May 7, 2024

Dear Senator and Legislative Director,

Consumer Reports urges you to oppose S.919, the Guiding and Establishing National Innovation for U.S. Stablecoins of 2025 (GENIUS) Act, unless substantially amended to incorporate much stronger consumer protections and guardrails to ensure the stability of the financial system. Stablecoins have the potential to play an important role in the future of payments and financial innovation. However, it is crucial that any regulatory framework for stablecoins prioritize measures to protect consumers and the financial system against unacceptable risks.

Our concerns include the following:

- **Insufficient Consumer Protections**: While the bill includes some requirements for reserves and redemption policies, it lacks the robust consumer protections found in traditional banking. This includes clear mechanisms for dispute resolution, deposit insurance, and limitations on liability for unauthorized transactions. The bill does not provide adequate authority to federal and state regulators to ensure consumers have full protection and redemption rights for stablecoin transactions. The bill should mandate that reserves backing stablecoins be held in off-balance-sheet trusts, making them bankruptcy remote and ensuring that consumers have first-priority claims and timely access to their funds if an issuer fails.The bill should mandate that reserves backing stablecoins be held in off-balance-sheet trusts, making them bankruptcy remote and ensuring that consumers have first-priority claims and timely access to their funds if an issuer fails.
- **Regulatory Arbitrage**: The bill creates a new category of "Federal qualified nonbank payment stablecoin issuers" which could allow firms to operate under a lighter regulatory touch than traditional banks, creating opportunities to exploit regulatory gaps and potentially undermining the safety and soundness of the financial system. To prevent regulatory arbitrage and ensure a level playing field, we recommend that nonbank stablecoin issuers be required to obtain a bank charter or be subject to consolidated supervision by the Federal Reserve. All issuers, regardless of

structure, must meet equivalent standards for capital, liquidity, risk management, and consumer protection.

- **Systemic Risks**: Under the proposed bill, payment stablecoin issuers could still invest in risky types of assets that may be subject to volatility and bank runs. They also may be permitted to engage in risky non-stablecoin activities, such as private credit or derivatives trading. As stablecoins become more intertwined with the mainstream banking system, consumers and businesses could be exposed to higher levels of risk, which may lead to insolvencies and federal bailouts.
- **Big Tech and Commercial Enterprise Entry**: The GENIUS Act could inadvertently create a pathway for large technology companies and large commercial entities such as retailers to enter the banking space without being subject to the same level of scrutiny and regulation as traditional banks. This raises concerns about data privacy, market concentration, and the potential for conflicts of interest. The U.S. has long maintained a separation between the banking sector and commercial enterprises, to prevent regulatory capture and promote long-term economic growth and financial stability.
- **Limited Oversight:** The bill gives considerable power to the Comptroller of the Currency, an agency that has historically been friendly to the banking industry. It is essential to ensure that all regulators involved in stablecoin oversight have the resources and expertise necessary to effectively monitor and enforce regulations.

To protect consumers, the GENIUS Act should not be approved by Congress unless it includes:

- **Deposit Insurance and Consumer Protections:** Require that all payment stablecoins be backed by deposit insurance or a comparable federal guarantee, ensuring that consumers are protected against issuer insolvency. The Act should also establish clear, accessible dispute resolution mechanisms and limit consumer liability for unauthorized transactions, mirroring the protections afforded to traditional bank account holders and payment card users.
- **Level Playing Field:** Ensure that stablecoin issuers are subject to regulatory requirements that are commensurate with the risks they pose, regardless of their corporate structure. We recommend that nonbank stablecoin issuers be required to obtain a bank charter or be subject to consolidated supervision by the Federal Reserve. All issuers, regardless of structure, must meet equivalent standards for capital, liquidity, risk management, and consumer protection.

- **Data Privacy Safeguards**: Include strong data privacy provisions that limit the collection, use, and sharing of consumer data by stablecoin issuers and their affiliates, including explicit consumer consent requirements and prohibitions on secondary data usage..
- **Enhanced Regulatory Coordination**: Include explicit provisions for regulatory coordination and information sharing among federal and state regulators, such as through an interagency working group or joint rulemaking process, to ensure consistent supervision and close regulatory gaps across jurisdictions.
- **Clarity on Scope**: Provide a clearer definition of "payment stablecoin" to prevent the bill from inadvertently capturing other types of digital assets or innovative payment systems.

While this new technology holds promise, stablecoins are introducing many new risks and challenges to the financial system. In its current form, the GENIUS Act falls short of the core set of protections that are needed to protect consumers and ensure financial safety and stability for the banking system and the economy. We therefore urge you to vote against this bill in its current form, unless it is substantially amended to address the very large gaps identified above.

Sincerely,

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