FACT SHEET: *THE GENIUS ACT*
From the Democratic Staff of the Senate Banking Committee

The Senate Banking Committee Staff reviewed the final text of the GENIUS Act. A strong bill would ensure that consumers enjoy the same consumer protections when using stablecoins as they do when using other payment systems, close loopholes that enable the illicit use of stablecoins by cartels, terrorists, and criminals, and reduce the risk that stablecoins take down our financial system. The GENIUS Act does not meet those minimum standards. **While a strong stablecoin bill is the best possible outcome, this analysis concludes that the current bill is worse than no bill at all.**

According to one industry analysis, passing the GENIUS Act could help the stablecoin market grow 10-fold over the next three years to a $2 trillion market. Scaling up the stablecoin market without adequate safeguards risks increasing the illicit use of stablecoins, which already account for over 60% of unlawful crypto transactions. Additionally, this expansion deeply integrates stablecoins into our financial system, heightening the possibility of a crypto collapse requiring taxpayer bailouts – all while aiding and abetting President Trump's stablecoin-related financial corruption.

Consumer protection and financial meltdown risk: If enacted in its current form, consumers may have fewer basic protections when using stablecoins than they do when using Venmo or their bank account.

While the final bill adds a savings clause that purports to ensure that existing federal consumer protection laws are extended to stablecoins, this language simply states that the bill does not modify any "right or remedy" under consumer protection laws. It does not clarify whether these laws expressly apply to stablecoin transactions. In particular, the bill fails to clarify that the CFPB can enforce consumer protection laws for stablecoin transactions. A newly added legal citation makes matters worse by implying the CFPB does not have authority over nonbank stablecoins. In addition, other parts of the bill give exclusive authority over certain consumer protections to other regulators, further excluding the CFPB.

The bill has weaker consumer protections than those found in past bipartisan stablecoin proposals. It permits stablecoin issuers to invest in risky assets that have been bailed out multiple times in the past 20 years, including money market mutual funds, uninsured bank deposits (including in offshore accounts), and short-term "repo loans" to hedge funds. Several of these investments were prohibited in previous bipartisan stablecoin bills, including the *Lummis-Gillibrand Payment Stablecoin Act.* Under the GENIUS Act, only one stablecoin issuer in the U.S. would currently be required to have its financial statements audited – meaning the vast majority of stablecoin issuers, those with less than $50 billion in assets, will not be subject to any independent financial audits. This is weaker than bipartisan stablecoin bills that were introduced last Congress and leaves consumers more vulnerable to the types of fraud and scams rampant in the crypto ecosystem.

Foreign issuers and new loophole for Tether: The bill still provides foreign issued stablecoins, like Tether, multiple avenues to access U.S. markets while evading the bill's basic regulatory requirements.

The bill's new language around foreign reciprocity agreements will mean little in practice. The Trump administration, for example, could strike a reciprocity agreement with the Bukele regime in El Salvador, where Tether is based, allowing Tether full access to the U.S. market while sidestepping the requirements of the bill. Even if El Salvador does not receive a reciprocity agreement, the bill permits Tether and other unauthorized foreign issued stablecoins to be listed and circulated on "decentralized" exchanges in the U.S. without having to comply with lawful orders to freeze and seize funds of illicit actors, let alone the rest of the bill's requirements. This "DeFi" loophole is a new addition to the latest draft of the bill. While the bill does provide the Secretary of the Treasury with the authority to delist noncompliant foreign issuers, that authority only applies to centralized exchanges. The timeline for finalizing a delisting decision, as outlined in the bill, is so long that terrorists and cartels can and will easily move funds out of the identified wallets before a stablecoin issuer is required to act, making the system ineffective against criminal actors.

Illicit finance: The final bill references a variety of illicit finance issues but contains no provisions that meaningfully expand national security protections above and beyond current law.

For example, the bill applies anti-money laundering requirements to stablecoin issuers, simply spelling out explicitly the existing laws that U.S.-based stablecoin issuers are already required to follow under the *Bank Secrecy Act*. Meanwhile, the bill imposes no additional BSA/AML obligations on stablecoin issuers – such as requiring them to monitor the blockchain for downstream illicit payment activity – and fails to extend any obligations to the crypto exchanges and other entities that facilitate stablecoin transactions for cartels, terrorists, and criminals. Concerningly, as noted above, the final bill carves out decentralized exchanges entirely from the definition of "digital asset service provider," enabling unauthorized foreign stablecoins like Tether to circulate on those exchanges in the U.S. while complying with zero national security controls.

The bill also fails to close loopholes that will enable sanctions evasion, including one that prevents Treasury from targeting "mixers" like Tornado Cash that North Korea has reportedly used to launder hundreds of millions of dollars. It also fails to address a loophole that allows terrorists to entirely evade sanctions enforcement simply by conducting their transactions in dollar-backed stablecoins rather than actual U.S. dollars.

Big Tech issuers: Despite new language on this issue, the final bill fails to prohibit Big Tech companies from issuing stablecoins. By tearing down the 200-year separation between banking and commerce, this bill undermines competition, threatens financial stability, and erodes financial privacy. While the bill purports to place restrictions on *some* Big Tech companies' ability to issue stablecoins, those restrictions are riddled with straightforward and easily identifiable loopholes. In addition, Donald Trump can waive even these meager requirements to allow his billionaire friends to issue Big Tech stablecoins. Crucially, the bill explicitly permits *private* companies, like Elon Musk's X, to issue stablecoins – seemingly gifting the President's closest Big Tech ally a competitive advantage in creating his own private currency.

Weak oversight: The bill puts in place extreme and unprecedented process hurdles and structural limitations that will handcuff the ability of the Fed and OCC to meaningfully regulate, supervise, and enforce the law against stablecoin issuers. These restrictions – such as language that expressly discourages bank regulators from applying strong capital and liquidity rules to stablecoin issuers – are not found anywhere else in banking law. In addition, the bill includes an automatic approval mechanism that greenlights a stablecoin issuer's application if regulators don't explicitly review within a specific deadline. This problematic "shot clock" provision is more concerning given that DOGE is firing the banking agency staff that would review these applications. Inexplicably, the bill also fails to give the Fed and OCC the same authority that exists in traditional banking law to block mergers that could threaten financial stability, undermine competition, or harm consumers. In addition, once a stablecoin issuer is approved, a third party – including individuals like Sam Bankman-Fried – can buy that stablecoin issuer without having to go through the application process themselves.

Bankruptcy: Under the bill, if a stablecoin files for bankruptcy, consumers will have their funds frozen and must wait for the bankruptcy process to play out for them to access any recovered money. This process stands in stark contrast to the FDIC resolution framework, which is designed to ensure consumers have access to their insured deposits immediately.

Offering interest, yield, or rewards: As the Independent Community Bankers of America has warned, the bill lacks a clear prohibition on direct and indirect interest and related inducements, which could accelerate the movement of capital away from community banks and reduce funds available for small business and consumer lending. For example, the language allows stablecoin issuers to partner with exchanges, wallet providers, or other intermediaries to pay yield on stablecoins – blessing the current Circle-Coinbase partnership in which Coinbase pays yield on USDC held at Coinbase. Additionally, the bill merely prohibits direct interest payments "solely in connection with the holding, use, or retention of such payment stablecoin," meaning stablecoin issuers could roll out rewards programs that pay interest as long as the consumer signs up for a mailing list, fills out a survey, or takes some other related action (since the interest in that case would not be based "solely" in connection with holding the stablecoin).

Ethics and conflicts of interest: The final bill clarifies that special government employees are subject to conflict-of-interest laws, but these employees are already subject to those rules. Minor clarifications like these miss the forest for the trees: President Trump stands to take in huge sums of money every year from transaction fees generated every time USD1 is used and interest earned on the stablecoin's investments. The GENIUS Act not only fails to apply any safeguards that would prevent the President and his family from continuing to profit off his stablecoin and other crypto ventures, it also turbocharges his corruption by expanding the reach of his stablecoin, which is already the 5th-largest stablecoin in the world and being used by foreign government-backed investment funds to curry favor. Congress should not grease the skids for the most egregious Presidential financial corruption in the history of our nation.