May 18, 2026

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments – RIN 3064-AG20
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions; RIN 3064-AG20; 12 CFR Part 303 (December 19, 2025)

Dear Ladies and Gentlemen:

Better Markets[1] appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's ("FDIC") proposed rule (the "Proposal")[2] outlining approval requirements for permitted payment stablecoin issuers ("PPSI") that are subsidiaries of FDIC-supervised insured depository institutions ("IDI") pursuant to the Guiding and Establishing National Innovation for U.S. Stablecoins Act ("Act").[3]

Unlike the FDIC's subsequent Act proposal[4] issued in April, this Proposal is fundamentally process-oriented, establishing the framework through which the FDIC will evaluate, approve, and oversee PPSI applications under the Act. As such, the most important public policy issue is whether the process is sufficiently rigorous, skeptical, and capable of preventing unsafe or abusive activities by PPSIs before they occur.

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1 Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

2 Federal Deposit Insurance Corporation. "Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions." Proposed Rule, 90 FR 242 (December 19, 2025), available at: https://www.govinfo.gov/content/pkg/FR-2025-12-19/pdf/2025-23510.pdf.

3 Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act), Public Law 119–27, 139 Stat. 419 (2025) (codified at 12 U.S.C. 5901–5916).

4 Federal Deposit Insurance Corporation. "GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions." Proposed Rule, 91 FR 69 (April 10, 2026), available at: https://www.fdic.gov/board/federal-register-notice-genius-act-requirements-and-standards-fdic-supervised-permitted.

I. Executive Summary

Better Markets believes the Proposal is rushed, incomplete, and insufficiently coordinated with other federal regulators. The Proposal is structurally biased toward facilitating payment stablecoin issuance rather than ensuring safety and soundness, protecting the Deposit Insurance Fund ("DIF"), and safeguarding the financial stability of the United States. Accordingly, Better Markets urges the FDIC to substantially revise the Proposal. At a minimum, any final rule should:

- Eliminate the Proposal's deemed-approval framework and require affirmative FDIC action before any PPSI application may be approved;
- Exercise its authority under section 5(c)(5) of the Act to establish additional approval factors addressing parent-bank impacts, step-in risk, operational readiness, systemic risk, and broader financial stability concerns;
- Require applicants to provide evidence-based demonstrations of operational capability, technological readiness, liquidity resilience, and capital sufficiency rather than relying primarily on projections and internal representations;
- Require PPSI applicants to submit detailed recovery, resolution, and wind-down analyses demonstrating how a proposed stablecoin activity could fail without destabilizing affiliated insured depository institutions, consumers, payment systems, or broader financial markets;
- Strengthen the application process by requiring more robust information regarding reserve management, redemption practices, sponsor support, contingency funding arrangements, illicit-finance compliance, and third-party dependencies;
- Establish a comprehensive and continuous post-approval supervisory framework, including enhanced reporting, examination, monitoring, and remediation requirements;
- Enhance transparency and accountability in the application and approval process through greater public disclosure and standardized reporting; and
- Coordinate implementation with other federal regulators and delay finalization of the Proposal until the broader prudential, operational, reserve, and illicit-finance requirements applicable to PPSIs have been more fully developed.

As mentioned above, the FDIC has subsequently issued a proposal to implement additional requirements pursuant to the Act to which Better Markets will respond in a separate, subsequent comment letter.[5]

[5] *Id*.

II. Introduction

Certain policymakers have the aspiration to make stablecoins a real-world payment mechanism, notwithstanding the fact that history is replete with stablecoin depegging events,[6] with substantial loss of value occurring as recently as November 2025.[7] Stablecoins may experience redemption dynamics materially faster than traditional bank runs due to 24-hour trading, social media amplification, automated withdrawals, and concentration among institutional market participants.[8]

Notwithstanding repeated concerns about legislation to incorporate payment stablecoins into the federal regulatory perimeter (including by Better Markets[9]), Congress passed the Act in July 2025. Various federal agencies, including the Department of the Treasury ("Treasury")[10], the Office of the Comptroller of the Currency ("OCC")[11], the FDIC, the Board of Governors of the

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6 *See* Schiffrin, Ben. "Three Questions for Any (Un)Stablecoin Legislation." (February 26, 2025), available at: https://bettermarkets.org/wp-content/uploads/2025/02/Stablecoin-FS-02.26.25.pdf.

7 *See* Fischer, Amanda. "Thin Ice: How October's Crypto Rout Exposes Fragilities in Pending Market Structure Legislation." (October 29, 2025), available at <https://bettermarkets.org/wp-content/uploads/2025/10/BetterMarkets_Crypto_Rout_Exposes_Fragilities_10-29-2025.pdf>. *See also* "DeFi stablecoins are breaking one by one — here's every depeg you should know about." (November 17, 2025), available at <https://finance.yahoo.com/news/defi-stablecoins-breaking-one-one-114716480.html>. In November 2025, a number of DeFi stablecoin failures occurred within a few days. Stream's yield-bearing stablecoin xUSD collapsed from $1.00 to $0.23 after its external fund manager reported approximately $93 million in asset losses, prompting Stream to suspend deposits and withdrawals. The contagion spread immediately to Elixir's deUSD—which held 65 percent of its reserves in Stream-issued collateral—and to Stable Labs' USDX, which fell to approximately $0.30. In a separate incident on the Yala protocol, attackers minted 120 million YU tokens on Polygon and dumped them across other chains, sending YU down 53 percent to $0.44. This episode highlighted how interconnected collateral arrangements in DeFi can turn a single stablecoin failure into a multi-protocol crisis within hours.

8 *See* Amanda Fischer, "Forget Myths: The Stablecoin Reality" (March 20, 2025), available at: https://bettermarkets.org/newsroom/open-banker-op-ed-forget-myths-the-stablecoin-reality/.

9 *See* Better Markets Comment Letter to U.S. Department of the Treasury, GENIUS Act Implementation; RIN 1505 ZA-10; TREAS–DO–2025–0037; 12 CFR Chapter XV, 31 CFR Subtitles A and B (September 19, 2025), available at: https://bettermarkets.org/wp-content/uploads/2025/11/Better-Markets-Comment-Letter-GENIUS-Act-Implementation.pdf.

10 U.S. Department of the Treasury. "GENIUS Act broad-based principles for determining whether a state-level regulatory regime is substantially similar to the federal regulatory framework." Proposed Rule, 91 FR 16844 (April 3, 2026), available at: https://www.federalregister.gov/documents/2026/04/03/2026-06489/genius-act-broad-based-principles-for-determining-whether-a-state-level-regulatory-regime-is.

11 Office of the Comptroller of the Currency. "Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency." Proposed Rule, 91 FR 10202 (March 2, 2026), available at https://www.occ.treas.gov/news-issuances/federal-register/2026/91fr10202.pdf.

Federal Reserve System ("Federal Reserve Board")[12], and the National Credit Union Administration[13] have issued, or will likely soon issue, proposals to implement various provisions of the Act.

It is therefore incumbent on the FDIC and other agencies writing rules for stablecoin adoption to best mitigate these risks and ensure that if stablecoins emerge as a dominant form of payments in the future, it is due to bona fide competitive advantages and not regulatory arbitrage. Without careful adoption of financial stability, consumer protection, illicit finance, and competition safeguards, stablecoins will not only be unfit for payments, but may import risk to the non-crypto financial system, thereby endangering the broader economy.

For the FDIC, these challenges are heightened due to its responsibility for protecting the DIF and ensuring that Americans have confidence in the banking system and the safety of their savings held in FDIC-insured IDIs. Stablecoin issuance by subsidiaries of IDIs will therefore require thoughtful work by the FDIC to ensure that stablecoin issuance does not threaten the safety and soundness of parent banking organizations, that consumers are not confused about the rights conferred to them via stablecoins versus traditional insured deposits, and that crypto activity more broadly does not cause IDIs to run afoul of illicit finance rules.

The Troubling Lack of Regulatory Coordination

The Proposal should—but does not—reflect coordination work with other PPSI primary regulators. Better Markets recently submitted a comment letter to the OCC on its separate proposal to implement its Act requirements.[14] The Act is clear that the regulations issued to carry out the Act "shall be issued in coordination by the primary federal payment stablecoin regulators."[15] Section 13 of the Act reinforces this mandate, directing every primary federal payment stablecoin regulator to coordinate on any implementing regulations and to submit a joint report to Congress confirming the regulations promulgated within 180 days of the Act's effective date. The coordination requirement reflects Congress's judgment that fragmented implementation could create inconsistencies and regulatory arbitrage. While the statute may not require simultaneous rulemakings, the FDIC's Proposal does not demonstrate meaningful coordination or explain how key requirements will be harmonized across primary federal payment stablecoin regulators. In

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[12] The Federal Reserve Board has not yet issued a rulemaking proposal to promulgate any of its statutory authority from the Act.

[13] National Credit Union Administration. Investments in and Licensing of Permitted Payment Stablecoins Issuers. Proposed Rule, 91 FR 6531 (February 12, 2026), available at <https://www.federalregister.gov/documents/2026/02/12/2026-02868/investments-in-and-licensing-of-permitted-payment-stablecoins-issuers>.

[14] *See* Statement by Christopher Appel. "OCC GENIUS Act Proposal Fails to Address Stablecoin Risks, Raising the Chance Turmoil Spreads into The Broader Economy." (May 4, 2026), available at < https://bettermarkets.org/newsroom/occ-genius-act-proposal-fails-to-address-stablecoin-risks-raising-the-chance-turmoil-spreads-into-the-broader-economy/> and <https://bettermarkets.org/wp-content/uploads/2026/05/Better-Markets-Comment-Letter-OCC-GENIUS-Act-Stablecoins.pdf>.

[15] *Supra* 3, § 7.

Better Markets' letter to the OCC, we urged the OCC to coordinate with the other prudential regulators, including the FDIC, on the Act's requirements.[16] Further, a significant number of other commenters, including IDIs and their trade associations, have shared similar concerns.[17] It is therefore imperative for the FDIC to coordinate on a strong and robust regulatory framework for stablecoins, including the approval process. The sequencing process of various proposals for the Act to date has been haphazard and does not provide commenters with adequate opportunity to properly understand the agency's holistic plans.

In one notable omission, the Federal Reserve Board has not issued a proposal on any of its requirements under the Act. That omission is particularly significant given the Federal Reserve Board's critical role in financial stability and expertise in monetary policy and payments. It is also problematic given the potential for stablecoin-related risks to propagate across institutional and market boundaries. Issues such as reserve asset liquidation, concentration of custodial arrangements, and interconnected exposures to short-term funding markets are not confined to the balance sheet of a single issuing entity. Rather, they have the potential to generate broader market disruptions, particularly in periods of stress. A procedurally sound approval regime must therefore incorporate mechanisms for assessing these broader systemic implications, including consultation with other regulators and, where appropriate, coordinated supervisory responses.

The absence of such mechanisms raises the risk of fragmented oversight and regulatory blind spots, which played a critical role in the lead-up to the 2007-2009 global financial crisis. The Proposal does not heed those lessons. The Proposal also increases the likelihood that individual approvals could be granted without a full appreciation of cumulative or system-wide effects. In the context of a rapidly evolving and potentially large-scale financial activity, this lack of coordinated assessment represents a significant procedural deficiency and should be addressed in any final rule.

It was premature for the FDIC to propose a framework for PPSI applications under section 5 of the Act before the FDIC had done the underlying work of establishing capital, liquidity, reserve assets, operational, risk management, and illicit finance requirements under section 4 of the Act. The FDIC's framework for judging the adequacy of applications must be established alongside the requirements for the content of those applications. As further outlined below, it is impossible for commenters to know if the application process is adequate if we do not know how the FDIC will scope and define the underlying factors in the application.

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[16] Global standard-setting bodies have cited regulatory cooperation as a critical component of a jurisdiction's supervisory program for effectively overseeing stablecoins. *See* Iñaki Aldasoro, Jon Frost & Hiro Ito. Bank for International Settlements Paper "The Impact of Stablecoins on international monetary and financial system." (May 2026). Monetary and Economic Department, available at: https://www.bis.org/publ/bppdf/bispap170.pdf.

[17] *See* Bank Policy Institute, Consumer Bankers Association, Financial Services Forum Comment Letter. "Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency" (May 1, 2026), available at: https://bpi.com/joint-trades-comment-on-occ-genius-act-implementation at page 3 "Section Comment Period and Interagency Coordination". *See also* Independent Community Banks of America Comment Letter. "ICBA urges OCC to strengthen GENIUS Act safeguards on stablecoin risks." (May 4, 2026), available at: https://www.icba.org/w/icba-urges-occ-to-strengthen-genius-act-safeguards-on-stablecoin-risks.

Before finalizing any application framework, the FDIC should consult with other agencies to harmonize requirements and minimize potential regulatory arbitrage across regimes. At a minimum, the FDIC should not finalize any rule until the Federal Reserve Board has published its own proposal, and all the relevant agencies have meaningfully harmonized their respective frameworks.

III. The Contents of PPSI Filings Must be Standardized and Significantly Improved

In the Proposal, the FDIC puts forward information required to be included in a PPSI application pursuant to section 4, and evaluated pursuant to section 5(c), of the Act. The following section provides feedback on several aspects of this portion of the Proposal, noting that much of the request was premature and other elements require significant modification prior to any final rule.

Comments on Capital, Liquidity, Reserve Asset Composition, Custody and Valuation

The Proposal asks commenters to provide feedback on the types of information applicants should submit to the FDIC to substantiate the sufficiency of their capital and liquidity structures as well as information that can demonstrate the appropriate composition, custody, and valuation of the reserve assets backing the payment stablecoin.[18] This request for comment is premature given that, at the time of the Proposal, the FDIC had not yet issued a proposal outlining any of those elements for PPSIs to comply with. The upshot is that it is challenging for commenters to provide sufficient and informed feedback on the type of information PPSIs should submit without properly understanding the regulatory regime the agency will apply to such PPSIs. The comments below provide preliminary views on some of these subjects. As noted above, Better Markets plans to submit a comment letter to the agency on its separate proposal to implement the Act.[19]

Information on Ensuring Stablecoins and their Sponsors Maintain Robust Loss-Absorbing Capital

The FDIC should require applicants to demonstrate that both the PPSI subsidiary and the consolidated parent institution maintain sufficient capital to withstand severe but plausible stress events associated with stablecoin issuance and redemption activity. At a minimum, applicants should provide a capital adequacy assessment evaluating the impact of large-scale redemption events, reserve asset market stress, operational disruptions, custodial failures, cyber incidents, and correlated crypto market stress on the institution's capital position.

Applicants should also demonstrate how their capital framework accounts for the unique risks posed by stablecoins, including rapid redemption dynamics, intraday liquidity demands, operational dependencies on distributed ledger infrastructure, and the potential for concentrated or

[18] *Supra 2* at 59416.

[19] *Supra* 4.

correlated outflows during periods of market stress. The FDIC should not rely solely on static minimum capital thresholds or generalized supervisory discretion, but should require applicants to demonstrate through stress analysis that capital levels remain sufficient under adverse conditions.

Finally, the FDIC should reserve the authority to require heightened capital requirements, activity limitations, or additional buffers where the scale, complexity, interconnectedness, or operational structure of the proposed stablecoin arrangement presents elevated safety and soundness or financial stability concerns.

Maintaining the Stablecoin Peg and Use of Third Parties

The Proposal notes that the FDIC would require the applicant to describe how the PPSI "subsidiary plans to maintain the proposed payment stablecoin's stable value, or the reasonable expectation thereof."[20] The preamble of the Proposal notes that applicants should describe "any third parties [that] would participate in the proposed payment stablecoin activity,"[21] but the rule text at proposed paragraph (d)(1) does not include this requirement or further granularity about what will be required.[22] Before proposing the PPSI application process, the FDIC should have established whether PPSIs must allow direct redemption from stablecoin holders or if they will be permitted to restrict direct redemption to only a handful of institutional market participants. If the latter policy is pursued, the Proposal should require full transparency to the FDIC and to the public on the identity of those institutional market participants, and the risks to stablecoin holders of such reliance. The FDIC in the application process should also require applicants to establish a sufficient number and diversity of institutional market participants with redemption rights to demonstrate resilience to shocks in the wider crypto ecosystem.

Contingency Funding and Stress Response Funding

The FDIC should require PPSI applicants to submit detailed contingency funding and liquidity stress response plans as part of the application process. Stablecoins are uniquely vulnerable to rapid redemption dynamics, sudden loss of confidence, and correlated outflows that can emerge in extremely compressed timeframes. As a result, the FDIC should not approve any PPSI application absent a demonstrated operational and financial capacity to manage severe but plausible redemption stress events.

At a minimum, PPSI applicants should be required to provide:

- liquidity contingency funding plans;
- redemption stress testing assumptions and results;
- operational playbooks for large-scale redemption events;
- backup custody, settlement, and reserve liquidation arrangements;

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[20] *Supra* 2 at 59411.

[21] *Id.*

[22] *Id* at 59417.

- policies governing emergency liquidity support from affiliates or parent institutions;
- intraday liquidity management capabilities;
- procedures for communicating with stablecoin holders during periods of market stress; and
- contingency plans for disruptions in Treasury market liquidity, repo funding markets, custodial access, or distributed ledger operations.

The FDIC should also require applicants to demonstrate how reserve assets would be liquidated during periods of market stress without causing destabilizing fire-sale dynamics or impairing the parent institution's safety and soundness.

Requiring Detailed Information on Potential and Historical Sponsor Support

The FDIC should also require applicants to demonstrate the operational and financial capacity of the PPSI subsidiary to function independently and without reliance on implicit or discretionary support from the parent institution or its affiliates. A core lesson of the 2007–2009 financial crisis and subsequent episodes of stress involving money market funds is that purportedly separate financial vehicles frequently become dependent on sponsor support during periods of market turmoil in order to prevent runs, reputational damage, or broader contagion.[23]

Accordingly, applicants should be required to demonstrate that the proposed stablecoin structure can continue operating through periods of severe redemption and liquidity stress without extraordinary parent support, affiliate liquidity injections, reserve asset purchases, guarantees, or other forms of discretionary assistance. The application should include a detailed assessment of the conditions under which the applicant, parent institution, or affiliates would consider providing support to the PPSI subsidiary beyond any contractual obligations, including support motivated by reputational, franchise, operational, or financial stability concerns.

The FDIC should further require disclosure of any prior instances in which the applicant, parent institution, affiliates, or controlling entities provided financial support to affiliated investment vehicles, money market funds, liquidity vehicles, off-balance-sheet entities, securitization vehicles, or similar arrangements during periods of market stress. Such disclosure should include the nature of the support provided, the circumstances that prompted the intervention, and the financial impact on the sponsoring institution. Historical sponsor support for affiliated money market funds and similar vehicles may provide important evidence regarding the likelihood of future step-in risk and the credibility of claims that a PPSI subsidiary can operate independently under stress.

Finally, the FDIC should require PPSI applicants to provide a comprehensive contingency funding and support framework identifying:

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[23] *See* Steffanie A. Brady, Kenechukwu E. Anadu & Nathaniel R. Cooper. "The Stability of Prime Money Market Mutual Funds: Sponsor Support from 2007 to 2011." Federal Reserve Bank of Boston, Supervisory Research & Analysis Working Paper No. RPA 12-3 (August 2012), available at: https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/qau1203.pdf. *See* also Viral V. Acharya, Philipp Schnabl & Gustavo Suarez, *Securitization Without Risk Transfer*, 107 Journal of Financial Economics at 515 (2013), available at: https://www.nber.org/papers/w15730.

- whether any parent or affiliate support would be pre-authorized or discretionary;
- the governance process for approving such support;
- the operational mechanisms through which support would be provided;
- the potential impact of such support on the parent institution's capital, liquidity, and safety and soundness; and
- how the institution would manage the risk that market participants come to expect de facto support notwithstanding legal separateness.

This information is essential for the FDIC to evaluate whether the proposed structure would create material contagion, reputational, liquidity, or systemic risks to the parent institution and the broader banking system.

Valuation

Because stablecoins can lose their peg quickly, it is important that stablecoin holders have timely access to information about the reserve assets backing the stablecoins they hold. Section 4(a)(1)(C) of the Act requires monthly reports on the PPSI's reserves, published to their website, and section 4(a)(3) requires other monthly reports "examined" by a registered public accountant, as well as certifications filed with the relevant PPSI regulator signed by the Chief Executive Officer and Chief Financial Officer (this is in addition to annual audited financial statements required in section 4(a)(10)).

The FDIC in the application process should require the applicant to outline the information the applicant intends to provide stablecoin holders every month. For example, PPSIs should disclose the exact amount of assets custodied in every applicable geographic location, in addition to the specific custodians being used. And rather than just the average tenure of reserve assets, PPSIs should provide detailed breakdowns of the share of reserve assets held in each allowable asset class with more granular information on the tenure of each cohort. Finally, PPSIs should disclose the registered public accounting firm reviewing their monthly reports and the level of scrutiny and rigor applicable to an "examination" by such firm versus a formal audit.

Tokenized Assets

Likewise, the FDIC in the preamble notes that applicants would be required to disclose "whether any reserves are proposed to be in tokenized form."[24] However, this again is not in the Proposal's rule text at (d)(2).[25] It is difficult to judge the adequacy of the application process when the FDIC has yet to define what tokenized means in this context given that the term is not defined elsewhere in the Act or elsewhere in law. If we are to understand that tokenized means "has the capacity for transactions in the asset to be finalized using distributed ledger technology," then the FDIC must do substantial due diligence in identifying which assets on which distributed ledgers

[24] *Supra* 2 at 59412.

[25] *Id* at 59417.

can meet the high bar to qualify as reserve assets under the Act. Given the unique risks posed by permissionless distributed ledgers, the FDIC should consider only qualifying tokenized assets that have redundant settlement mechanisms using traditional, highly-regulated intermediaries. Regardless of the substantive requirements eventually proposed by the FDIC, this section of the Proposal should be expanded to cover a detailed and granular explanation by the applicant of how the use of tokenized assets would be applied to PPSI reserve requirements.

Additional Information

The Proposal asks for additional types of information the FDIC should consider in the application process.[26]

Controls on "Minting"

Better Markets recommends that the FDIC request a description of the controls that PPSIs have in place to ensure that they can only "mint," or authorize the creation of, stablecoins when they have established that sufficient reserves exist to meet Act dollar-for-dollar backing requirements.

Recently, the stablecoin issuer Paxos accidentally minted $300 trillion of stablecoins on the Ethereum blockchain.[27] Though Paxos subsequently destroyed those stablecoins, it raises questions about the policies and procedures the firm had in place to only authorize the creation of stablecoins that were backed by sufficient reserve assets. Other, less flagrant errors may go unnoticed–or may be irreversible depending on what wallet address stablecoins are sent to. For example, Tether previously accidentally minted $5 billion worth of stablecoins and the crypto lending company BlockFi credited users with Bitcoin instead of a promotional stablecoin, thereby "forcing complicated reversals."[28] The FDIC should require applicants to provide a granular description of the internal controls in place at the PPSI subsidiary to prevent further instances such as this from happening, in addition to the mechanisms in place to "burn" stablecoins if and when errors occur.

Bank Secrecy Act and Anti-Money Laundering

The Proposal also insufficiently addresses how applicants will demonstrate operational readiness to comply with forthcoming Bank Secrecy Act, anti-money laundering ("AML"), countering-the-financing-of-terrorism ("CFT"), sanctions, customer identification, and illicit finance obligations applicable to PPSIs. Treasury and Financial Crimes Enforcement Network

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26 *Id* at 59416.

27 Nagarajan, Shalini. "Paxos Accidentally Minted $300 Trillion of PayPal's Stablecoin – Then Burned It." *Yahoo! Finance*. (October 15, 2025), available at: https://finance.yahoo.com/news/paxos-accidentally-minted-300-trillion-035711207.html.

28 *Id.*

("FinCEN")[29] have separately proposed AML/CFT and sanctions requirements for PPSIs under the Act, underscoring the material illicit-finance risks associated with stablecoin activities. However, because those requirements remain proposed and unfinished, the FDIC currently lacks a finalized framework against which to evaluate whether applicants possess the operational, technological, governance, and compliance capabilities necessary to operate safely and soundly.

Stablecoin activity may involve pseudonymous wallets, cross-border transfers, blockchain bridges, decentralized infrastructure, mixers, and third-party service providers that create materially different compliance risks than traditional banking products. The FDIC should therefore require applicants to demonstrate robust blockchain analytics capabilities, real-time transaction monitoring systems, sanctions-screening controls, suspicious activity escalation procedures, and governance frameworks capable of responding to rapidly evolving illicit-finance typologies before any application is approved.

Foreign Custody and Cross-Border Risk

To the extent that the FDIC allows stablecoin reserves to be held in foreign financial institutions, applicants should be required to disclose that to the FDIC and to stablecoin holders, along with a description of potential delays in access to reserve assets due to extraterritoriality.

IV. The Final Rule Must Apply Actual Standards Beyond "Unsafe and Unsound"

The Act restricts the FDIC to a single ground for denying an application to issue payment stablecoins: that the activities of the applicant "would be unsafe or unsound" based on the enumerated statutory factors.[30] This standard is fundamentally misaligned with the nature of the regulatory decision the FDIC is being asked to make. The "unsafe or unsound" standard is the most severe threshold in the federal banking regulatory lexicon—it is the language of enforcement actions, cease-and-desist orders, and removal proceedings, not of prospective product or activity approvals.[31]

The "unsafe or unsound" standard has been construed by courts and the banking agencies to encompass only conduct "contrary to generally accepted standards of prudent operation, the

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[29] *See* Department of the Treasury. "Permitted Payment Stablecoin Issuer Anti-Money Laundering/Countering the Financing of Terrorism Program and Sanctions Compliance Program Requirements." 91 FR 18582 (April 10, 2026), available at: https://www.federalregister.gov/documents/2026/04/10/2026-06963/permitted-payment-stablecoin-issuer-anti-money-launderingcountering-the-financing-of-terrorism.

[30] *Supra* 2. Act §5(d)(1)(A), 12 U.S.C. §5904(d)(1)(A) ("The [FDIC] shall deny an application submitted under this section only upon a determination that the activities of the applicant (including the proposed activities of the subsidiary) would be unsafe or unsound based on the factors described in subsection (c).").

[31] *See* 12 U.S.C. §1818(b)(1) (authorizing cease-and-desist proceedings against institutions engaging in "unsafe or unsound practice[s]"); 12 U.S.C. §1831p-1(a) (directing federal banking agencies to prescribe safety and soundness standards).

possible consequences of which, if continued, would be abnormal risk or loss to a banking institution."[32] Federal courts have similarly interpreted the standard narrowly, applying it to conduct that poses "abnormal risk or loss" to the institution.[33] By limiting denial to this extreme standard, the Act effectively creates a presumption of approval: any application that is not affirmatively dangerous must be approved. This inverts the ordinary regulatory approach to novel financial activities, under which regulators retain broad discretion to evaluate whether a proposed activity is prudent, viable, and in the public interest—not merely whether it would cause abnormal risk or loss.

The OCC and FDIC have recently acknowledged the enforcement-centric nature of this standard and its historical inconsistency in application. In October 2025, the two agencies jointly issued a notice of proposed rulemaking expressly acknowledging that the term "unsafe or unsound practice" lacks a federal statutory definition and that this absence "has resulted in enforcement actions and supervisory criticisms for concerns not related to material financial risks."[34] The proposed rule would codify a narrow definition requiring that the conduct in question be likely to *materially harm the financial condition* of the institution or present a material risk of loss to the Deposit Insurance Fund—confirming that the standard is calibrated to address severe, financially threatening conduct, not to serve as a forward-looking gatekeeping tool for novel product approvals. That the agencies felt compelled to formalize this limitation through rulemaking underscores that "unsafe or unsound" is an enforcement threshold of last resort, and further demonstrates why Congress's decision to rely on it as the sole basis for PPSI denial produces a presumption of approval incompatible with sound prudential regulation.

The proposed approach is unprecedented in federal banking law and inconsistent with how the FDIC operates in other areas of its purview. When the FDIC evaluates applications for deposit insurance, it considers factors including the convenience and needs of the community to be served, general character and fitness of management, future earnings prospects, and the adequacy of the institution's capital structure—with no limitation confining denial to "unsafe or unsound" grounds

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32 *See*, e.g., FDIC, Risk Management Manual of Examination Policies, Section 1.1 ("The term 'unsafe or unsound practices' is not formally defined in the banking statutes. However, it has generally been recognized that an unsafe or unsound practice encompasses any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the possible consequences of which, if continued, would be abnormal risk or loss to a banking institution.") (emphasis added).

33 *See* Gulf Federal Savings & Loan Association v. FHLBB, 651 F.2d 259, 264 (5th Cir. 1981) (holding that the term "unsafe or unsound practice" "encompasses what may be generally viewed as conduct deemed contrary to accepted norms of banking operations which might result in abnormal risk or loss to a banking institution or shareholder"); First National Bank of Eden v. Department of Treasury, Office of the Comptroller of the Currency, 568 F.2d 610, 611 n.2 (8th Cir. 1978).

34 *See* Federal Deposit Insurance Corporation & Office of the Comptroller of the Currency. "Unsafe and Unsound Practices, Matters Requiring Attention." Proposed Rule. 90 FR 48835 (October 30, 2025), available at: https://www.federalregister.gov/documents/2025/10/30/2025-19711/unsafe-or-unsound-practices-matters-requiring-attention. The comment period closed on December 29, 2025, and as of the date of this letter, the rule has not been finalized. *See also* Better Markets Comment Letter to the Proposed Rule, available at: https://bettermarkets.org/wp-content/uploads/2025/12/Better-Markets-Comment-Letter-FDIC-OCC-Unsafe-Unsound-Practices.pdf.

alone.[35] When the FDIC reviews bank merger applications, it evaluates competitive effects, the convenience and needs of the community, financial stability considerations, and the effectiveness of the applicant's anti-money laundering program.[36] The OCC's charter application process involves comprehensive review of the applicant's business plan viability, management depth, and community benefit.[37] In each case, the regulator exercises affirmative judgment about whether the proposed activity or institution serves the public interest—a qualitative determination that goes well beyond merely confirming the absence of unsafe or unsound practices.

The Act's standard strips the FDIC of this qualitative judgment. Under the proposed framework, an applicant whose business plan is unrealistic, whose stablecoin serves no demonstrable public purpose, and whose operations will divert management attention and resources from the parent bank's core community banking functions could not be denied so long as the PPSI application does not cross the "unsafe or unsound" threshold. In short, the FDIC is being asked to serve as a gatekeeping regulator while denying itself the tools and authority to make that gatekeeping meaningful.

The FDIC's Failure to Exercise Its Discretionary Authority Under Section 5(c)(5) Compounds the Problem

Section 5(c)(5) of the Act expressly authorizes the FDIC to "establish" and consider "any other factors as necessary to ensure the safety and soundness of the [PPSI]" when evaluating applications.[38] This provision represents Congress's acknowledgment that the enumerated statutory factors may be insufficient and that regulators would need flexibility to address risks that the statute does not specifically enumerate. Yet the FDIC has declined to use this authority, stating without elaboration that it "is not proposing to establish any additional factors pursuant to section 5(c)(5) of the Act at this time."[39]

The Proposal fails to explain why no additional factors are necessary despite acknowledging the novelty of PPSI activities and the absence of any relevant supervisory

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35 *See* FDIC Statement of Policy on Applications for Deposit Insurance, 63 FR 44756, 44761 (Aug. 20, 1998) "Evaluating factors including "convenience and needs of the community to be served" and "consistency of corporate powers" as part of deposit insurance applications"; *see also* 12 U.S.C. §1816 (listing factors the FDIC considers in evaluating deposit insurance applications, including future earnings prospects, general character and fitness of management, adequacy of capital structure, and convenience and needs of the community).

36 *See* 12 U.S.C. §1828(c)(5). Bank Merger Act factors including "the convenience and needs of the community to be served" and competitive effects; 12 C.F.R. §303.62 (FDIC merger application requirements).

37 *See* Office of the Comptroller of the Currency, Policies and Procedures for Corporate Activities, Comptroller's Licensing Manual (Jan. 2024), at 12–24 (describing comprehensive evaluation of charter applications including business plan viability, management depth, and community benefit).

38 *Supra* 3.

39 *Supra* 2 at 59411. "The FDIC is not proposing to establish any additional factors pursuant to section 5(c)(5) of the GENIUS Act at this time."

experience. The absence of any reasoned explanation raises questions regarding whether the agency has adequately explained its decision under the Administrative Procedure Act because it has not demonstrated a rational connection between the facts before it and its policy choice.

This choice represents a serious policy mistake that would materially weaken the regulatory framework for PPSIs. In a final rule, the FDIC should exercise its authority under section 5©(5) to establish, at minimum, the following additional evaluation factors:

1. Impact on the parent bank's risk profile and core functions.

The application process focuses almost entirely on the PPSI subsidiary's plans and capabilities while giving inadequate attention to how the parent bank itself will be affected. The FDIC should require applicants to demonstrate that the proposed stablecoin activities will not impair the parent institution's deposit-taking, lending, and community service functions, and that the parent's risk profile—including reputational risk, operational risk, and concentration risk—has been evaluated on a consolidated basis.

2. Step-in risk assessment.

The proposal asks applicants to disclose any "planned applicant-provided sources of strength, applicant guarantees, and/or intercompany agreements,"[40] but does not require a comprehensive assessment of the parent bank's exposure to implicit step-in risk—the risk that the parent will provide financial support to the PPSI beyond its contractual obligations in order to protect its franchise and reputation. As noted above, PPSI applications should include step-in risk related information and accordingly should be a factor that the FDIC evaluates in the application. The Basel Committee on Banking Supervision has identified step-in risk as a significant driver of contagion between banks and unconsolidated shadow banking entities,[41] and the financial crisis provided ample evidence of this dynamic.[42] The FDIC should require applicants to submit a step-in risk self-assessment consistent with the Basel Committee's framework, including an evaluation of reputational linkages, implicit guarantees, and the potential capital and liquidity impact on the parent if step-in occurs.

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40 *Supra* 2 at 59412. "[T]he FDIC would expect the application to include whether there are any planned applicant-provided sources of strength, applicant guarantees, and/or intercompany agreements."

41 *See* Basel Committee on Banking Supervision, "Guidelines - Identification and Management of Step-in Risk" (October 2017), at 1 "In some cases, banks preferred to support certain shadow banking entities in financial distress, rather than allow them to fail and face a loss of reputation, even though they had neither ownership interests in such entities nor any contractual obligations to support them." available at: https://www.bis.org/bcbs/publ/d423.pdf.

42 *See* Financial Stability Board. "Assessment of Shadow Banking Activities, Risks and the Adequacy of Post-Crisis Policy Tools to Address Financial Stability Concerns" (July 3, 2017), available at < https://www.fsb.org/2017/07/assessment-of-shadow-banking-activities-risks-and-the-adequacy-of-post-crisis-policy-tools-to-address-financial-stability-concerns/ > at pages 9–10. Describing how pre-crisis capital frameworks permitted banks to maintain off-balance-sheet exposures to asset-backed commercial paper conduits and securitization vehicles with minimal capital charges, and that "when confidence of external funders in the quality of the assets held in these SPEs deteriorated, sponsoring banks had to step in to support the entities".

3. Demonstrated operational capability.

The proposed application requires descriptions of plans, policies, and projections, but does not require applicants to demonstrate that the proposed stablecoin's technology—including distributed ledger systems, smart contract code, reserve management infrastructure, and redemption processing—has been tested under realistic conditions. The FDIC should require applicants to provide evidence of operational readiness, which could include third-party technology assessments, penetration testing results, and pilot program outcomes. Evaluating paper plans for an untested technology platform is not consistent with prudent regulatory practice.

4. Systemic risk considerations.

Each PPSI application is evaluated individually under the proposed framework, with no mechanism for the FDIC to consider the aggregate effects of approving multiple bank-sponsored stablecoins. The FDIC should establish a factor requiring applicants to address how their proposed activities interact with the broader stablecoin market and financial system, including the potential impact of aggregate stablecoin reserve holdings on Treasury market liquidity and the potential for correlated runs across multiple bank-sponsored stablecoins during periods of financial stress.

V. Application Review Process Lacks Sufficient Procedural Safeguards

The Proposal includes a troubling and recurring assumption that payment stablecoin issuance is presumptively beneficial and that the FDIC's role in this process is primarily to facilitate market entry while minimizing regulatory burden. That framing is inconsistent with the FDIC's statutory mission.

In fact, the FDIC's core responsibilities are to maintain public confidence in the banking system, protect the DIF, and ensure the safety and soundness of insured depository institutions. The Act does not transform the FDIC into a promoter of digital asset innovation. Yet the Proposal repeatedly (over)emphasizes efficiency, streamlining, minimizing burden, and facilitating stablecoin activity while devoting comparatively little attention to the potentially severe consequences of failure, contagion, operational disruption, or consumer confusion.

PPSIs issued by IDIs may create substantial consumer confusion regarding the nature of the product and whether stablecoins themselves are insured deposits. Such confusion may become particularly acute during periods of stress and could accelerate destabilizing redemption behavior. The FDIC should require applicants to demonstrate how marketing, branding, and

consumer disclosures will prevent confusion regarding the scope of FDIC insurance protections.[43]

The proposed application review process reflects an emphasis on speed and administrative efficiency that is fundamentally at odds with the FDIC's core safety-and-soundness mandate. By imposing a requirement that the agency determine whether an application is "substantially complete" within 30 days and render a final decision within 120 days—coupled with the possibility of "deemed approval" in the event of agency inaction—the proposal creates a framework that would elevate procedural expediency over safety and soundness and financial stability concerns.

The provision permitting stablecoin applications to be effectively approved by default if the FDIC does not act within the prescribed timeframe is puzzling and contrary to the public interest. Specifically, such an approach is incompatible with the statutory responsibilities of a prudential regulator. Neither the FDIC nor any of its peer federal banking regulators has relevant experience in this domain, and the proposal's emphasis on speed over rigor, particularly for a novel product, is reckless. Notwithstanding the hyperbolic growth assumptions of stablecoins' advocates[44], the depegging of USD Coin over the weekend after the failure of Silicon Valley Bank demonstrated the potential for large stablecoins to create and amplify financial instability. The Proposal risks subordinating the FDIC's prudential responsibilities to an accelerated approval framework.

The Proposal's deemed-approval problem is structurally embedded because it operates through two self-executing mechanisms. Under proposed paragraph (f)(1), the FDIC must notify a PPSI applicant whether its application is "substantially complete" within 30 days of receipt — and if the FDIC fails to issue that notification within 30 days, the application is automatically deemed substantially complete as of the date it was received. This first trigger is as problematic as the second. A determination of substantial completeness is the FDIC's first substantive judgment about whether the PPSI application contains sufficient information for the agency to evaluate the statutory factors under section 5(c) of the GENIUS Act. Allowing that determination to be made by regulatory inaction—particularly given the novel, technically complex nature of

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[43] *See* Federal Deposit Insurance Corporation. "Advisory to FDIC-Insured Institutions Regarding Deposit Insurance and Dealings with Crypto Companies." FIL-35-2022 (July 29, 2022), available at: https://www.fdic.gov/news/financial-institution-letters/2022/fil22035.html. The Advisory warns that inaccurate or misleading representations regarding deposit insurance may create consumer confusion and directs institutions to monitor and address such risks in relationships with crypto firms. See also Federal Deposit Insurance Corporation. "FDIC Issues Cease and Desist Letters to Five Companies for Making Crypto-Related False or Misleading Representations about Deposit Insurance" (August 19, 2022), available at: https://www.fdic.gov/news/press-releases/2022/pr22060.html. The FDIC found that crypto-related firms made false or misleading statements regarding the scope of FDIC insurance protection. These actions reflect the FDIC's own recognition that consumers may misunderstand the applicability and scope of deposit insurance in connection with crypto-related products.

[44] *See* Chainalysis. "The $100 trillion wealth shift: Stablecoin utility and the future of payments." (April 8, 2026), available at: https://www.chainalysis.com/blog/stablecoin-utility-future-of-payments/. "In 2025, stablecoins processed $28 trillion in real economic volume. By 2035, that figure could reach $1.5 quadrillion, surpassing today's entire cross-border payments market."

PPSI applications and the FDIC's acknowledged workforce constraints—means the 120-day approval clock can begin running before the agency has affirmatively confirmed it has received the information necessary to conduct a meaningful review.

The two mechanisms further interact to create a compounding risk. Once an application is deemed substantially complete—whether by FDIC action or by the agency's failure to act within 30 days—the 120-day approval clock begins. If the FDIC then fails to act within that window, the application is "deemed approved" under proposed paragraph (g)(2). Therefore, an applicant that submits a facially complete but substantively inadequate application could exploit both clocks: for example, forcing a deemed-completeness determination by the FDIC's inaction, and then benefiting from a deemed approval if the agency cannot complete its review within the resulting 120-day window. Given that the FDIC has never supervised a PPSI, lacks established examination protocols for stablecoin activities, and is simultaneously managing a 20 percent workforce reduction identified by its own Office of the Inspector General ("OIG") [45], the conditions for clock-driven approvals of inadequately reviewed applications are significant.

The final rule should address both time period requirements. The FDIC should affirmatively confirm substantial completeness before the 120-day window begins—i.e., not allow regulatory silence to serve as confirmation—and should remove the deemed-approval mechanism entirely. At a minimum, if Congress's statutory timeline is treated as binding, the FDIC should codify in the final rule that a deemed-substantially-complete determination does not preclude the FDIC from subsequently requesting additional information, pausing the 120-day clock for the duration of any pending information request, and that no application may be deemed approved while a request for additional information remains outstanding and unanswered.

Moreover, the imposition of fixed and static timelines is particularly ill-suited to the evaluation of stablecoin activities, which involve complex interconnections among liquidity management, operational resilience, technological infrastructure, and redemption dynamics under stress. The Proposal does not adequately account for the iterative nature of supervisory review, which often requires multiple rounds of engagement, requests for additional information, and coordination with other regulatory authorities. By constraining the agency's ability to conduct a thorough and deliberative review, the proposed timelines risk reducing the approval process to a largely procedural exercise rather than a meaningful supervisory assessment. Therefore, any final rule should not include the Proposal's automatic approval after 120 days. The FDIC should endeavor to respond to each application in a manner that is both efficient and comprehensive, but an arbitrary date for automatic approval for this novel product would be a policy mistake.

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[45] Federal Deposit Insurance Corporation. Office of Inspector General. "Top Management and Performance Challenges Facing the Federal Deposit Insurance Corporation." (March 26, 2026), available at <https://www.fdicoig.gov/sites/default/files/reports/2026-03/TMPC_Final_March%202026.pdf>.

VI. The Proposal Lacks Adequate Quality Management and Supervisory Standards

In addition to the significant deficiencies in the proposed approval process, the Proposal also fails to establish a sufficiently robust framework for evaluating the quality and reliability of the information submitted by applicants. Although the rule outlines broad categories of required materials—such as financial projections, governance structures, and reserve management policies—it does not clearly articulate the standards by which those materials would be assessed. This critical absence of defined evaluation criteria introduces significant uncertainty into the review process and raises the risk of inconsistent or opaque supervisory outcomes. By not providing such criteria and standards, it is challenging for commenters to meaningfully assess this element of the Proposal. Further, it would add significant uncertainty for potential applicants.

The filing requirements in proposed paragraph (d) are forward-looking and descriptive rather than evidence-based. The application asks for: a description of the proposed payment stablecoin and activities, planned capital and liquidity structure, financial projections for three years, relevant policies and procedures, and an engagement letter with an accounting firm. However, conspicuously absent is a requirement to ***demonstrate*** operational capabilities before approval, which is inconsistent with how the FDIC approaches *de novo* bank applications (particularly for community banks). The FDIC should require actual evidence-based information before approving a PPSI, including a pilot period, stress testing of reserve management and redemption systems, technological competency and management experience with it to prove the technology actually works under realistic conditions, and a third-party operational readiness assessment. Absent objective information on the capacity of the PPSI to operate in a safe and sound manner, a PPSI should not be approved. Under the Proposal's trust-but-not-verify approach, stablecoin applications would be approved without an evidentiary basis, leaving significant gaps for supervisors with no experience supervising such entities. Further, it is troubling that under the Proposal, PPSI applications would be subject to less prescriptive and exacting standards than the FDIC applies to community banks' applications. In the absence of such safeguards, the approval process would become completely dependent on optimistic projections and internal representations that may not withstand real-world stress.

The FDIC's capacity concerns were recently identified by the FDIC's OIG.[46] In a 2026 report, the OIG cited workforce attrition as one of eight top management and performance challenges facing the agency as of early 2026, finding that the FDIC experienced a 20 percent reduction in staff in 2025—transitioning from over 6,300 employees to just over 5,000—with an additional 17 percent of remaining staff eligible for retirement in 2026. In the process, the FDIC has significantly drained its human capital and made working for the agency far less desirable.

Most directly relevant to PPSI supervision, the Division of Complex Institution Supervision and Resolution—the division responsible for PPSI oversight and the point of contact for this rulemaking—lost over 20 percent of its staff in 2025, with significant losses specifically in its Resolution Readiness Branch, and has consistently operated below authorized staffing levels even before those reductions. The OIG further found that the current three-year training period for

[46] *Id*.

new examiners makes forward-looking workforce planning essential. It is therefore troubling that the Proposal would commit the FDIC to reviewing and approving stablecoin applications within 120 days—with deemed approval as the penalty for agency inaction—when the agency's OIG has concluded that its examination and supervisory capacity is under severe strain. An automatic approval clock is a mechanism calibrated for a fully staffed agency with established supervisory expertise. Conversely, it is a reckless design choice for an agency simultaneously absorbing a 20 percent workforce reduction and taking on a category of supervision it has never before conducted.

At a broader level, the Proposal provides no analysis demonstrating that the FDIC possesses sufficient staffing, technical expertise, or operational capacity to review PPSI applications within the prescribed timelines. Nor does it estimate expected application volumes, supervisory resource demands, or review complexity. The agency has therefore not shown its work in concluding that the proposed framework can operate safely and effectively.

Finally, the Proposal treats the approval decision largely as a one-time determination, without meaningfully integrating it into an ongoing supervisory framework. There is little discussion of post-approval monitoring, continuous reporting obligations, or clear triggers for supervisory intervention in the event that risks evolve or materialize. A sound regulatory regime for stablecoin activities must extend beyond initial approval and encompass the full lifecycle of the activity, ensuring that institutions remain subject to continuous and adaptive oversight. Any final rule should include a process for removing the approval of a stablecoin in the event of non-compliance or significant safety and soundness and financial stability concerns.

VII. The Proposal Fails To Require Applicants To Demonstrate How a Stablecoin Issuer Could Be Resolved in Stress or Failure

Because the Proposal is fundamentally procedural in nature, one of its most significant shortcomings is its failure to require applicants to explain credibly and in detail how a PPSI could be safely resolved, wound down, or stabilized during periods of severe stress. The Proposal establishes a pathway for approving stablecoin issuance but does not require applicants to demonstrate that the stablecoin could fail in an orderly manner without destabilizing affiliated insured depository institutions, disrupting payment systems, harming consumers, or transmitting stress into broader financial markets.

That omission is particularly concerning given the unique characteristics of stablecoins. Unlike traditional banking products, stablecoins may experience extremely rapid redemption dynamics driven by round-the-clock trading, automated withdrawals, concentrated institutional participation, social media amplification, and operational dependencies on blockchain infrastructure and third-party custodians. In stress, redemption activity could accelerate materially faster than traditional deposit outflows, leaving little time for supervisory intervention or operational stabilization.

The approval process should therefore require every applicant to submit a detailed resolution, recovery, and wind-down analysis as part of its application.

At a minimum, PPSI applicants should be required to provide:

- a recovery and resolution plan comparable in concept to living will requirements for large banks;
- how customer redemptions would be handled during periods of severe stress;
- how reserve assets would be liquidated in stressed market conditions;
- how operational continuity would be maintained during cyber incidents, custodial failures, blockchain disruptions, or liquidity shocks;
- what legal rights stablecoin holders would—and, as importantly, would not—possess in insolvency or receivership;
- how the applicant would prevent contagion to affiliated insured depository institutions or parent organizations;
- what triggers would require suspension of issuance or redemptions;
- and how the applicant would communicate with consumers and regulators during a run scenario.

The Proposal currently appears to assume that because stablecoins are designed to maintain a stable value, they can therefore be safely managed during stress. History demonstrates otherwise. As noted above, stablecoins have repeatedly experienced depegging events, liquidity strains, operational disruptions, and confidence shocks. The relevant prudential question is therefore not simply whether a stablecoin can function during normal market conditions, but whether the applicant can demonstrate credibly, ex ante, that the activity can fail without creating broader instability or requiring extraordinary support measures.

This is particularly important because, as described in detail above, markets and stablecoin holders may reasonably expect affiliated IDIs to provide financial support for a failing PPSI regardless of formal legal separateness. The application process should therefore require applicants to analyze explicitly the potential for reputational contagion, step-in risk, liquidity support expectations, and spillovers to affiliated banking entities under stress scenarios.

Without such procedural requirements, the FDIC risks approving applicants without a clear understanding of how the proposed activity would behave during periods of distress or failure. That would be inconsistent with the FDIC's obligations to protect the DIF, maintain confidence in IDIs, and ensure the safety and soundness of the banking system.

VIII. The Proposal Should Establish Strict Limitations on Appeals and Preserve the FDIC's Ability To Require Immediate Remediation

The Proposal does not adequately address how supervisory disputes, appeals, or challenges to FDIC findings involving PPSIs would be handled. That omission is significant because, as described above, stablecoin activities present materially different supervisory risks than traditional banking activities. Stablecoin issuance can scale rapidly, operate continuously on a 24-hour basis

(including when the traditional payment system is closed), and deteriorate quickly during periods of stress. As a result, supervisory delays that might be manageable in traditional banking contexts could prove uniquely dangerous in the context of payment stablecoins.[47]

The Proposal appears to assume incorrectly that supervisory disagreements involving PPSIs can proceed according to ordinary supervisory timelines and processes. A stablecoin issuer experiencing operational weaknesses, reserve deficiencies, cyber vulnerabilities, redemption stress, illicit finance deficiencies, or liquidity deterioration may require immediate supervisory intervention to prevent broader contagion to affiliated IDIs, payment systems, or financial markets. Any framework that permits prolonged appeals, delayed remediation, or uncertainty regarding supervisory directives risks allowing unsafe practices to continue precisely when rapid supervisory intervention may be most necessary.

The FDIC's new Office of Supervisory Appeals (OSA)[48] introduces meaningful friction into the oversight of FDIC-supervised PPSIs. Under the revised Guidelines, an approved PPSI subsidiary that disputes a material supervisory determination—including a CAMELS downgrade, a matter requiring attention, or a finding of noncompliance with reserve requirements, among other potential disputes—can trigger an appeals process that spans up to 135 days before a final decision is issued. To make matters worse, during the appeal, the FDIC will generally delay any associated enforcement action.

This delay is particularly consequential for PPSI oversight given the speed at which reserve shortfalls, liquidity stress, and depegging events can escalate. In practice, the redemption-run dynamics that the Act's reserve and liquidity requirements are designed to prevent can materialize far faster than the FDIC's slow, cumbersome, and litigious appeals process. Compounding this concern, the OSA's reviewing panels are staffed by officials drawn from traditional bank supervisory and industry backgrounds who may lack direct familiarity with the novel risks specific to payment stablecoin issuance—including blockchain operational failures, smart contract vulnerabilities, and the reserve concentration at Silicon Valley Bank that resulted in the 2023 USDC depegging event. The standard of review, which asks whether a determination is consistent with FDIC policy and "overall reasonable," gives a sophisticated PPSI applicant meaningful grounds to contest examiners' judgments on inherently fact-intensive questions like reserve asset quality and monetization capability. Therefore, the OSA's structure risks importing appellate delays and industry deference into a supervisory context where speed and examiner discretion are essential safeguards.

To mitigate these obvious process concerns with stablecoin oversight, the FDIC should therefore clarify in any final rule that:

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47 *Supra* 14. Better Markets' comment letter on the OCC's proposal on supervisory appeals that extensively discusses the risks associated with delayed remediation and weakened supervisory authority with respect to PPSI supervision.

48 *See* Federal Deposit Insurance Corporation. "Guidelines for Appeals of Material Supervisory Determinations." 91 FR 16. (January 26, 2026), available at: https://www.fdic.gov/board/federal-register-notice-office-supervisory-appeals.pdf.

- supervisory directives involving liquidity, operational resilience, reserve management, illicit finance compliance, cybersecurity, redemption practices, or consumer protection remain immediately enforceable, notwithstanding any appeal;
- no appeal process should automatically stay or delay remediation requirements;
- the FDIC retains full authority to impose emergency supervisory restrictions or conditions where necessary to protect safety and soundness or the DIF; and
- PPSIs remain subject to heightened supervisory expectations given the speed with which stress events may develop in digitally native financial products.

These safeguards are particularly important because sophisticated stablecoin issuers may possess substantial financial, technological, and legal resources and may aggressively challenge supervisory findings. The Proposal should not inadvertently create procedural mechanisms that allow unsafe activities to persist through delay, litigation, or administrative appeals. The FDIC's supervisory framework must prioritize timely remediation and financial stability over procedural gamesmanship.

Further, the FDIC should expressly clarify that repeated supervisory findings, unresolved remediation deficiencies, or material operational incidents may serve as independent grounds for restricting growth, limiting activities, or revoking approval authority for PPSIs.

IX. The Proposal Does Not Provide Sufficient Public Transparency into the FDIC's Application Process

The Proposal further suffers from a lack of transparency and accountability in its application and approval processes. It does not provide for meaningful public disclosure of application materials, supervisory analyses, or the rationale underlying approval or denial decisions. While some degree of confidentiality is appropriate, the absence of even partial or redacted disclosures limits the ability of market participants, policymakers, and the public to evaluate the consistency and rigor of the FDIC's decision-making.

Transparency is a critical component of an effective regulatory framework, particularly for activities that may have systemic implications. Public visibility into the standards applied and the reasoning employed by the agency helps to promote discipline among applicants, enhances market confidence, and facilitates external oversight. Without such transparency, there is a heightened risk of inconsistent treatment across applicants and reduced accountability for supervisory outcomes.

In addition, the lack of standardized reporting on approved activities impedes the ability to monitor the aggregate growth and risk profile of stablecoin issuance within the banking system. Absent clear disclosure requirements and comparable metrics, neither regulators nor the public can effectively assess how these activities are evolving over time or whether they are contributing to emerging vulnerabilities.

Taken together, these shortcomings undermine the procedural integrity of the proposal. A robust approval framework must be not only substantively rigorous but also transparent, accountable, and capable of supporting ongoing oversight and public confidence.

X. Safe Harbor Waiver

The FDIC in the Proposal notes that it declined to include a description regarding procedures for applicants to request a waiver of some or all of the Act's requirements.[49] The Proposal notes that this is due to the temporary nature of the provision and the case-by-case analysis required for any waiver.[50] Given that stablecoins are frequently marketed by their proponents as a safe and reliable substitute for U.S. dollars, any waiver of the requirements of the Act—even on a temporary basis—could cause substantial harm to stablecoin holders.

The FDIC should not permit "scale first, comply later" business models in the context of PPSIs. Stablecoin activities may grow rapidly and generate substantial interconnectedness before supervisors fully identify operational, liquidity, governance, reserve-management, cybersecurity, or illicit finance weaknesses. Granting broad transition relief risks allowing unsafe practices to become deeply embedded in the financial system before adequate safeguards are established.

The FDIC also runs the risk of an arbitrary and capricious waiver process that advantages and disadvantages market participants based on unknown, and potentially unfairly applied, criteria. Better Markets recommends that the FDIC include a fulsome discussion of the narrow factors that would warrant a waiver of application requirements, and how those factors would be considered when the FDIC determines the length of the waiver granted.

For example, potential PPSIs seeking transition relief should be required to demonstrate, at a minimum:

- robust governance, capital planning, and risk-management capabilities;
- credible reserve-management practices;
- operational resilience and cybersecurity preparedness;
- compliance with applicable anti-money laundering and sanctions obligations; and
- the ability to manage severe redemption stress scenarios without threatening affiliated insured depository institutions or broader financial stability.

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49 *Supra* 2 at 59414.

50 *Id.*

XI. The Proposal Should Establish a Robust and Continuous Post-Approval Supervisory Framework

The Proposal appropriately focuses on the approval process for PPSIs. However, it insufficiently addresses the ongoing supervisory framework that should apply after approval is granted. That omission is significant because stablecoin activities may evolve rapidly following approval and may present dynamic liquidity, operational, cybersecurity, reserve-management, and financial stability risks that cannot be adequately addressed through a static approval process alone.

The Proposal appears to treat approval as a discrete, one-off event rather than the beginning of a continuous supervisory relationship involving a novel and rapidly evolving financial activity. That approach is inadequate and inconsistent with the FDIC's treatment of banking organizations. Traditional periodic examination frameworks may not be sufficient for continuously operating, digitally native financial products capable of experiencing severe liquidity or operational stress within hours.

The FDIC should therefore establish enhanced post-approval supervisory expectations for PPSIs, including:

- continuous or near real-time reporting regarding reserve composition, liquidity levels, redemption activity, and concentration exposures;
- immediate notification requirements for significant redemption spikes, operational outages, cybersecurity incidents, custodial disruptions, or material governance failures;
- periodic stress testing focused on severe redemption and liquidity scenarios;
- heightened examination frequency;
- blockchain analytics and transaction-monitoring expectations where appropriate; and
- periodic reassessment of whether the approved activity remains consistent with safety and soundness and protection of the DIF.

The FDIC should also establish clear supervisory triggers for heightened review or intervention, including rapid asset growth, reserve concentration, sustained redemption stress, operational disruptions, or material changes in business activities or customer base composition.

These enhanced supervisory expectations are necessary because payment stablecoins operate differently from traditional banking products and may transmit stress through payment systems and financial markets with unusual speed. The supervisory framework should reflect those realities rather than assume that conventional supervisory approaches will necessarily remain sufficient.

XII. Conclusion

As Better Markets has consistently noted, the Act is a poorly designed and flawed law. However, that reality does not excuse the misguided implementation approach the FDIC has undertaken thus far. The Proposal treats the approval of a PPSI as a one-time event rather than the beginning of a continuous supervisory relationship that includes novel and significant technological, operational, liquidity, and financial stability risks.

This Proposal is representative of the haphazard, incomplete, and premature process the FDIC and the other federal banking agencies have promulgated to date in their implementation of the Act. Better Markets strongly urges the FDIC to pause this and other rulemakings and coordinate with the responsible federal regulators to ensure the strongest possible framework can be achieved. If the FDIC chooses to move forward with the proposal, it should not finalize this rulemaking prior to its other outstanding proposal implementing the other provisions of the Act.

Robust implementation of the Act is necessary for U.S. financial stability, competitiveness, consumer protection, and to guard our economy from illicit finance risks. Accordingly, the FDIC should substantially revise the Proposal consistent with the recommendations outlined in this letter to ensure that any framework governing PPSI issuance protects the DIF, promotes the financial stability of the United States, and safeguards consumers and the broader banking system.

Sincerely,

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