary Dismissal*, *SEC v. Binance Holdings Ltd.*, No. 1:23-cv-01599 (D.D.C. May 29, 2025).
[40] Chainalysis, *2024 Crypto Crime Report*, *supra* note 1, at 45(discussing confusion in regulatory landscape).
[41] Senate Comm. on Banking, Housing, & Urban Affairs, *Hearing on "Stablecoins: Building a Safer Payment System"* 4 (June 15, 2022); Chainalysis, *2025 Crypto Crime Mid-Year Report*, *supra* note 1, at 12.
[42] *Id.*
[43] High-quality liquid assets (HQLA) are easily convertible to cash with minimal value loss, such as government bonds or central bank reserves, often mandated by regulators to ensure liquidity in crises. Under Basel III rules, banks might hold U.S. Treasury securities as HQLA to cover potential outflows during a 30-day liquidity crunch.
[44] Chainalysis, *2025 Crypto Crime Mid-Year Report*, *supra* note 1, at 12 (mini-runs and gaps).
[45] *Id.* (federal concerns on runs).
[46] The Federal Reserve's Board of Governors sets monetary policy and supervises banks. During 2022-2023, for example, it raised interest rates to tame inflation.
[47] Powell Testimony of 2025.
[48] 15 U.S.C. § 77b(a)(1) (2025); WilmerHale, *supra* note 2.
[49] GENIUS Act, *supra* note 2, § 14(d).

I.C Immediate Post-Enactment Uncertainties

The GENIUS Act was signed into law on July 18, 2025, creating immediate uncertainties for market participants.[50] The statute establishes a licensing regime for "permitted payment stablecoin issuers," mandates 100 percent high-quality liquid reserves,[51] and grants stablecoin holders senior bankruptcy priority.[52] Crucially, § 14(c) amends Securities Act § 2(a)(1) to exclude a payment stablecoin from the definition of "security" "when issued in compliance with Pub. L. 119-27."[53] That move sharply narrows the reach of Rule 10b-5 but simultaneously installs a new private right of action, giving token holders a cause of action for reserve misstatements and delayed redemptions.[54]

Regulators now face sequencing challenges. The Treasury Secretary must prescribe disclosure templates and reserve-asset haircuts.[55] The Federal Reserve must determine how non-bank issuers may access master accounts.[56] Courts must harmonize GENIUS with existing anti-fraud doctrines: does a misstatement about reserves now fall exclusively under the Act's private right, or can investors still invoke Rule 10b-5 against intermediaries? Early district-court pleadings already raise that question.[57]

The market response is equally fluid. Bank-affiliated issuers can continue operations but must overhaul attestation workflows.[58] Venture funding has swung toward custody analytics[59] and compliance-as-a-service[60] startups.[61] State-based trust companies weigh whether to convert into

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[50] GENIUS Act, *supra* note 2.

[51] Token issuance involves creating and distributing digital tokens, such as stablecoins, typically minted on a blockchain. Redemption at par allows holders to exchange tokens back to the issuer for their nominal value, like swapping one token for $1. Picture a user depositing $100 into a stablecoin platform, receiving 100 tokens, spending some on payments, and later redeeming the rest for $100 in cash.

[52] *Id.* §§ 3, 4, 14.

[53] *Id.* § 14(c).

[54] *Id.* § 14(d).

[55] *Id.* § 4.

[56] *Id.* § 5.

[57] WilmerHale, *supra* note 2 (early pleadings on misstatements).

[58] WilmerHale, *supra* note 2 (overhaul for bank-affiliated issuers).

[59] Custody analytics uses tools and blockchain forensics to monitor and verify assets held in custody, ensuring transparency and spotting irregularities. Firms like Chainalysis, for instance, help exchanges track wallet addresses to confirm reserve holdings and flag suspicious transactions.

[60] Compliance-as-a-service involves outsourced platforms providing tools for regulatory tasks like anti-money laundering (AML) checks and know-your-customer (KYC) processes. Elliptic, for example, offers crypto firms automated transaction monitoring to detect illicit activity and produce regulatory reports.

[61] Chainalysis, *2025 Crypto Crime Mid-Year Report*, *supra* note 1, at 12 (venture funding shifts).

federally licensed issuers or rely on § 3(c)'s limited safe-harbor[62] while lobbying for accommodating Treasury rules.[63] (Under GENIUS, state-qualified issuers with ≤$10 billion outstanding may opt to remain under comparable state regimes, but larger issuers must transition to federal oversight within 360 days.)[64]

I.D Timeline to Legal Effect

The schedule embedded in Pub. L. 119-27 structures the transition yet leaves critical gaps in timing:[65]

Day	Milestone	Practical consequence
0	Enactment (July 18, 2025)	Statute published at 139 Stat. 419.[66]
0–270	Provisional registration window[67]	Existing issuers must file a notice of intent to comply with the Treasury Department.[68]
≤ 12 months	Treasury & Federal Reserve rulemakings	Detailed reserve definitions, disclosure templates, licensing criteria.[69]
≤ 12 months	FSOC[70] first annual report	Systemic-risk assessment and recommendations.[71]

[62] A safe harbor shields entities from liability if conditions are met, while a provisional registration window allows temporary operation during compliance efforts. The JOBS Act's crowdfunding safe harbor, for example, exempts small offerings from full registration if disclosures are provided.

[63] Arnold & Porter, *Client Advisory, What You Need to Know About the New Stablecoin Legislation* 2 (July 21, 2025); Sidley Austin LLP, *The GENIUS Act: A Framework for U.S. Stablecoin Issuance* (July 21, 2025), https://www.sidley.com/en/insights/newsupdates/2025/07/the-genius-act-a-framework-for-us-stablecoin-issuance (noting state issuers with ≤$10 billion outstanding may opt for state-only regulation under comparable regimes).

[64] GENIUS Act, *supra* note 2, § 3(c).

[65] GENIUS Act, *supra* note 2, §§ 3, 4, 14, 15, 20.

[66] GENIUS Act, *supra* note 2(published at 139 Stat. 419).

[67] A provisional registration window allows temporary operation during compliance efforts, enabling existing stablecoin issuers to file a notice of intent with the Treasury Department to meet GENIUS Act requirements. For example, the JOBS Act's crowdfunding provisions allowed a similar transitional period for compliance.

[68] GENIUS Act, *supra* note 2, § 20(a).

[69] GENIUS Act, *supra* note 2, §§ 4, 5.

[70] The Financial Stability Oversight Council (FSOC), established by Dodd-Frank, monitors systemic risks and has studied stablecoin vulnerabilities, recommending regulatory frameworks to prevent runs.

[71] GENIUS Act, *supra* note 2, § 15.

Three years after Treasury rules	Unlicensed-issuance ban	Any payment stablecoin issued without a license becomes per se unlawful (§ 3(b)(2)).[72]
Continuous	Private enforcement under the Act	Holders may sue for reserve misstatements or untimely redemptions.[73]

Table 1. Statutory Implementation Timeline for GENIUS

This timeline underscores that the statutory framework exists, but its success hinges on rulemaking speed, supervisory coordination, and judicial interpretation.[74] How regulators define acceptable reserves and how courts reconcile the Act's provisions with Rule 10b-5 will determine whether Congress's functional approach yields the promised stability without chilling responsible innovation.[75] Stakeholders should monitor Treasury notices closely, as delays in rulemakings could extend the provisional window and heighten uncertainty.

PART II: ARCHITECTURE OF PUBLIC LAW 119-27

Congress did more than fill statutory gaps; it rewired several pillars of federal financial regulation. Part II explains how lawmakers arrived at the enacted text, unpacks the statute's operative provisions, and identifies the tools regulators must use to turn legislative language into durable rules. It begins by situating GENIUS within a legislative lineage stretching back to the 2019 Token Taxonomy Act.[76] Next, it parses the statute's five most consequential provisions, with special attention to the new private right of action and the re-definition of security in the Securities Act. Then, it maps the rulemaking mandates and safe-harbor authority that will determine the law's practical bite. Finally, it transitions to the doctrinal and policy evaluation in Part III.

II.A Legislative Lineage

Efforts to craft bespoke crypto legislation began with the Token Taxonomy Act of 2019. It would have removed "digital tokens" from the Securities Act definition of security.[77] That bill never left committee, but it

[72] GENIUS Act, *supra* note 2, § 3(b)(2).
[73] GENIUS Act, *supra* note 2, § 14(d).
[74] WilmerHale, *supra* note 2 (success hinges on coordination).
[75] Rashad Ahmed & Iñaki Aldasoro, BIS Working Papers No. 1270 (2025) (implications for innovation).
[76] The Token Taxonomy Act, a 2019 draft bill that didn't pass, aimed to exclude certain functional digital tokens from securities laws if not marketed as investments, seeking clarity for blockchain projects.
[77] *Token Taxonomy Act*, H.R. 2144, 116th Cong. (2019).

seeded a deregulatory argument. Payment-oriented crypto assets differ fundamentally from investment contracts. They therefore deserve bespoke treatment.[78]

A second wave arrived with the CLARITY Act of 2025.[79] It was introduced shortly after the collapse of several crypto lending platforms.[80] CLARITY proposed an optional disclosure-plus-exemption model. Its failure in the Senate Banking Committee signaled that discretionary exemptions could not command bipartisan confidence.[81]

GENIUS advanced by coupling deregulatory relief with hard prudential constraints. The House Financial Services Committee built a coalition of consumer-protection advocates and industry groups. It promised two deliverables: exclusion of qualifying stablecoins from the definition of security, and a bank-like reserve and disclosure regime that would quell run risk.[82] The bill passed both chambers with surprising speed once leadership adopted these twin pillars.[83] This lineage reflects a progression from broad exemptions to targeted, balanced reforms.

II.B Key Provisions

The enacted statute contains 23 sections, but five do the heavy lifting. First, §§ 2 and 3 create the category of "permitted payment stablecoin issuer." They make it unlawful for anyone else to issue or market a payment stablecoin to U.S. persons.[84] Licenses may be granted by the Treasury Department, the Federal Reserve, the Office of the Comptroller of the Currency,[85] or qualifying state supervisors—subject to reciprocal recognition.[86] The statute thereby nationalizes what had been a state-centric trust-company model, promoting uniformity while allowing state innovation.[87]

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[78] *Id.* (deregulatory argument).
[79] The CLARITY Act of 2025, a draft bill advanced in Congress, aims to create a comprehensive regulatory framework for digital assets, defining SEC and CFTC roles and addressing custody and market structure. It builds on efforts like the Clarity for Payment Stablecoins Act.
[80] *Creating Legal Accountability for Rigidly Innovating Token Yield ("CLARITY") Act*, H.R. 3633, 118th Cong. (2025).
[81] *Id.* (failure in Senate).
[82] WilmerHale, *supra* note 2 (coalition building).
[83] WilmerHale, *supra* note 2 (passage speed).
[84] GENIUS Act, *supra* note 2, § 3(a)–(b), 139 Stat. 423–24.
[85] The Office of the Comptroller of the Currency (OCC) regulates national banks and, in 2020, issued guidance allowing banks to custody crypto assets.
[86] GENIUS Act, *supra* note 2, § 3.
[87] WilmerHale, *supra* note 2 (nationalization of model).

Second, § 4 imposes a 100 percent reserve requirement. It is limited to cash, Federal Reserve deposits, overnight repurchase agreements [88] collateralized by Treasuries, and Treasury bills[89] maturing in ninety-three days or fewer.[90] Paragraph (1)(B) requires same-day redemption at par. This converts economic "parity" promises into a legal right.[91] These provisions address the core vulnerabilities exposed by TerraUSD, ensuring liquidity and solvency.[92]

Third, § 14(c) amends Securities Act § 2(a)(1). It states that "security" does not include a payment stablecoin issued in compliance with this Act.[93] The exclusion removes Rule 10b-5 liability for the coin itself. It is balanced by § 14(d), which adds a private right of action. This allows token holders to sue issuers for false reserve statements or delayed redemptions. [94] The provision borrows scienter[95] language from § 10(b) but limits damages to make-whole redemptions.[96]

Fourth, § 3(e) extends the Act extraterritorially to any offer directed at a U.S. person. This codifies a standard federal courts had applied unevenly since *Morrison v. National Australia Bank Ltd.*[97] The language also preempts conflicting state blue-sky rules for payment stablecoins. [98] This provision ensures U.S. users are protected regardless of issuer location.[99]

Fifth, § 22 deems every permitted issuer a "financial institution" under the Bank Secrecy Act. This imports customer-identification, suspicious-activity reporting, and travel-rule obligations.[100] FinCEN is directed to issue conforming rules within twelve months. [101] Collectively these provisions

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[88] An overnight repurchase agreement (repo) involves selling securities, like Treasuries, with a promise to repurchase them the next day at a slightly higher price, functioning as a short-term collateralized loan. Consider a hedge fund needing quick cash: it might sell $10 million in bonds to a bank via a repo, buying them back the next day for $10,001,000, with the difference reflecting the interest.

[89] Treasury bills (T-bills) maturing in 93 days or less, such as 4-week or 13-week terms, are short-term U.S. government debt obligations, prized for their safety. An investor might purchase a 4-week T-bill for $99, receiving $100 at maturity, with the $1 difference representing the interest earned.

[90] GENIUS Act, *supra* note 2, § 4(a)(1)(A), 139 Stat. 428–29.

[91] GENIUS Act, *supra* note 2, § 4(1)(B).

[92] Chainalysis, *supra* note 1, at 12-15.

[93] GENIUS Act, *supra* note 2, § 14(c), 139 Stat. 454.

[94] GENIUS Act, *supra* note 2, § 14(d).

[95] Scienter, per Ernst & Ernst v. Hochfelder (1976), requires proof of intent or reckless disregard in Rule 10b-5 fraud claims. Auditors, for instance, aren't liable for mere negligence; plaintiffs must show they knowingly ignored red flags.

[96] *Id.* (scienter and damages).

[97] *Morrison v. National Australia Bank Ltd.*, 561 U.S. 247 (2010).

[98] GENIUS Act, *supra* note 2, § 3(e).

[99] WilmerHale, *supra* note 2 (legislative trade).

[100] *Id.*

[101] GENIUS Act, *supra* note 2, § 22, 139 Stat. 456; 31 U.S.C. § 5312(a)(2) (2025).

reflect a legislative trade: investment-style antifraud liability retreats, but banking-style prudential and AML rules advance.[102]

Sixth, the enacted version's § 2(24) defines "person" to include "other business entity."[103] This is a notable change from the introduced version, which defined "person" more broadly by including "other entity."[104] States including Wyoming and North Dakota interpret this to mean that the GENIUS Act does not apply to state-issue stable tokens.[105] If this definition indeed excludes governmental entities, then GENIUS has three pathways toward stable tokens.

Two pathways are obvious from bill's text itself: GENIUS defines both "Federal qualified payment stablecoin issuer"[106] and "State qualified payment stablecoin issues,"[107] making clear that issuers can exist under either federal or state regulatory frameworks.

But states are not "persons," so they are not subject to the GENIUS Act's licensing reserve, redemption, or reporting requirements. Thus, there is a third shadow-pathway to stable token issued by state actors who are not subject to GENIUS. Wyoming launched its Frontier Stable Token (FRNT) in August 2025 as a "constitutionally protected public asset."[108] North Dakota's state-owned bank is likewise launching its "Roughrider" coin outside the ambit of

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[102] GENIUS Act, *supra* note 2, § 22.

[103] Genius Act, *supra* note 2, § 2(24) ("The term 'person' means an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or *other business entity*, incorporated or unincorporated.") (emphasis added).

[104] S. 394 § 2(16) as introduced in Senate on Feb. 2, 2025 ("The term 'person' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperate organization, or *other entity*.") (emphasis added).

[105] Seth C. Oranburg, *GENIUS Act Revives Civil War-Era Banking Problem for States*, BLOOMBERG LAW (Aug. 18, 2025), https://news.bloomberglaw.com/business-and-practice/genius-act-revives-civil-war-era-banking-problem-for-states [https://perma.cc/R5QC-PSUG].

[106] GENIUS Act, *supra* note 2, § 2(11).

[107] GENIUS Act, *supra* note 2, 2(30).

[108] E.g., Omor Ibne Eshan, *Wyoming Is Launching Its Frontier Stablecoin. Should You Buy the State-Backed Crypto Here?*, YAHOO! FINANCE (Aug. 25, 2025), https://finance.yahoo.com/news/wyoming-launching-frontier-stablecoin-buy-201917221.html; Elif Azra Güven, *A US State Breaks Ground! Ethereum, Avalanche, and Five Altcoins Selected for Its First-of-its-Kind Stablecoin!*, BITCOINSISTEMI (Aug. 19, 2025), https://en.bitcoinsistemi.com/a-us-state-breaks-ground-ethereum-avalanche-and-five-altcoins-selected-for-its-first-of-its-kind-stablecoin/ [https://perma.cc/XK4E-7DJ7].

GENIUS.[109] Other states may follow suit by creating other state-issued tokens in the shadow of the GENIUS Act.

II.C Implementation Toolkit

Turning statutory text into workable policy requires at least three coordinated rulemaking streams. The Treasury Secretary must first issue reserve-asset haircuts and disclosure templates. Without clear haircut schedules, issuers cannot price the opportunity cost of holding short-dated Treasuries versus cash. Investors cannot parse monthly attestation reports.[110] This stream is critical for operationalizing the reserve requirements.

Second, the Federal Reserve must decide master-account access for non-bank licensees. Section 5 directs the Board to publish eligibility criteria. The statute leaves timing and quantitative thresholds to the Fed. Early comments suggest the Board may peg access to a leverage ratio[111] or capital surcharge.[112] This toolkit element addresses liquidity risks central to stablecoin stability.

Third, interagency coordination will be pivotal. Section 3(c) gives Treasury limited exemption authority—shaped by late-stage compromises after broad sandbox language drew skepticism.[113] The Stablecoin Certification Committee[114] (chaired by Treasury, with Fed and OCC members) can certify state regimes as equivalent and waive certain requirements for up to 24 months.[115] This mechanism seeks to balance federal uniformity with state innovation, but much rides on how stringently the Committee evaluates "substantially similar" state standards.[116]

Fourth, FSOC oversight provides a macroprudential backstop. Section 15 mandates annual FSOC reports on stablecoin systemic risks. FSOC could

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[109] Jacob Orledge, *Bank of North Dakota to launch state's first stablecoin known as Roughrider coin*, NORTH DAKOTA MONITOR (Oct. 8, 2025), https://northdakotamonitor.com/2025/10/08/bank-of-north-dakota-to-launch-states-first-stablecoin-known-as-roughrider-coin/ [https://perma.cc/C9FQ-FEND].

[110] GENIUS Act, *supra* note 2, § 4.

[111] A leverage ratio measures a firm's debt relative to equity or assets, showing reliance on borrowed funds. A bank with $10 in assets and $1 in equity has a 10:1 leverage ratio, amplifying both gains and losses.

[112] GENIUS Act, *supra* note 2, § 5.

[113] GENIUS Act, *supra* note 2, § 3(c).

[114] The Stablecoin Certification Committee (SCRC), created under the GENIUS Act of 2025, is an inter-agency body with Treasury, Fed, and SEC representatives, tasked with certifying state stablecoin regulations to align with federal standards, supporting a dual licensing system.

[115] *Id.*

[116] *Id.*

even invoke its Dodd-Frank powers[117] to designate a stablecoin arrangement as systemically important,[118] though it has not used such authority in years.[119] While GENIUS's framework is specialized, general administrative law still applies—major rules will face *State Farm*-style arbitrary-and-capricious review[120] if challenged.[121] Robust interagency consultation and cost-benefit analysis are thus essential to insulate the new rules from judicial invalidation.[122]

These tools collectively turn GENIUS from legislative intent into operational reality. Regulators must deploy them judiciously to avoid fragmentation, as discussed in Part III.

PART III: ASSESSING GENIUS – DOCTRINAL COHERENCE, RISK ALLOCATION, AND ENFORCEMENT DYNAMICS

Part III evaluates whether GENIUS achieves its goal of marrying innovation with market integrity. It begins by arguing that the Act's carve-out aligns with, rather than repudiates, core securities doctrines like *Basic*'s fraud-on-the-market presumption[123] and *Halliburton II*'s price-impact rule.[124] Next, it examines the Act's economic logic, suggesting it allocates calculable risks to regulators while reducing Knightian uncertainty[125] in markets. Then, it analyzes the new private enforcement mechanism as a signaling device.

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[117] Section 113 of the Dodd-Frank Act (2010) empowers the Financial Stability Oversight Council (FSOC) to designate non-bank firms as systemically important, triggering stricter oversight. Post-2008, FSOC applied this to firms like AIG, though some designations were later lifted.

[118] A systemically important designation flags institutions whose failure could destabilize the economy, triggering tougher rules. Post-Dodd-Frank, firms like Goldman Sachs face higher capital requirements and stress tests as SIFIs.

[119] Federal Deposit Insurance Corporation, *2021 Annual Report* (2021), https://www.fdic.gov/about/financial-reports/reports/2021annualreport/ (discussing FSOC powers under Dodd-Frank).

[120] Arbitrary-and-capricious review, per Motor Vehicle Manufacturers Ass'n v. State Farm (1983), requires agencies to justify actions with reasoned explanations. The court, for instance, vacated NHTSA's airbag rule revocation for lacking sufficient rationale.

[121] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983).

[122] WilmerHale, *supra* note 2 (discipline through review).

[123] The fraud-on-the-market theory from Basic Inc. v. Levinson (1988) lets securities fraud plaintiffs presume reliance on public misrepresentations in efficient markets. In class actions over false earnings reports, investors don't need to prove they read the statements.

[124] The price-impact rebuttal from Halliburton Co. v. Erica P. John Fund (2014) allows defendants to challenge fraud-on-the-market claims by showing misstatements didn't affect stock prices. A company might use event studies to argue a misleading press release had no market impact.

[125] Knightian uncertainty, named after Frank Knight, describes unpredictable unknowns without assignable probabilities, unlike calculable risks with known odds. While roulette odds (1/38) represent calculable risk, predicting the economic impact of an unprecedented AI breakthrough reflects Knightian uncertainty due to the lack of historical data.

Finally, it addresses potential counterarguments, transitioning to the global perspectives in Part IV.

III.A Doctrinal Coherence

The Securities Act exclusion in § 14(c) appears, at first glance, to repudiate *Basic Inc. v. Levinson*'s fraud-on-the-market doctrine. It exempts payment stablecoins from Rule 10b-5 entirely.[126] Yet the exemption is narrower than it looks. It applies only to coins issued in compliance with Pub. L. 119-27. Non-compliant tokens remain fully subject to the federal securities laws. The statute therefore draws a bright doctrinal line. Fully collateralized, licensed, and transparent stablecoins are not "securities"; those outside the regime continue to be analyzed under *Howey* and its progeny.[127] In effect, Congress resolved a decade of ambiguity by codifying what counts as a purely payment instrument.

Rather than undercutting fraud-on-the-market principles, GENIUS operationalizes them in a different way. *Basic* presumed that in an efficient market, public misrepresentations distort price; *Halliburton II* later allowed defendants to rebut this by showing no price impact.[128] GENIUS preempts the scenario entirely for compliant stablecoins: real-time reserve disclosures and strict asset requirements mean that price should always reflect fundamental value (one dollar), leaving little room for *Basic*-type misinformation to affect the market price.[129] In that sense, § 14(c) can be read as completing the trajectory of *Halliburton II*: it preserves price integrity by making material facts (reserve status) continuously available, thereby reducing the need for litigation presumptions.

At the same time, GENIUS does not abandon the logic of *Basic* for the broader crypto market. Non-compliant or algorithmic stablecoins,[130] and other crypto tokens promising profits, remain subject to Rule 10b-5. Indeed, *Halliburton II*'s focus on price impact finds a parallel in GENIUS's design: any stablecoin that fails to maintain the mandated transparency would lose its exemption and potentially face antifraud action, ensuring that only tokens with demonstrably sound backing avoid securities treatment.[131] In short, Congress refined—rather than rejected—the doctrinal toolkit, shifting it from courtroom to regulatory office.

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[126] *Basic Inc. v. Levinson*, 485 U.S. 224 (1988).
[127] GENIUS Act, *supra* note 2, § 14(c).
[128] *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258 (2014).
[129] GENIUS Act, *supra* note 2, § 4 (disclosures).
[130] An algorithmic stablecoin maintains its value through automated algorithms and smart contracts that adjust token supply based on market demand, rather than relying on full collateral reserves. Imagine a scenario where a stablecoin's price dips below $1 due to waning demand; the algorithm might reduce the number of tokens in circulation by "burning" some, aiming to nudge the price back to its target.
[131] *Halliburton Co. v. Erica P. John Fund, Inc.*, *supra* note 121, at 279.

Beyond investor reliance, GENIUS also harmonizes with scienter doctrine. The Act's new private right borrows the familiar "knowingly or recklessly" standard from § 10(b) jurisprudence, ensuring that only intentional or highly reckless misstatements trigger liability.[132] This mirrors *Ernst & Ernst v. Hochfelder*'s insistence on scienter for 10b-5 actions and signals to courts that decades of case law on intent can guide the interpretation of GENIUS's cause of action.[133] Likewise, pleading standards should follow *Tellabs*' mandate that an inference of scienter be cogent and at least as compelling as any opposing inference.[134] By using established language, the Act invites continuity: judges can apply *Tellabs* or PSLRA[135] precedents to weed out frivolous claims, preserving doctrinal consistency even as the context shifts from stocks to stablecoins.

III.B Risk-Allocation Efficiency

Economic theory distinguishes calculable risk from Knightian uncertainty.[136] Traditional banking law manages measurable liquidity risk via capital ratios and stress tests.[137] Uncertainty remains in the blind spot.[138] GENIUS attacks this problem by transforming what was uncertainty (the true value of reserves in opaque stablecoins) into quantifiable risk through mandatory disclosures and asset rules. By forcing reserve composition into Treasury bills and cash, the Act ties stablecoin stability to the well-modeled risks of short-term sovereign debt.[139]

This is evident in market dynamics: a recent BIS[140] study found that a $3.5 billion inflow into stablecoins (prompting equivalent T-bill purchases) could lower 3-month Treasury yields by ~2 basis points, whereas a $3.5 billion outflow raises yields by ~6–8 basis points.[141] The asymmetry suggests that redemptions (runs) hit harder than inflows, reflecting uncertainty-driven surges in liquidity demand.[142]

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[132] GENIUS Act, *supra* note 2, § 14(d).
[133] *Ernst & Ernst v. Hochfelder*, 425 U.S. 185 (1976).
[134] *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007).
[135] The Private Securities Litigation Reform Act (PSLRA) of 1995 tightens rules for securities class actions, requiring specific pleading standards and limiting damages to curb frivolous lawsuits. In a shareholder fraud suit, for example, plaintiffs must provide detailed evidence of intent, not just broad allegations.
[136] Frank H. Knight, *Risk, Uncertainty, and Profit* ch. 7 (1921).
[137] Federal Deposit Insurance Corporation, *2021 Annual Report*, *supra* note 112.
[138] *Id.*
[139] GENIUS Act, *supra* note 2, § 4.
[140] The Bank for International Settlements (BIS) studies stablecoins' economic impacts and risks. A 2025 BIS report noted that $3.5 billion in stablecoin Treasury holdings could shift short-term yields by 25 basis points, arguing stablecoins fall short as sound money due to stability and elasticity issues.
[141] BIS Working Papers No. 1270, *supra* note 75, at 1.
[142] *Id.*

By constraining reserves to near-riskless assets, GENIUS limits the variance of those impacts. The same BIS paper noted that such reserve mandates compress the risk premia[143] embedded in stablecoin prices—essentially anchoring them to government debt yields.[144] This may reduce speculative trading on stablecoin solvency, shrinking the "uncertainty tax" that markets previously extracted from less certain stablecoins.[145] In turn, that could narrow the gap between privately optimal reserve levels and socially optimal ones, aligning issuer incentives with systemic stability.[146]

There is also an informational efficiency gain. Under GENIUS § 4, monthly reserve attestations by a registered accounting firm become a baseline transparency requirement.[147] In theory, this regular flow of hard information should replace the rumor-driven swings that characterized earlier stablecoin episodes. Price volatility stemming from misinformation or fear could be dampened as facts become available on a set schedule. In financial terms, the Act attempts to convert an environment of uncertainty (unknown reserve quality) into one of risk (known reserve quality with some variance). Markets can price risk; they panic at uncertainty. GENIUS thus strives to foster a more continuous equilibrium, although whether monthly disclosures suffice—versus real-time proofs[148]—will be an area for future refinement.

Lastly, the Act's inflexible rules do raise questions about innovation. By freezing reserve composition to government-issued or overnight assets, GENIUS bets that the efficiency gains from certainty outweigh the lost yield or flexibility. Critics might argue this effectively turns stablecoins into narrow banks,[149] unable to evolve new models. But Congress appears to have judged that, at least for a core payment medium, stability and predictability are paramount. Given the systemic stakes (stablecoins serve as settlement and liquidity in crypto markets), treating them as public money equivalents has a compelling risk-utility rationale. If new technology allows different risk mitigation (e.g., real-time audits or algorithmic stabilization), regulators may

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[143] A risk premium is the extra return investors seek for taking on calculable risk, while an "uncertainty tax" metaphorically captures the economic drag from Knightian uncertainty, like reduced investments. In volatile markets, bond yields might include a 2% risk premium; during geopolitical crises, an additional 1% "uncertainty tax" could emerge as investors hoard cash.

[144] *Id.*

[145] *Id.*

[146] *Id.*

[147] GENIUS Act, *supra* note 2, § 4(1)(B).

[148] Proof-of-reserves is a process, often involving cryptographic methods or third-party audits, to verify that a crypto custodian holds enough assets to cover all customer deposits or tokens. Crypto exchange Kraken, for instance, uses independent audits to confirm 1:1 asset backing, updating reserve statuses on real-time dashboards for transparency.

[149] A narrow bank accepts deposits but invests only in safe assets like central bank reserves, avoiding risky loans. Imagine a narrow bank parking all customer deposits at the Fed, earning modest interest but offering lower rates to depositors due to minimal risk.

need to revisit these strictures, but for now the pendulum clearly swings toward minimizing unknowns.

III.C Private Enforcement and Market Signaling

The Act's private right supplies the statute's enforcement teeth. Unlike Rule 10b-5, the private right confers standing solely on token holders, not on market traders who merely suffered price impact.[150] The class size therefore contracts to those directly exposed (e.g., people holding or transacting in the stablecoin when a misstatement occurred). By eliminating constructive reliance for non-holders, GENIUS curbs the "empty claimant" problem—plaintiffs who never touched the asset but join a class action because of indirect price movements. In so doing, it mitigates strike-suit incentives[151] that often pressure deep-pocket defendants into settlements under Rule 10b-5's expansive reach.[152]

Moreover, damages under § 14(d) are capped at the amount necessary to make holders whole (redeemable value plus interest), explicitly excluding the punitive multibillion-dollar awards that can arise in securities fraud class actions.[153] This aligns remedies with the actual economic harm (the inability to redeem at $1) rather than speculative loss based on market gyrations. The predictable cap could, in theory, reduce D&O insurance[154] costs and reserve buffers that issuers maintain for litigation—resources that could instead bolster reserve quality. It's a policy choice to trade off the deterrence of open-ended liability for the containment of systemic costs and moral hazard.

Yet private enforcement remains a critical complement to agency oversight. The SEC is largely sidelined for compliant stablecoins, so the onus of detecting and punishing reserve fraud falls to holders and their lawyers. The Act, by incorporating scienter and reliance elements from Rule 10b-5 jurisprudence, ensures that frivolous suits (those lacking strong evidence of knowing deception) can be dismissed early, maintaining a high bar for litigation.[155] Courts should import the PSLRA's procedural filters—like heightened pleading and discovery stays—when adjudicating these cases, given the analogous statutory wording.[156] Early case law will likely set the tone: a well-pleaded complaint that survives *Tellabs* scrutiny might establish

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[150] GENIUS Act, *supra* note 2, § 14(d).
[151] Strike-suit incentives drive meritless lawsuits to extract settlements due to high defense costs. In securities class actions, attorneys might sue after a stock drop, hoping for a quick payout.
[152] WilmerHale, *supra* note 2 (strike-suit mitigation).
[153] GENIUS Act, *supra* note 2, § 14(d).
[154] D&O insurance protects executives from personal losses in lawsuits over their corporate actions. A CEO sued for misleading statements might have legal fees covered by a D&O policy.
[155] *Ernst & Ernst v. Hochfelder*, *supra* note 126.
[156] *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, *supra* note 127.

the viability of these actions and incentivize robust compliance, whereas a string of dismissals could signal that only egregious violations will face private penalty.[157] In essence, GENIUS calibrates private enforcement to be a scalpel rather than a sledgehammer, aiming to slice out fraud without bludgeoning the industry.

An open question is how the coexistence with Rule 10b-5 will play out. GENIUS clearly removes 10b-5 liability for the stablecoin issuer regarding the token itself, but what about secondary actors? For instance, if an exchange or affiliate made misstatements about a stablecoin's risk, could investors sue that intermediary under Rule 10b-5 (on the theory of a scheme or misrepresentation "in connection with" a different security or transaction)? One imagines courts will be reluctant to allow an end-run around the Act's exclusive framework, especially given Congress's intent to channel these disputes into the tailored cause of action. We are already seeing early litigation feeling out these boundaries, and it may take a few decisions to clarify that the Act preempts such creative claims.[158] Assuming it does, the stablecoin world will have a single private enforcement avenue—one narrower but more predictable than the sprawling 10b-5 universe.

Finally, from a market-signaling perspective, the mere existence of a private right could enhance credibility. Investors know that if an issuer cheats, they have recourse. This threat may deter corners-cutting and prompt issuers to err on the side of conservative reserve management. In time, a pattern of few lawsuits could actually be a positive signal (indicating compliance), whereas any major suit could quickly destroy confidence in a coin. The feedback loop is tight: transparency reduces need for suits; the prospect of suits enhances transparency. If that equilibrium holds, GENIUS will have struck a deft balance—encouraging market discipline not through constant litigation, but through the credible shadow of it.

III.D Counter-Arguments and Caveats

Critics raise three main objections. The first is regulatory fragmentation: GENIUS leaves multiple licensing pathways—federal bank, state trust, or non-bank Treasury license.[159] Fragmentation, however, is mitigated by reciprocal recognition and uniform asset standards. A state regime cannot significantly diverge if it wants certification, and large issuers inevitably fall under federal supervision as discussed. The Act essentially mimics dual banking in the crypto context; while that may introduce some arbitrage, the $10 billion threshold and federal oversight triggers act as circuit breakers.[160]

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[157] *Id.*
[158] WilmerHale, *supra* note 2 (remedies fine-tuned).
[159] GENIUS Act, *supra* note 2, § 3.
[160] *Id.* (reciprocal recognition).

Over time, one expects convergence rather than divergence, especially as Treasury can tighten equivalence criteria if needed.

A second concern is whether a primarily *ex ante* framework[161] can handle fast-moving fraud or failures. Skeptics point out that no matter how strict the rules, bad actors may still lie about reserves or engage in risky off-balance-sheet schemes. If agencies are slow or under-resourced, problems could fester (as in bank failures where examiners miss red flags). In those cases, would GENIUS's limited private suits suffice to uncover and rectify misconduct? Possibly not; private plaintiffs usually act after-the-fact, and if information is tightly controlled by issuers, even the attestation process could be gamed. The Act's answer is heavy criminal penalties for false statements (stablecoin fraud can be charged under existing bank fraud statutes with up to $1 million fines and jail time),[162] and reliance on whistleblowers or auditors to surface issues. It remains a trade-off: by curbing class actions, some fraud might slip through longer, but Congress likely calculated that the trade-off is worth the innovation gains. Still, regulators must be vigilant—the framework's credibility hinges on swift enforcement of the most egregious violations, lest confidence erode.

A third critique is that GENIUS might undercut innovation by ossifying one model of stablecoins. The private right's narrow scope could disincentivize potential issuers who want to experiment outside the strict limits, since doing so would mean entering the Wild West of full securities law liability. Similarly, the reserve constraints effectively outlaw algorithmic stablecoins or those using corporate debt, perhaps foreclosing future breakthroughs that could manage stability differently. Proponents would respond that the catastrophic failure of TerraUSD and others justified taking those off the table—at least until a proponent can convincingly demonstrate a safer design. The Act does allow the Treasury Secretary (with Fed input) to expand permissible reserves or grant targeted exemptions,[163] so there is a safety valve for innovation. But use of that valve will demand compelling evidence. In short, the law is intentionally conservative; it is easier to relax rules later than to tighten them after a crisis. Whether that stance holds in a global competition (if other jurisdictions allow more experimentation) is a strategic question beyond doctrinal boundaries.

PART IV: GLOBAL PERSPECTIVES – MICA, SINGAPORE'S PSA, AND GENIUS'S UNIQUE SYNTHESIS

[161] Ex ante prudential oversight involves proactive rules like capital reserves to prevent issues, while ex post antifraud litigation addresses violations after they occur. A regulator might require annual bank stress tests (ex ante) or sue a failed bank for misleading investors (ex post).

[162] 18 U.S.C. § 1344 (2025).

[163] GENIUS Act, *supra* note 2, § 3(c).

U.S. lawmakers did not write on a blank slate. Part IV compares GENIUS's approach with the EU's comprehensive Markets in Crypto-Assets Regulation (MiCA) and Singapore's evolving Payment Services Act (PSA) regime. The contrast reveals GENIUS as a hybrid model, blending aggressive prudential rules with private enforcement—a combination not fully seen elsewhere. It begins by examining MiCA's all-in licensing and prudence. Next, it explores Singapore's flexible start and tightening future. Then, it moves toward a global synthesis. Finally, it transitions to the implementation roadmap in Part V. These comparisons offer both validation and cautionary tales, informing U.S. regulators as they implement the Act.

IV.A Europe's MiCA: All-in Licensing and Prudence

The European Union took a top-down approach in MiCA, which was adopted on April 20, 2023 and began phasing in 2024.[164] MiCA requires any issuer of asset-referenced tokens (including stablecoins tied to fiat) to secure prior authorization from a national regulator before offering the token in the EU.[165] In practice, this is a license-first, operate-later regime: no EU circulation without regulatory approval of a detailed crypto-asset white paper and compliance with capital and governance rules.[166] There are no grandfathered incumbents—existing stablecoin issuers had to apply anew by MiCA's effective date. GENIUS, by contrast, afforded a transition period and provisional registration, reflecting a more iterative rollout to avoid market disruption.[167]

MiCA's prudential requirements parallel GENIUS's in spirit but differ in flexibility. For "e-money tokens"[168] (single-fiat stablecoins), MiCA Article 36 mandates issuers maintain a reserve of low-risk assets at 100% of outstanding tokens—but notably, it permits up to 20% of reserves to be held in highly liquid bank deposits.[169] By comparison, GENIUS § 4 allows no such latitude: reserves must be cash or ≤93-day Treasuries only.[170] The U.S. opted for a stricter definition of "high-quality liquid asset," likely influenced by its experience with money market fund runs and a desire for absolute clarity on liquidity.[171] EU regulators, having contended with negative interest rates and bank reliance, allowed a bit of diversification (e.g., bank deposits) on the

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[164] *Regulation (EU) 2023/1114*, of the European Parliament and of the Council of 31 May 2023 on Markets in Crypto-Assets, 2023 O.J. (L 150) 40.
[165] *Id.* arts. 16–23, 43–51.
[166] *Id.*
[167] GENIUS Act, *supra* note 2, § 20(a).
[168] An "e-money token" under MiCA is a crypto-asset tied to a single fiat currency, like electronic money, with strict reserve and redemption rules. A hypothetical euro-pegged "EURT" token would require the issuer to hold full euro reserves.
[169] *Regulation (EU) 2023/1114*, *supra* note 115, art. 36.
[170] GENIUS Act, *supra* note 2, § 4.
[171] WilmerHale, *supra* note 2 (stricter U.S. limit rationale).

theory that short-term bank debt can be safe in moderation.[172] The transatlantic difference in reserve composition limits may thus reflect different financial contexts and risk tolerances. Still, both regimes converge on requiring full (or near-full) collateralization and prohibiting the risky rehypothecation[173] practices that contributed to past crypto crashes.

Another distinction is enforcement modality. MiCA relies on administrative enforcement: marketing communications must be "fair, clear and not misleading," per Article 76, but violations are addressed by regulators via fines or withdrawal of authorization, not by private lawsuits.[174] In other words, MiCA opts for a purely public model—investors cannot sue an issuer under securities-fraud theories because these tokens aren't "securities" in EU law, and no separate private cause exists. GENIUS, conversely, purposefully grafts a private enforcement limb onto its prudential trunk.[175] This reflects the U.S. legal culture's greater trust in private litigation as a market-policing mechanism. The EU choice streamlines enforcement through regulators (who can act faster in some cases), but may suffer if regulators lack resources or resolve. The U.S. choice introduces potential litigation costs but could catch misconduct that slips through bureaucratic cracks. Over time, each will yield data on effectiveness: Europe may see fewer court dramas but more pressure on agencies, whereas the U.S. might have the opposite.

Finally, MiCA's scope is broader in covering the full spectrum of crypto-assets, but within stablecoins it draws lines between "significant" stablecoins and others. If an asset-referenced token exceeds certain thresholds (volume, users, or value), it faces additional oversight from the European Banking Authority, akin to systemically important status.[176] GENIUS doesn't explicitly designate "systemic" stablecoins, but the FSOC reporting and the $10 billion state oversight cutoff serve a similar tiering function.[177] In both regimes, big players get heightened scrutiny one way or another. The lesson seems to be: contain risks by scaling oversight with scale of operations—a principle likely to be mirrored globally as stablecoins become integral to finance.

IV.B Singapore's VASP Rules: A Flexible Start, a Tightening Future

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[172] *Id.*

[173] Rehypothecation happens when a financial institution uses client-deposited assets, like securities, as collateral for its own borrowing, amplifying risks if markets falter. In traditional finance, a broker might use a client's stocks to secure a loan; in crypto, some custodians faced backlash for rehypothecating user assets, a factor in collapses like FTX.

[174] *Regulation (EU) 2023/1114*, *supra* note 157, art. 76.

[175] GENIUS Act, *supra* note 2, § 14(d).

[176] *Regulation (EU) 2023/1114*, *supra* note 157, art. 36.

[177] GENIUS Act, *supra* note 2, § 15.

Singapore amended its PSA in 2021 to extend licensing to digital-payment-token service providers.[178] The Monetary Authority of Singapore (MAS)[179] grants licenses on an activity basis: exchange, transfer, or custody each requires separate approval and compliance with AML and technology-risk standards.[180] Capital and safeguarding requirements scale with transaction volume, and providers must segregate customer assets in trust.[181] Unlike MiCA and GENIUS, Singapore's PSA initially did not mandate reserve-asset composition and has instead relied on segregation and disclosure obligations to control run risk.[182] (In August 2023, MAS finalized a stablecoin framework to ensure the value stability, requiring issuers of "MAS-regulated stablecoins" to maintain 100% reserve assets in cash, cash equivalents, or ≤3-month government debt and to honor redemption within five days—bringing Singapore's approach closer to a prudential model.)[183] MAS also exercises discretionary powers to issue conditional or restricted licenses, tailoring requirements to firm-specific risk (for instance, imposing additional capital on a stablecoin issuer or limiting business lines if deemed necessary).

Singapore's enforcement record provides another data point. MAS issued 35 reprimands and one license cancellation across the broader payments and crypto sectors in 2023/24. It imposed its first AML-related composition penalties under the PSA in June 2025 against five providers (totaling S$1.3 million in fines).[184] The light enforcement touch may reflect high compliance or limited supervisory capacity—or both. Notably, no major stablecoin incidents have originated in Singapore, perhaps due to the relatively small scale of its issuers and proactive risk management by firms seeking to maintain Singapore's reputation. Still, some observers argue that the absence of stronger action indicates that a purely activity-based regime might miss latent risks until they materialize, as regulators are not delving into reserves or business models unless problems emerge.

From an innovation perspective, Singapore's flexible licensing sparks entrepreneurship but risks supervisory lag.[185] GENIUS splits the difference: incumbents get time to adapt, new entrants face upfront hurdles, and everyone

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[178] *Payment Services (Amendment) Act 2021* (Act 2 of 2021) (Sing.), https://sso.agc.gov.sg/Acts-Supp/2-2021.

[179] The Monetary Authority of Singapore (MAS) oversees monetary policy and fintech, including crypto regulations. It licenses payment firms under the PSA and sets stablecoin guidelines.

[180] *Id.* § 6.

[181] *Id.*

[182] *Id.*

[183] Morgan Lewis, *Monetary Authority of Singapore Finalises Stablecoin Regulatory Framework* (Aug. 22, 2023), https://www.morganlewis.com/pubs/2023/08/monetary-authority-of-singapore-finalises-stablecoin-regulatory-framework.

[184] Monetary Authority of Singapore, *Enforcement Actions* (July 3, 2025), https://www.mas.gov.sg/regulation/enforcement/enforcement-actions.

[185] *Payment Services (Amendment) Act 2021*, *supra* note 171 (flexible licensing).

must converge on identical reserves.[186] In effect, the U.S. chose to tolerate less diversity in stablecoin models in exchange for more certainty, whereas Singapore historically tolerated more diversity at the expense of potential unseen fragilities. However, with MAS's new stablecoin rules (which closely parallel GENIUS in requiring high-quality reserves and timely redemption), the gap is narrowing. One could argue Singapore used a sandbox mentality—let the market grow first, then regulate key aspects—while the U.S. jumped to define the end-state structure nationally. Each path has merits: Singapore's MAS combines central-bank functions with market supervision, enabling agile, activity-based oversight that could adapt quickly;[187] U.S. regulators are fragmented, thus GENIUS allocates duties across Treasury, the Fed, and state supervisors, forcing them into collaboration.[188] Effective coordination mechanisms—Treasury-Fed joint guidance or FSOC memoranda—will be critical to emulate the nimbleness that a unitary regulator like MAS enjoys.[189]

Looking ahead, Singapore's limited enforcement demonstrates the limits of agency capacity.[190] MiCA may face similar constraints once EU issuance scales.[191] GENIUS anticipates this by embedding a private right of action.[192] Yet private enforcement raises its own design questions: damage caps may discourage large investors from suing if losses are small, and federal preemption means all cases crowd into federal courts, potentially creating a bottleneck if dozens of suits arise from a single incident.[193] The comparative lesson is that regulation of stablecoins is not a one-time fix but an ongoing governance challenge. Whether through regulatory flexibility (Singapore), comprehensive licensing (EU), or a blended approach (U.S.), the regime must evolve with the market's rapid innovation cycles while maintaining the public's trust in a stable value instrument.

IV.C Toward a Global Synthesis

None of the major jurisdictions have a monopoly on wisdom in this arena. The EU's MiCA, Singapore's PSA, and the U.S. GENIUS Act all aim to tame stablecoins, but each emphasizes different tools. A possible convergence is visible: transparency and high-quality reserves are emerging as universal pillars (MiCA Art. 36, MAS's 2023 framework, and GENIUS § 4 all hammer on this point).[194] Conversely, approaches to enforcement and

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[186] GENIUS Act, *supra* note 2, § 20.
[187] Monetary Authority of Singapore, *Annual Report 2024/25*.
[188] GENIUS Act, *supra* note 2, §§ 3, 5.
[189] WilmerHale, *supra* note 2 (coordination critical).
[190] Monetary Authority of Singapore, *Enforcement Actions*, *supra* note 177.
[191] *Regulation (EU) 2023/1114*, *supra* note 157 (constraints at scale).
[192] GENIUS Act, *supra* note 2, § 14(d).
[193] WilmerHale, *supra* note 2 (design questions).
[194] *Regulation (EU) 2023/1114*, *supra* note 157, art. 36; *Payment Services (Amendment) Act 2021*, *supra* note 127; GENIUS Act, *supra* note 2, § 4.

innovation vary—Europe leans on administrative control, the U.S. on a mix of regulation and litigation, and Singapore on phased regulation with later tightening. Over time, if one approach yields markedly better outcomes (e.g., fewer runs, more innovation, or better integration with traditional finance), others will likely adapt.

Already, cross-pollination is happening. European regulators are watching U.S. developments, especially the interplay of private suits and market behavior, since the EU historically hasn't empowered private crypto litigation.[195] U.S. officials, in turn, scrutinize MiCA's rollout for any regulatory arbitrage[196] or unintended consequences—such as crypto firms relocating to Europe for a more unified regime.[197] Singapore continues to serve as a regional hub whose experiments (like exchange licensing and now stablecoin reserves) provide valuable case studies.[198] In a sense, stablecoin governance is in its "laboratory" phase globally, with each major framework a live experiment. The likely endgame could be a set of international standards or mutual recognitions, especially if stablecoins underpin cross-border payments at scale. GENIUS explicitly nods to this by allowing foreign stablecoins from comparable regimes to operate in the U.S. upon OCC registration and U.S. reserve custody.[199] That comparability assessment will effectively judge MiCA, Singapore, and others against the U.S. benchmark, incentivizing a race to high standards.

In conclusion, GENIUS's strictness stands out—some call it the "strictest stablecoin regime in the world"[200]—but it may set a norm that others gradually approach. Its novel blend of prudential rigor and private enforcement offers a distinctive model, potentially influencing global standards as jurisdictions learn from each other's experiments.

PART V: IMPLEMENTATION ROADMAP – TURNING GENIUS INTO REALITY

The GENIUS Act's promise hinges on execution. Part V provides a practical roadmap for stakeholders, drawing on the analysis in Parts I–IV to offer actionable guidance. It addresses four audiences: regulators, industry players, legal stakeholders, and policymakers. For each, it outlines immediate steps, anticipates challenges, and suggests strategies to align implementation with the Act's goals of stability, innovation, and antifraud protection.

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[195] WilmerHale, *supra* note 2 (transparency constant).
[196] Global regulatory arbitrage in crypto involves operating in jurisdictions with lax rules to avoid compliance costs. Many exchanges base in places like the Seychelles to offer leveraged trading banned in stricter regions like the U.S. or EU.
[197] *Regulation (EU) 2023/1114*, *supra* note 157.
[198] Payment Services (Amendment) Act 2021, *supra* note 171.
[199] GENIUS Act, *supra* note 2, § 20.
[200] WilmerHale, *supra* note 2 (strictest regime).

V.A For Regulators (Treasury, Federal Reserve, OCC, FSOC)

Regulators face a tight timeline to operationalize GENIUS. The Treasury Department should prioritize issuing reserve-asset haircut schedules and disclosure templates within six months of enactment to give issuers clarity.[201] These rules must balance precision (e.g., specifying acceptable T-bill maturities) with flexibility (e.g., allowing minor deviations for operational needs). The Federal Reserve's master-account criteria for non-bank issuers are equally urgent; early indications suggest a leverage-based approach, but the Board must avoid overly restrictive thresholds that exclude smaller players, as this could consolidate the market unduly.[202]

Interagency coordination is non-negotiable. The Stablecoin Certification Committee should establish clear metrics for state-regime equivalence to prevent arbitrage.[203] Treasury's exemption authority under § 3(c) should be used sparingly, reserved for truly innovative pilots with robust risk controls. FSOC's annual reports must go beyond boilerplate, leveraging BIS and Chainalysis data to quantify systemic risks and recommend targeted adjustments. Regulators should also prepare for judicial challenges—majority rules must be grounded in rigorous cost-benefit analyses to withstand *State Farm* scrutiny.[204]

A global lens is critical. Treasury should engage with IOSCO, BIS, and the FSB to shape emerging standards, ensuring U.S. interests (e.g., AML compliance and dollar dominance) are protected.[205] Bilateral agreements with the EU and Singapore could pave the way for mutual recognition, reducing compliance burdens for cross-border issuers while maintaining high standards.[206]

V.B For Industry (Issuers, Exchanges, Custodians)

Issuers should initiate internal "GENIUS readiness" audits. For those planning to become permitted issuers, this means shoring up reserve management processes, engaging auditors for monthly attestations, and ensuring redemption operations can meet same-day demands. Those deciding not to seek a license (perhaps due to business model incompatibility) face a hard stop: continuing to issue unlicensed stablecoins after the grace period will be illegal. Such firms might pivot to other crypto products or relocate to

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[201] *Id.* (litigation risk management).
[202] Federal Deposit Insurance Corporation, *2021 Annual Report* (2021), https://www.fdic.gov/about/financial-reports/reports/2021annualreport/ (examiner adaptation).
[203] GENIUS Act, *supra* note 2, § 3(c).
[204] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983).
[205] WilmerHale, *supra* note 2 (discipline through review).
[206] This might be done via bilateral agreements or through bodies like IOSCO or the BIS's Innovation Hub.

jurisdictions outside U.S. reach (though extraterritorial provisions make that risky if they have U.S. users). Exchanges and custodians will need to review their listings—after three years post-rulemaking, any stablecoin not issued by a permitted issuer is contraband in effect. Delisting non-compliant coins ahead of time would mitigate enforcement risk. These intermediaries should also strengthen disclosure to users about what regulatory status each stablecoin has (akin to how stockbrokers label whether an asset is SIPC-insured or not). Proactively investing in compliance tech—like real-time reserve verification solutions or analytics that monitor issuer assets—could become a competitive advantage, as users gravitate to platforms that transparently prove stablecoin safety.

Bank-affiliated issuers can continue operations but must overhaul attestation workflows to comply with the new standards.[207] Venture funding has swung toward custody analytics and compliance-as-a-service startups, signaling market demand for tools that facilitate GENIUS adherence.[208] State-based trust companies weigh whether to convert into federally licensed issuers. They could rely on § 3(c)'s limited safe-harbor while lobbying for accommodating Treasury rules.[209] (Under GENIUS, state-qualified issuers with ≤$10 billion outstanding may opt to remain under comparable state regimes, but larger issuers must transition to federal oversight within 360 days.)

For counsel to existing issuers, the immediate task is to navigate the 270-day provisional registration window. Counsel should assemble a cross-functional team—compliance, finance, engineering—to map current reserve assets against the statutory list and to draft a reserve-transition plan. Early Treasury guidance suggests that issuers unable to achieve 100 percent qualifying reserves by Day 270 must file a remediation schedule as part of their notice.[210]

V.C For Legal Stakeholders (Litigators, Courts, Scholars)

The early jurisprudence of GENIUS will be crucial. Plaintiffs' attorneys should prepare for uncharted waters in pleading these new claims. Expect defense counsel to argue by analogy to securities cases—e.g., invoking *Blue*

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[207] WilmerHale, *supra* note 2 (overhaul for bank-affiliated issuers).
[208] Chainalysis, *2025 Crypto Crime Mid-Year Report*, supra note 1, at 12 (venture funding shifts).
[209] GENIUS Act, *supra* note 2, § 3(c).
[210] Treasury Fin'l Stability Oversight Council, *GENIUS Act Guidance—FAQ No. 1* (July 30, 2025).

Chip Stamps[211] to limit standing strictly to actual holders, or *Janus*[212] to contest who the "maker" of a reserve misstatement is (the issuer vs. possibly an officer). Judges can be guided by familiar principles but must also heed the statute's unique features (like the damages cap, which may require novel jury instructions or summary judgment standards for quantifying "make-whole" amounts). It will be important to resolve certain issues early: for instance, do GENIUS Act claims fall under federal question jurisdiction straightforwardly (yes, as a federal statute cause, likely with exclusive federal jurisdiction akin to '34 Act claims)?[213] And will PSLRA provisions (like the discovery stay) apply automatically, or will courts import them as a matter of policy?[214] Litigators should also prepare for evidentiary challenges—proving a reserve misstatement might involve parsing blockchain records or requiring third-party custodians to testify, raising hearsay or foundation issues. A strategic consideration: because damages are limited, plaintiffs' firms may opt for smaller class sizes or even individual actions if the class mechanism seems inefficient. Courts might see more bench trials or streamlined proceedings given the relatively straightforward remedy (pay the redemption plus interest).

For scholars, GENIUS offers fertile ground for interdisciplinary analysis. Economists can model the Act's impact on stablecoin liquidity premiums using BIS data on Treasury yield effects.[215] Legal theorists can explore how the carve-out refines *Howey*'s functional test in fintech contexts. [216] Policy analysts should track fraud incidence post-implementation, using Chainalysis benchmarks to assess whether private rights under the Act deter misconduct as effectively as Rule 10b-5.[217]

Early case law will likely set the tone: a well-pleaded complaint that survives *Tellabs* scrutiny might establish the viability of these actions and incentivize robust compliance, whereas a string of dismissals could signal that only egregious violations will face private penalty.[218] In essence, GENIUS

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[211] The standing limit from Blue Chip Stamps v. Manor Drug Stores (1975) restricts Rule 10b-5 lawsuits to actual securities buyers or sellers. Investors who avoided buying a stock due to fraud can't sue; only those who traded and lost can.

[212] The "maker" doctrine from Janus Capital Group v. First Derivative Traders (2011) limits Rule 10b-5 liability to entities with ultimate control over a statement's content. A mutual fund advisor, for example, isn't liable for statements in a fund's prospectus if the fund issues it.

[213] *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308 (2005).

[214] *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007).

[215] BIS Working Papers No. 1270, *supra* note 75.

[216] *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946).

[217] Chainalysis, *supra* note 1, at 45.

[218] The ISO 20022 messaging standard is a global framework for financial communications, supporting rich, structured data exchange in payments and securities. SWIFT's adoption of ISO 20022 for cross-border payments allows banks to include detailed information, like invoice numbers, in transaction messages.

calibrates private enforcement to be a scalpel rather than a sledgehammer, aiming to slice out fraud without bludgeoning the industry.

V.D For Policymakers and Future Revisions

Implementation will undoubtedly reveal areas needing fine-tuning. One foreseeable adjustment is the scope of permissible reserve assets. If macroeconomic conditions change (e.g., prolonged negative interest rates or a shortage of T-bills), regulators might seek flexibility to include other safe assets. Any such move should be evidence-based and perhaps conditional (for example, allowing certain AAA commercial paper up to a small percentage if justified by market conditions). Another likely area of evolution is interoperability and standards: as stablecoins become embedded in payment systems, the government might issue standards on API access, messaging format (ISO 20022 compliance[219]), or other technical matters to ensure they plug into FedNow[220] or cross-border networks seamlessly.[221] Additionally, coordination with existing crypto enforcement remains vital. The SEC and CFTC will continue policing frauds involving crypto assets that fall outside GENIUS's ambit (e.g., algorithmic "stablecoins" not covered). Agencies should clarify via guidance how GENIUS and pre-existing regulatory frameworks intersect—perhaps a joint statement that for any token labeled a "stablecoin" that doesn't qualify under the Act, the SEC will presumptively treat it under *Howey* until proven otherwise, to remove any doubt about continuing authority.

Ongoing empirical evaluation is essential. The Act calls for FSOC reports, but academia and industry should supplement with independent research: Has the incidence of fraud or run events decreased? What are the innovation outputs (number of new projects, capital raised) in the stablecoin space post-Act versus pre-Act? Are markets pricing stablecoin risk more uniformly? These data will inform whether GENIUS indeed delivered on its promise or if further legislative tweaks are warranted. For instance, if private suits prove too rare (perhaps because damages are too low to attract lawyers), Congress might consider enhancing penalties or granting regulatory agencies like the CFPB some oversight for consumer protection. Conversely, if innovation appears stymied (say, U.S. stablecoin market share globally

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[219] FedNow®, launched by the Federal Reserve in 2023, is an instant payment service enabling real-time, round-the-clock interbank transfers in the U.S. A small business, for instance, might use FedNow to receive a customer payment at midnight, bypassing the delays of traditional ACH transfers.

[220] *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, *supra* note 127.

[221] As stablecoins become embedded in payment systems, the government might issue standards on API access, messaging format (ISO 20022 compliance), or other technical matters.

declines sharply), policymakers might introduce more flexibility or sandboxes within the framework.[222]

One should also keep an eye on the international dimension. Treasury's role in recognizing foreign stablecoin regimes will pressure U.S. regulators to articulate what "comparable" means. It's plausible that a group of jurisdictions (G7 or G20) could converge on mutual principles such that a foreign issuer could operate across multiple markets with one primary license. U.S. policymakers should engage in that dialogue early, to both share the U.S. experience and to ensure U.S. interests (like law enforcement access to transaction data) are baked into any global framework.[223] This might be done via bilateral agreements or through bodies like IOSCO or the BIS's Innovation Hub.[224]

CONCLUSION

The GENIUS Act emerged from a confluence of crisis and opportunity—a desire to prevent another TerraUSD and to unleash the benefits of stablecoins under a safer, unified regime. Its success now hinges on diligent implementation. Early indicators are promising: markets reacted with cautious optimism, and some major issuers signaled intent to obtain federal licenses, validating the Act's approach.[225] Internationally, U.S. leadership in crypto regulation has been bolstered, with some foreign regulators mulling similar carve-outs for payment stablecoins. Yet the Act's promise is not self-executing. As detailed in the implementation roadmap, success hinges on expeditious rulemaking—particularly Treasury's reserve haircuts and the Federal Reserve's master-account criteria—and on judicial fidelity to the private right's calibrated remedies. Without interagency coordination and vigilant oversight, GENIUS risks perpetuating the very uncertainties it seeks to dispel, inviting either under-deterrence of fraud or over-deterrence of innovation. Policymakers must therefore view the Act not as a terminus but as a framework demanding iterative refinement, informed by empirical monitoring of fraud incidence and market liquidity.

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[222] A regulatory sandbox lets firms test innovations under relaxed rules with oversight; a limited exemption waives specific regulations temporarily. The UK's FCA sandbox allows fintech trials, while a crypto firm might get a limited exemption to pilot services without full licensing.

[223] U.S. policymakers should engage in that dialogue early, to both share the U.S. experience and to ensure U.S. interests (like law enforcement access to transaction data) are baked into any global framework.

[224] IOSCO, a global securities regulator body, sets standards for crypto markets to protect investors. It has issued principles for regulating crypto trading platforms akin to traditional exchanges.

[225] GENIUS Act, *supra* note 2, § 14(d); some major issuers signaled intent to obtain federal licenses.

In an era where stablecoins underpin trillions in cross-border payments and decentralized finance, GENIUS offers a pragmatic path forward: stability without stagnation. If faithfully implemented, it could transform stablecoins from a regulatory afterthought into a resilient pillar of the U.S. financial system. The coming years will reveal whether this congressional wager pays off—or whether further amendments will be needed to secure the digital dollar's future.