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FIA Law and Compliance Division webinar.**

**We will begin momentarily.**



# **Stablecoins for Derivatives – Collateral, Settlement, and More**

FUTURES INDUSTRY ASSOCIATION LAW & COMPLIANCE  
DIVISION WEBINAR

JUNE 4, 2026

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# Introductions – Morrison Foerster Panelists



**Alexandra Steinberg Barrage**

*Partner, Co-Head, Digital Assets, Washington, D.C.*

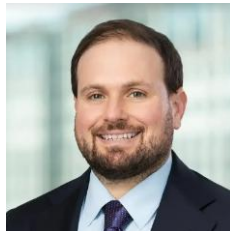
Alex advises banks and technology companies on regulatory and supervisory matters, including bank charters, examinations and enforcement, bank-fintech partnerships, resolution planning, and digital asset activities. She also counsels on regulatory due diligence, compliance, bankruptcy, and digital asset product development. Prior to joining MoFo, Alex served as an associate director at the FDIC, where she focused on issues affecting large U.S. and global banking institutions and worked closely with the Federal Reserve on resolution planning rules and guidance.



**Ryne Miller**

*Partner, Financial Services, New York*

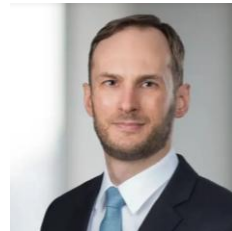
Ryne advises trading and markets businesses, financial institutions, and fintech companies on regulatory, governance, investigative, and transactional matters involving commodities, derivatives, securities, digital assets, and prediction markets. Clients rely on his experience with the CFTC, SEC, FINRA, NFA, FinCEN, DOJ, and other regulators on investigations, enforcement matters, governance issues, and crisis response. Ryne is a frequent industry speaker, guest lecturer, and has testified before Congress on digital asset market structure.



**Trevor Levine**

*Partner, Financial Services, Washington, D.C.*

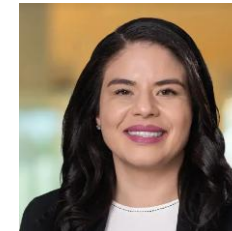
Trevor advises financial services firms and digital asset companies on regulatory matters at the intersection of finance and technology. He counsels exchanges, intermediaries, market participants, and technology companies on the Commodity Exchange Act, including CFTC and NFA registration matters, as well as federal securities laws, FINRA rules, and state money transmission requirements. Trevor also advises clients on regulatory inquiries and the design and launch of compliant financial products and structures.



**Rhys Bortignon**

*Partner, Co-Head Securities + Derivatives Regulatory Solutions, New York*

Rhys focuses on derivatives and structured products and advises U.S. and international buy- and sell-side clients, including banks, funds, investment managers, and corporates, on transactional and regulatory matters across asset classes, including rates, FX, credit, equity, digital assets, and commodities. He regularly counsels on U.S. derivatives regulation, cross-border transactions, and emerging issues involving digital assets, AI, and sustainability-linked products.



**Maria Aguilar-Rocha**

*Associate, Financial Services, Washington, D.C.*

Maria advises financial institutions and fintech companies on securities, derivatives, and digital asset regulatory and compliance matters, including innovative products, trading platforms, market structure, and CFTC- and SEC-related issues. Prior to joining Morrison Foerster, Maria served in senior roles at the CFTC and previously worked in private practice, the DOJ's Securities and Financial Fraud Unit, and the Southern District of New York.

# Topics

- 1. Regulatory Landscape**
- 2. GENIUS Act: Key Concepts**
- 3. Perspectives on Payment Stablecoins and Derivatives Markets**
  - US Treasury & Federal Bank Regulatory**
  - CFTC & SEC**
- 4. The Future of Institutional Adoption**

# Regulatory Landscape

## CFTC and SEC Developments

- Nov 2024**  
**November 21, 2024:** CFTC GMAC advances tokenized non-cash collateral recommendations
- Feb 2025**  
**February 2025:** CFTC hosts Crypto CEO Forum to discuss launch of digital asset markets pilot program for tokenized non-cash collateral
- Sept 2025**  
**September 23, 2025:** CFTC launches tokenized collateral and stablecoins initiative
- Dec 2025**  
**December 8, 2025:** CFTC issues staff guidance regarding the use of tokenized collateral in futures and swaps trading
- Feb 2026**  
**February 6, 2026:** CFTC issues CFTC No-Action Letter No. 26-05 regarding digital assets accepted as margin collateral
- Feb 2026**  
**February 19, 2026:** SEC issues FAQ on broker-dealer capital treatment of stablecoins
- Mar 2026**  
**March 17, 2026:** SEC and CFTC issue joint guidance on the application of federal securities laws to crypto assets (token taxonomy)
- Mar 2026**  
**March 20, 2026:** CFTC issues FAQs on registrant and registered entity activities regarding crypto assets and blockchain technologies

Nov. 2024

Jan. 2027

## GENIUS Act Implementation

- July 2025**  
**July 18, 2025:** Enactment of GENIUS Act
- Aug/Sept 2025**  
**August 18, 2025:** UST issues RFC regarding innovative methods to detect illicit activity involving digital assets
- Sept 2025**  
**September 19, 2025:** UST issues ANPRM regarding general implementation of GENIUS Act requirements
- Dec 2025**  
**December 19, 2025:** FDIC issues NPRM regarding procedures for insured State non-member banks or State savings associations to issue payment stablecoins through a subsidiary
- Feb 2026**  
**February 25, 2026:** OCC issues NPRM regarding general regulation of permitted payment stablecoin issuers and foreign payment stablecoin issuers
- April 2026**  
**April 3, 2026:** UST issues NPRM regarding broad-based principles to determine when a state-level regulatory regime is substantially similar to the Federal regime
- April 2026**  
**April 8, 2026:** UST's FinCEN and OFAC issue joint NPRM regarding AML/CFT and sanctions compliance program requirements
- April 2026**  
**April 10, 2026:** FDIC issues NPRM regarding general requirements for permitted payment stablecoin issuers and insured depository institutions
- Jan 2027**  
**January 18, 2027** (or 120 days after primary federal regulators issue final implementing regulations): Effective date of GENIUS Act

# The GENIUS Act: Key Concepts

# GENIUS Act

## What Should the GENIUS Act Accomplish?



### **Standardize Core Features of Stablecoins Across Issuers**

Standard reserve, capital and liquidity, risk management, disclosure, consumer protection, and AML/CFT obligations across regulated issuers, including banks and non-banks.



### **Provide a Clear Path for Banks to Issue Stablecoins**

Today, it is permissible for banks to issue stablecoins. But technical, legal, and operational considerations require complex structures. The GENIUS Act addresses these problems, providing for better, more efficient issuance for banks.

## The result:



### **Public confidence in payment stablecoins**

Stablecoins become “no questions asked”. Stablecoins become accepted at face value (e.g., \$1) for payments, and fungible across issuers.

# GENIUS Act

## What are Payment Stablecoins?

**Stablecoins are a new form of digital money, issued and transferred onchain, and pegged to a fiat currency (\$1, 1 Euro, etc.)**

- Issued by a corporate issuer
- Designed to be used for payments
- Issuer creates a reasonable expectation that the stablecoin will maintain its peg
- Issuers cannot pay yield or interest

# GENIUS Act

## Dual Federal and State Regulatory Framework

### Only US Entities that are “permitted payment stablecoin issuers” (PPSIs)

- Subsidiary of an IDI
- Federal Qualified Payment Stablecoin Issuer
  - Nonbank approved by the OCC, Uninsured national bank chartered and approved by the OCC
  - Federal branch approved by the OCC
- State Qualified Payment Stablecoin Issuer
  - Any non-bank entity approved by a State Payment Stablecoin Regulator
  - Must be below \$10B in total payment stablecoin issuance, otherwise must be a Federal Qualified Payment Stablecoin Issuer or IDI sub
  - State Payment Stablecoin Regulator: must have a state regulatory regime that is “substantially similar” to the federal regulatory framework, certified by US Treasury

# GENIUS Act

## Key Substantive Provisions for PPSIs (All Subject to Regulatory Implementation)

### ▪ Reserve requirements

- 1:1 backing of issued payment stablecoins by permitted assets (e.g., cash, demand, deposits, short-term Treasury bills, reverse repo agreements, govt. MMFs, including tokenized versions).
- Reserves must be segregated from the issuer's proprietary assets, held at qualified custodians, and subject to daily recordkeeping and monthly attestation

### ▪ Activities limitations

- PPSI's activities are limited to issuing/redeeming stablecoins, managing stablecoins reserves, providing stablecoins custodial and safekeeping services, and limited activities that directly support those. No activities limitations for affiliates of the PPSI

### ▪ Capital, Liquidity, and Risk Management

- Regulators to impose capital, liquidity, and risk management (operational, technology and compliance) requirements tailored to the business model and risk profile of issuers

### ▪ AML/CFT obligations

- PPSIs are financial institutions under the BSA and are subject to specific recordkeeping requirements. Provisions for research, studies, and further rulemaking for US Treasury/FinCEN.

**Effective date is the earlier of January 18, 2027 or 120 days after primary federal regulators issue final implementing regulations.**

# GENIUS Act

## Stablecoin Use Cases (Institutional)

- Treasury management (liquidity optimization; reduced prefunding)
- Settlement (e.g., FX, tokenized securities)
- Collateral & margin management



# Perspectives on Payment Stablecoins and Derivatives Markets

# UST & Federal Bank Regulatory Perspectives

## Generally

- Characterization: not securities, not commodities
- Impact on eligibility of stablecoins as collateral under DCO and FCM rules
- Reserve quality requirements and their implications for collateral creditworthiness

## Key Issues; Post-GENIUS Act Regulatory Proposals

- UST, FinCEN, OFAC, OCC and FDIC have all issued NPRMs, e.g.:
  - UST ANPRM (Sept. 19, 2025) – focused on general implementation of GENIUS Act requirements
  - FinCEN and OFAC Joint NPRM (April 8, 2026) – focused on AML/CFT and sanctions compliance program requirements

# UST & Federal Bank Regulatory Perspectives

- UST, FinCEN, OFAC, OCC and FDIC have all issued NPRMs
  - OCC NPRM (February 25, 2026) – focused on general regulation of permitted payment stablecoin issuers and foreign payment stablecoin issuers
  - FDIC NPRM (April 10, 2026) – focused on general regulation of permitted payment stablecoin issuers and insured depository institutions
- Key Issues
  - Redemption period and 10-day hardwire: run risk and redemption pressures
  - Yield
- Still Unclear
  - Capitalization / balance sheet treatment / BIS SCO44 crypto asset standard

# CFTC & SEC Perspectives - Overview

## CFTC Post-GENIUS Act Guidance

- The CFTC has issued 3 main guidance documents post-GENIUS Act
  - CFTC Staff Advisory Letter No. 25-39 on the use of tokenized collateral in futures and swaps trading (December 8, 2025)
  - CFTC No-Action Letter No. 26-05 (reissuing CFTC No-Action Letter No. 25-40) regarding digital assets accepted as margin collateral and revising “payment stablecoin” definition (February 6, 2026)
  - CFTC FAQs on registrant and registered entity activities regarding crypto assets and blockchain technologies (March 20, 2026)

## SEC Post-GENIUS Act Guidance

- The SEC has issued 2 main guidance documents post-GENIUS Act
  - SEC FAQs on broker-dealer capital treatment of payment stablecoins (February 19, 2026)
  - SEC and CFTC joint guidance on the application of federal securities laws to crypto assets, including a token taxonomy (March 17, 2026)

# CFTC & SEC Perspectives

## SEC and CFTC Joint Guidance on the Application of Federal Securities Laws to Crypto Assets (March 17, 2026)

- Classifies crypto assets into five categories based on their characteristics, uses and functions.
- Provides guidance on the CFTC's and SEC's jurisdiction over crypto assets.
- Notes that certain non-security crypto assets may fall within the CEA's "commodity" definition.

Categories	Description	Security or Derivative?
<b>Digital commodities</b>	Intrinsically linked to and deriving their value from a crypto system (e.g., BTC, ETH, SOL)	NOT a security; may be considered a "commodity"
<b>Digital collectibles</b>	Designed to be collected and/or used and may represent/convey rights (e.g., NFTs, meme coins)	NOT a security; may be considered a "commodity"
<b>Digital tools</b>	Designed to perform a practical function (e.g., membership, ticket, credential)	NOT a security; may be considered a "commodity"
<b>Stablecoins</b>	Designed to maintain a stable value relative to a referenced asset (e.g., fiat-pegged)	"Payment stablecoin" is NOT a security; may be considered a "commodity"
<b>Digital securities</b>	Tokenized securities	Security

## CFTC & SEC Perspectives

### SEC and CFTC Joint Guidance on the Application of Federal Securities Laws to Crypto Assets (March 17, 2026) (Continued)

- Generally provides guidance on how certain aspects of the *Howey* test apply to crypto assets and transactions involving crypto assets based on their taxonomy.
- Explains that “protocol mining,” “protocol staking,” and the “wrapping” of a non-security crypto asset does not involve the offer and sale of a security.
- Explains that certain crypto asset disseminations known as “airdrops” do not involve an “investment of money” under the *Howey* test.
- Clarifies that the definition of “crypto asset” is identical to the definition of “Digital Asset” in the GENIUS Act.

# CFTC & SEC Perspectives

## **CFTC Staff Advisory Letter No. 25-39 on the Use of Tokenized Collateral in Futures and Swaps Trading (December 8, 2025)**

- Provides general guidance on the use of tokenized assets as collateral in futures and swaps trading based on comments received through the digital assets pilot program launched in September 2025.
- Addresses the following 5 areas:
  1. Eligible tokenized assets
  2. Legal enforceability
  3. Segregation, custody and control arrangements
  4. Haircuts and valuation
  5. Operational risks

# CFTC & SEC Perspectives

## CFTC Staff Advisory Letter No. 25-39 on the Use of Tokenized Collateral in Futures and Swaps Trading (December 8, 2025) (Continued)

1. Eligible tokenized assets
  - Recommends market participants focus their tokenized collateral efforts on those assets currently eligible to serve as regulatory margin (i.e., focus on tokenized assets where the underlying assets are liquid, with established haircuts, and will hold their value in times of financial stress).
2. Legal enforceability
  - Encourages engagement with staff to develop best practices for analyzing tokenized collateral in accordance with existing legal enforceability frameworks (e.g., DCOs are required to operate “pursuant to a well-founded, transparent, and enforceable legal framework” that includes netting arrangements, the DCO’s interest in collateral, and settlement finality.)

# CFTC & SEC Perspectives

## CFTC Staff Advisory Letter No. 25-39 on the Use of Tokenized Collateral in Futures and Swaps Trading (December 8, 2025) (Continued)

3. Segregation, custody and control arrangements
  - Recommends market participants analyze the application of tokenized collateral within their organization's existing policies, procedures, and practices as well as existing segregation and custody rules.
4. Haircuts and valuation
  - Notes that haircuts for tokenized assets can utilize the same risk-based approach already applied to underlying assets in accordance with CFTC rules.
  - Further notes registered entities and registrants should be prepared to analyze whether a tokenized form of an asset can be subject to an equivalent haircut as the asset in traditional form, subject to adjustment for any settlement-time differences or other differences in credit, market, or liquidity risks.

# CFTC & SEC Perspectives

## CFTC Staff Advisory Letter No. 25-39 on the Use of Tokenized Collateral in Futures and Swaps Trading (December 8, 2025) (Continued)

### 5. Operational Risks

- Recommends entities considering holding or transferring DLT-enabled tokenized assets as collateral to consider operational readiness, including technical capabilities or expertise that may be required to support them. These may include identifying measures to address potential cybersecurity, access/authorization, or networkwide threats, among others.

## CFTC & SEC Perspectives

### **CFTC No-Action Letter No. 26-05 Regarding Digital Assets Accepted as Margin Collateral and Revising “Payment Stablecoin” Definition (February 6, 2026)**

- Reissues CFTC No-Action Letter No. 25-40 and revises “payment stablecoin” definition to specify that a national trust bank may be a permitted issuer of a payment stablecoin.
- Allows FCMs to accept payment stablecoins and other non-securities digital assets as customer margin collateral.
- FCMs must take into account the value of such payment stablecoins and digital assets when (i) determining whether or to what extent a customer account is undermargined and (ii) performing segregation calculations.
- FCMs may deposit their own payment stablecoins into segregated customer accounts as residual interest.
- The relief is subject to certain conditions, including requiring FCMs to file a notice of intent to rely on the letter prior to their reliance, filing weekly reports of the amount of digital assets in customer accounts for the initial 3 months of reliance on the letter, and continued compliance with existing CFTC regulations.

# CFTC & SEC Perspectives

## CFTC FAQs on Registrant and Registered Entity Activities Regarding Crypto Assets and Blockchain Technologies (March 20, 2026)

- Responds to 11 FAQs meant to provide clarity on CFTC Staff Letters No. 25-39 and 26-05/25-40 regarding the use of crypto assets as collateral.
- Summary of 11 FAQ Responses:
  1. FCMs may apply the value of a customer's non-security crypto assets, after applicable haircuts, deposited to margin futures, foreign futures, or cleared swaps accounts to secure the customer's debit or deficit account balance.
  2. FCMs may deposit proprietary payment stablecoins as residual interest in customer segregated accounts, subject to a minimum 2% capital charge on market value.
  3. FCMs may not deposit proprietary crypto assets (e.g., BTC, ETH), other than payment stablecoins, in customer segregated accounts as residual interest.
  4. There is no effect on the list of permitted investments under CFTC Rule 1.25.

# CFTC & SEC Perspectives

## CFTC FAQs on Registrant and Registered Entity Activities Regarding Crypto Assets and Blockchain Technologies (March 20, 2026) (Continued)

5. There is no effect on the list of eligible margin collateral for uncleared swaps under CFTC Rule 23.156.
  - Note: SDs may not use crypto assets, including payment stablecoins, as IM or VM for uncleared swaps.
6. FCMs may apply a minimum 20% capital charge on proprietary positions in BTC and ETH and a 2% capital charge for payment stablecoins.
7. DCOs may accept crypto assets, including payment stablecoins, as IM for cleared transactions so long as it meets CFTC Rule 39.13(g)(10) (requiring IM assets to have minimal credit, market and liquidity risks).
8. DCOs are required to apply haircuts to assets deposited as IM, including crypto assets and payment stablecoins, that provide appropriate reductions in value to reflect credit, market, and liquidity risks.
9. Prior to relying on CFTC No-Action Letter No. 26-05, FCMs must file a notice with MPD regarding their intent to rely on the letter.

# CFTC & SEC Perspectives

## CFTC FAQs on Registrant and Registered Entity Activities Regarding Crypto Assets and Blockchain Technologies (March 20, 2026) (Continued)

10. FCMs relying on CFTC No-Action Letter No. 26-05 are subject to several conditions, including:
  - For 3 months beginning on the date the FCM accepts crypto assets from customers, it may only accept payment stablecoins, BTC, or ETH as margin collateral and may only deposit proprietary payment stablecoins as residual interest in customer accounts.
  - During the initial 3-month period, the FCM must provide prompt written notice of any significant operation or system issue, disruption, or failure that affects the use of crypto assets as customer margin collateral.
  - For 3 months starting with the calendar month following the month in which the FCM files its notice of intent to rely on the letter, the FCM files weekly reports of the total amount of crypto assets held in customer accounts.
11. After expiration of the 3-month period, the conditions (1) limiting acceptable crypto asset margin collateral to payment stablecoin, BTC, and ETH, (2) requiring the filing of a notice of significant operation or system issue, disruption, or failure, and (3) requiring the filing of weekly reports no longer apply.

# CFTC & SEC Perspectives

## SEC FAQs on Broker-Dealer Capital Treatment of Payment Stablecoins (February 19, 2026)

- Responds to 16 FAQs meant to provide clarity on the treatment of payment stablecoins under the broker-dealer net capital rule (Exchange Act Rule 15c3-1).
- The FAQs were followed by a statement from SEC Commissioner Hester Peirce titled “Cutting by Two Would Do” and indicating that the SEC will continue to provide broad direction to the crypto industry by way of “non-rules based” guidance.
- Key takeaway:
  - Broker-dealers may take a 2% haircut of the market value of the greater of the long or short proprietary position in payment stablecoin in calculating their net capital.
    - Note equivalent FCM capital charge on payment stablecoins in CFTC context.



# The Future of Institutional Adoption

# The Future of Institutional Adoption

- Upcoming milestones (legislative & regulatory)
  - Federal regulators (UST, FinCEN, OFAC, FDIC and OCC) have yet to adopt final rules implementing the requirements of the GENIUS Act
  - Upon closing of the relevant comment periods, each federal regulator will have to review and address the public comments received before issuing a final rule. This could be a long process.

# The Future of Institutional Adoption

- Market capitalization for stablecoins currently exceeds \$300 billion and will only continue to grow. Top 2 stablecoins by market capitalization:
  - Tether (USDT): ~\$189 billion
  - USD Coin (USDC): ~\$76 billion
- Expected market evolution and adoption
  - Final rules will provide clarity to market participants
  - Enable continued market development
  - Bring offshore business back to the U.S.
- Remaining open questions
  - Timing of final rules and transition periods
  - Treatment of yield, interest, rewards
- Call to action – continued engagement in rulemaking process

# Questions

**|||HARRISON  
FOERSTER**

