Myth vs. Fact: The GENIUS Act

TOPLINE: Stablecoins currently operate in a legal grey area. Without this bill there are limited existing:

1. Consumer protections
2. National security protections
3. Limitations on Big Tech companies' ability to issue stablecoins
4. Ethics clarity

Myth 1: *The bill does nothing to prevent stablecoins from being exploited by terrorists, cartels, and criminals.*

Fact: The GENIUS Act requires all stablecoin issuers, including foreign issuers, to have the technological capability to freeze and seize stablecoins and also comply with lawful orders. It also requires all permitted payment stablecoin issuers to comply with U.S. anti-money laundering (AML) and sanctions requirements, including implementing AML and sanctions programs and annually certify compliance with the bill's AML provisions. This is a higher reporting obligation than what banks are currently subject to.

Likewise, the bill grants the Treasury Department the authority to designate foreign stablecoin issuers as noncompliant if they fail to comply with lawful orders. This would prohibit generally centralized digital asset service providers from facilitating the secondary trading of these foreign stablecoins in the United States.

Other comprehensive AML provisions for digital assets, digital asset service providers, and secondary markets, would be more appropriate for a broader discussion, and potentially enacted as a part of a crypto market structure bill.

Myth 2: *The bill lacks basic consumer protections.*

Fact: At its core, the GENIUS Act is a consumer protection bill. GENIUS establishes a first of its kind federal framework to regulate payment stablecoins; a payment product that is already offered in the U.S. with little regulatory oversight. Without this framework, consumers face risks like unstable reserves or unclear operations from stablecoin issuers. GENIUS establishes reasonable federal safeguards, including:

- 100% reserve backing with US dollars and short-term Treasuries, or similarly liquid assets as determined by primary regulator.
- Simple monthly public disclosure of reserve composition.
- Annual audited financial statements for issuers with more than $50 billion in market capitalization.

This approach protects stablecoin holders and enhances consumer confidence in the licensed payment stablecoin market, which also helps the crypto industry.

Myth 3: *The bill would pave the way for elected officials to profit from stablecoin issuance.*

Fact: The GENIUS Act makes it clear that ethics laws apply to members of Congress and Senior Executives in the government. Importantly it clarifies that those ethics laws are applicable to the business of issuing a payment stablecoin.

Myth 4: *The GENIUS Act does not impose guardrails on transactions between a stablecoin issuer and its affiliate.*

Fact: The bill imposes guardrails on affiliate transactions to prevent large issuers from abusing market power similar to anti-tying restrictions applicable to banks. This means that customers cannot be forced to buy additional paid products or services as a condition of using or purchasing that issuer's stablecoin. Federal payment stablecoin regulators also have the authority to regulate transactions between a stablecoin issuer and affiliates, as they do for banks.

Likewise, existing law that protects sensitive consumer financial data will apply to stablecoins.

Myth 5: *The bill destroys the separation between banking and commerce and enables big tech firms to enter the banking system with little to no guardrails.*
Fact: This bill allows for non-banks to issue payment stablecoins because a payments product is inherently different than banking.

- Payment stablecoin issuers are not offering lending or credit products.
- Payment stablecoins are backed by a 1:1 reserve.
- Payment stablecoin reserves cannot be pledged, rehypothecated, or reused by payment stablecoin issuers.

The GENIUS Act also recognizes that payments products are different than banking products and therefore bans issuers from offering yield or interest on payment stablecoins. Legislating a workable legal framework for similar yield-bearing products would require separate legislation.

The point of this bill is to bring tech companies that are already issuing payment stablecoins under a federal framework, not to exclude them from the industry as a whole. The GENIUS Act's approach allows for appropriate competition which makes the payment stablecoin market better.

Myth 6: *The bill does nothing to safeguard the financial system from a potential meltdown.*
Fact: Previous failures involved three critical gaps that the GENIUS Act carefully addresses:

- Reserve Rules: Some collapsed stablecoins held risky assets or fractional reserves, which will be banned under the 1:1 backed reserves requirement created by the GENIUS Act.
- Transparency: Failed issuers often hid reserve composition – now addressed through mandatory monthly disclosures that are examined by a registered public accounting firm.
- Oversight: Past collapses lacked federal audits, while the GENIUS Act incorporates an annual audit for larger stablecoin issuers.

Under the GENIUS Act, stablecoins are always backed 1:1. No exceptions. The GENIUS Act also PREVENTS destabilizing runs through a tailored regulatory framework that includes:

- Diversification requirements for reserve assets.
- Interest rate risk management standards.
- Capital, liquidity, and risk management requirements.
- Prohibiting riskier reserve assets like corporate debt or equities.

All of these requirements are carefully designed to avoid unnecessary regulatory costs.

The GENIUS Act also explicitly prioritizes stablecoin holders in insolvency proceedings, granting them legal claim to reserves AHEAD of other creditors. Thus, granting stablecoin holders unprecedented protection in the tail risk scenario that an issuer fails.

Myth 7: *The Bill does nothing to close the loophole for foreign evasion of U.S. rules.*
Fact: The GENIUS Act has closed any perceived loopholes for foreign evasion of U.S. rules. As it stands now, foreign issued stablecoins can enter the U.S. market unchecked. The GENIUS Act provides a framework for regulating these stablecoins.

Myth 8: *Republicans are advancing the legislation too rapidly, limiting the opportunity for Democrats and other key stakeholders to provide meaningful input on the bill.*
Fact: The GENIUS Act is the culmination of years of bipartisan discussions on stablecoin legislation. It incorporates input from state regulators, multiple federal agencies, including the Federal Reserve, the Treasury Department, OCC, SEC, FDIC, and NCUA, as well as over 60 commenters from a broad range of perspectives and industries. Democrats have had more than meaningful input into the legislation, as evidenced by the 6 Democrat amendments included as amendments to the bill passed out of Committee.

Myth 9: *The GENIUS Act expands who is eligible for Federal Reserve master account access.*
Fact: The bill makes it clear that nothing in the Act expands or contracts current eligibility for master account access.