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Legal claims and operational risk across digital money and sweep products

Before selecting a platform for a digital money product, identify the customer's legal claim. A balance displayed in the same app may represent a bank deposit, a stablecoin, a beneficial interest in an omnibus deposit account, or an investment acquired through a sweep. Each structure requires its own approval, insurance analysis, and customer explanation.

Identify the claim and the party responsible for payment

A traditional deposit is a bank liability. A tokenized representation does not, by itself, establish or destroy deposit status. The bank must identify the underlying obligation, who owns it after a transfer, and which records establish ownership. The FDIC's April 2026 proposal would expressly confirm that a tokenized deposit meeting the statutory definition remains a deposit. [1]

A payment stablecoin involves the issuer's redemption obligation and the applicable reserve structure. A token holder does not acquire an insured bank deposit merely because the issuer places some reserve assets at an insured bank. The token and the reserve account are separate assets and legal relationships. The GENIUS Act establishes a framework for permitted issuers; it does not make the customer's stablecoin an FDIC-insured product. [2]

An account held for the benefit of others — often called an FBO account — is an account arrangement rather than a separate category of money. The bank may owe the deposit obligation through an intermediary acting for beneficial owners, while the intermediary owes separate recordkeeping or contractual duties. Identify actual ownership and agency relationships. Do not assume that every FBO balance is simply a claim against the custodian. Pass-through insurance depends on the applicable ownership and recordkeeping requirements. [3, 4]

A sweep moves funds between identified destinations. A receiving bank deposit, a money market mutual fund, and a repurchase agreement carry different rights and risks. Approval should trace the customer's asset at each stage, including the interval when funds are moving and any period when the originating bank no longer owes the deposit balance.

Distinguish final rules from implementation proposals

The OCC issued its final implementing rule on October 21, 2026, with an effective date of January 18, 2027. Its bulletin explains that BSA, anti-money laundering, and sanctions regulations are being addressed separately. The FDIC's April prudential release and the Federal Reserve's September 24 release discussed here are proposals. Match the bank's activity and regulator to the applicable rule and its effective date; one agency's final rule is not an approval for every bank to participate. [1, 5, 6]

Approve issuance, reserve banking, custody, and settlement as distinct activities. Reserve banking requires a funding and liquidity analysis. Custody requires segregation, access controls, key management where relevant, and procedures for customer asset recovery. Issuance requires an eligible structure, the applicable approvals, and a materially broader compliance framework. A vendor's description of a combined solution does not answer which obligations the bank is assuming.

Make insurance descriptions match ownership and records

Identify the depositor, the beneficial owner (if different), the insured institution, the ownership capacity, and the records supporting any pass-through treatment. Separate insurance against an insured bank's failure from access problems caused by an intermediary's insolvency or a missing ledger. Deposit insurance does not guarantee uninterrupted access or protect a customer from every loss involving a fintech.

For a sweep, explain the destinations, applicable insurance limits and aggregation, timing, fees, and the treatment of deposits the customer already holds at a destination bank. Require a process for customers to identify excluded destinations or overlapping deposits where the program offers that functionality. Marketing should describe the coverage the structure can support, including relevant conditions, rather than the maximum coverage the network could theoretically provide.

Document the sweep through an outage and an exit

The agreement should specify the sweep trigger, destination eligibility, allocation method, ownership, return mechanics, withdrawal priority, and treatment of a rejected

or delayed transfer. Operations should demonstrate how it identifies balances when a network provider is unavailable. If the return of funds depends on a destination institution or another intermediary, the bank should not promise immediate availability unless it can deliver it.

Keep a destination and reconciliation record that identifies where customer funds are held and how the customer's allocation was calculated. Require access to the records needed to continue the program, investigate an error, or move to another provider. Record ownership and reconciliation deserve the same attention as yield and placement capacity.

Choose the role the bank can support

A bank may participate through reserve accounts, settlement, custody, or another permissible support role rather than issuance. Infrastructure can narrow some responsibilities while creating others. A reserve relationship can concentrate volatile funding; a settlement role can create intraday exposure; custody can require specialized technology and recovery capabilities. Compare the economics after pricing those obligations.

Use a separate approval analysis when the obligor, customer rights, or bank role changes. Related approvals can share background materials, but they should not conceal different insurance assumptions or exit risks. Require Legal, Finance, Treasury, and Operations to sign off on the same description of the obligation and the same failure scenarios.

Stress the bank balance rather than the marketing forecast

Model a severe outflow before accepting the first reserve deposit. For an illustrative scenario, assume \$100 million of deposits from one issuer and \$40 million of withdrawals over 48 hours, including a period when ordinary funding desks are closed. If only \$30 million of additional liquidity is usable during that period, the modeled gap is \$10 million. Identify a tested source and timing for the remaining funds or reduce the relationship limit. These assumptions are a management exercise, not a prescribed regulatory stress test.

Do not equate a 40 percent reduction in an issuer's circulating supply with a 40 percent withdrawal from this bank. Redemptions may be funded disproportionately from one reserve bank. Also test a full withdrawal, concurrent funding pressure, collateral haircuts, and an unavailable funding source. Measure the bank's internal liquidity limits and contingency capacity; test the regulatory liquidity coverage ratio only if it applies to

the institution. For tokenized deposits, reconcile any around-the-clock transfer promise with core posting, sanctions controls, and available liquidity.

The approval record should distinguish funds owned by the bank's depositor, reserves the bank merely safekeeps, and any contingent liquidity commitment. A reserve custody relationship and a reserve deposit do not create the same balance sheet exposure. Model each obligation the bank actually undertakes.

The management deliverable

- Prepare a claim and ownership map before marketing begins, with distinct approval decisions where the obligor or customer rights differ.
- Require Treasury to quantify relationship limits, severe outflows, available funding by time of day, and the response to a full withdrawal.
- Approve the insurance explanation alongside the account records, sweep terms, reconciliation method, and exit process that support it.

Sources and application

[1] **FDIC stablecoin proposal**. FDIC Approves Proposal to Implement GENIUS Act Requirements and Standards, April 7, 2026. Proposed requirements and deposit insurance interpretations.

[2] **GENIUS Act**. Pub. L. No. 119-27, July 18, 2025. Statutory framework for payment stablecoins.

[3] **12 CFR 330.5**. Recognition of deposit ownership and fiduciary relationships, including records supporting beneficial ownership.

[4] **12 CFR 330.7**. Accounts held by an agent, nominee, guardian, custodian or conservator.

[5] **OCC Bulletin 2026-50**. GENIUS Act Regulations: Final Rule, October 21, 2026; effective January 18, 2027.

[6] **Federal Reserve stablecoin proposals**. Federal Reserve Board proposals concerning Board-supervised payment stablecoin issuers, September 24, 2026.

Reviewed through October 24, 2026. General information; apply governing law and institution-specific facts. Recommended controls and examples are not universal legal requirements.

