No. 26-62

IN THE

Supreme Court of the United States

CUSTODIA BANK, INC.,

Petitioner,

v.

FEDERAL RESERVE BOARD OF GOVERNORS
AND FEDERAL RESERVE BANK OF KANSAS CITY,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

---

BRIEF OF THE DIGITAL CHAMBER AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

DANIEL STABILE
Counsel of Record
THANIA CHARMANI
ANDREW HINKES
LOGAN PAYNE
SPENCER PEEK
WINSTON TAYLOR LLP
200 Park Ave.
New York, NY 10166
(305) 910-0787
dstabile@winston.com

Counsel for Amicus Curiae

August 13, 2026

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

TABLE OF AUTHORITIES

CASES Page(s)

STATUTES

REGULATIONS

TABLE OF AUTHORITIES—Continued

OTHER AUTHORITIES Page(s)

TABLE OF AUTHORITIES—Continued

Page(s)

TABLE OF AUTHORITIES—Continued

Page(s)

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

INTEREST OF *AMICUS CURIAE*

The Digital Chamber ("TDC") respectfully submits this *amicus curiae* brief in support of Petitioner, Custodia Bank, Inc.[1]

TDC is a leading trade association for the digital assets industry, representing more than two hundred global members. Its leadership and Board of Advisors include former regulators, including two former Chairs and a Commissioner of the U.S. Commodity Futures Trading Commission and a former Commissioner of the U.S. Securities & Exchange Commission.

TDC seeks to promote industry compliance with applicable law and to foster regulatory certainty for businesses and consumers applying blockchain technology. To further that mission, it regularly files *amicus* briefs in cases implicating digital assets.

SUMMARY OF ARGUMENT

The question presented here—whether the Monetary Control Act of 1980 ("MCA") permits Regional Reserve Banks to deny master accounts to eligible depository institutions—has acute consequences for the nation's digital assets sector and the millions of Americans who use digital assets.

Master accounts provide direct access to the Federal Reserve's payment infrastructure. Congress established the Federal Reserve's payment system to replace a fragmented web of correspondent relation-

[1] Pursuant to Rules 37.2 and 37.6, counsel of record for all parties received timely notice of this filing. No party's counsel authored this brief in whole or in part or made a monetary contribution intended to fund its preparation or submission.

ships, and, in the MCA, it directed that the system's services "shall be available" to all eligible depository institutions. Denial of a master account, described by Judge Tymkovich as "akin to a death sentence," forces a financial institution to rely on private intermediaries whose services can be withdrawn at will.

That dependence on intermediaries has been especially damaging for digital assets businesses, which rely on banking services to manage operating funds, process payments, and provide the on- and off-ramps connecting fiat currency and digital assets. These businesses have been persistently underbanked, and because critical banking functions are concentrated among a small number of willing providers, the sector remains vulnerable to operational disruption. When willing banks have exited or withdrawn services, consequences have rippled across the sector, impairing liquidity, disrupting settlement, and harming consumers. The precarious banking environment has driven businesses offshore, reducing the United States' role in global digital assets-related innovation.

The Federal Reserve's Account Access Guidelines have compounded these difficulties. By sorting applicants into tiers, the Guidelines relegate many institutions designed to serve the digital assets sector to Tier 3, the strictest level of review, which functionally precludes master account access. Meanwhile, beginning in 2022, a series of supervisory measures discouraged banks from serving the sector at all, narrowing indirect access through correspondent banks at the same moment direct access was foreclosed.

In the year since the Tenth Circuit's decision in this case, the supervisory measures described above were reversed. Lawful businesses were cut off from the banking system and then restored to it without any change in law. That reversal underscores the fragility of correspondent banking relationships and the importance of statutory access to master accounts.

The question presented grows more consequential as regulators and markets organize around an unsettled premise. The President has asked the Board to evaluate whether each of the twelve Regional Reserve Banks holds independent authority to grant or deny access to a master account. But an executive order cannot amend the Federal Reserve Act, and the Board cannot conclusively construe the statute that constrains it.

The Board, for its part, is already treating the question presented by the President as settled. It has proposed a "payment account" framework that concedes the value of direct access while withholding key services that make access valuable, and it has suspended decisions on pending applications while the rulemaking proceeds, leaving eligible institutions with no path to resolution. The GENIUS Act heightens the urgency by authorizing a new class of eligible institutions whose access to the payment system turns entirely on the question presented.

If the Court does not act now, a regulatory architecture will be built on an unsettled statutory foundation, and any future challenge will arrive years after the framework is finalized, and after the sector and American consumers have absorbed its costs. This case presents the question cleanly. Resolving it now is far less disruptive than unwinding an entrenched framework later. The Petition should be granted.

ARGUMENT

I. The Decision Below Has an Acute Negative Impact on the Nation's Digital Assets Sector.

The decision below directly impacts a wide variety of federally- and state-chartered financial institutions, many of which were established to serve innovative businesses. Consequentially, it has significant ramifications for the nation's burgeoning digital assets sector, whose many businesses have long struggled to establish enduring banking relationships, creating uncertainty not only for themselves, but for their employees, service providers, commercial partners, and customers.

A. The Question Presented Concerns Access to Core Financial Infrastructure Designed to be Broadly Available to All Eligible Financial Institutions.

At its core, this case concerns whether Regional Reserve Banks may exercise unreviewable discretion over access to the national payment infrastructure that Congress designed to be broadly available to eligible institutions. The practical significance of a master account to a financial institution stems from what it provides: direct access to the infrastructure underlying the modern payments system. Julie Andersen Hill, *From Cannabis to Crypto: Federal Reserve Discretion in Payments*, 109 Iowa L. Rev. 117, 157 (2023) [hereinafter Hill, *From Cannabis to Crypto*]; *Fourth Corner Credit Union v. Fed. Rsrv. Bank of Kan. City*, 861 F.3d 1052 (10th Cir. 2017). Institutions without a master account are forced to rely on correspondent banking relationships, incurring additional costs and risks, and remaining dependent on private intermediaries whose services can be withdrawn. Hill, *From Cannabis to Crypto* at 141-44; Fed. Rsrv., *FRB Operating Circular No. 1* § 2.7 (Sept. 1, 2023), https://shorturl.at/L3kh3. The denial of a master account has been described as "akin to a death sentence" for a bank. *See Custodia Bank, Inc. v. Fed. Rsrv. Bd. of Governors*, No. 24-8024, slip op. at 4 (10th Cir. Mar. 13, 2026) (Tymkovich, J., dissenting from denial of reh'g en banc).

In May 2026, proposing a new limited-purpose account, the Board acknowledged that direct access "could support private-sector innovation by reducing (1) the uncertainty, time, and related costs of obtaining access; and (2) the reliance on intermediaries," which in turn "could increase competition in the payments marketplace and allow institutions to design innovative and efficient services. . . ." 91 Fed. Reg. 30,627, 30,631 (May 26, 2026).

Legislative history confirms that "Congress intended that all depository institutions would be able to use the Federal Reserve's payment systems." *See, e.g.*, 126 CONG. REC. 21,280 (1980); Hill, *From Cannabis to Crypto* at 117. Indeed, for decades, eligible banks simply "filled out a one-page form and within a week received an account allowing them access to the Federal Reserve's payment systems." Julie Anderson Hill, *Opening a Federal Reserve Account*, 40 Yale J. on Reg. 453, 455-456 (2023). Yet, the essentially ministerial function of Regional Reserve Banks to approve master account applications transformed—without congressional authorization—into a discretionary process where applications submitted by financial institutions serving emerging industries, however rigorously chartered and supervised, were subjected to multi-year reviews, marked by "a lack of transparency and consistency," that often resulted in denial. *Id*.

Custodia's own history offers a poignant illustration of how, for many applicants, the process can become Kafkaesque. Many other financial institutions shared the same experience of investing significant time and resources to obtain a bank or special purpose charter, only to realize, upon denial of a master account for opaque reasons, that the accomplishment was hollow. *Fourth Corner*, 861 F.3d at 1064 (opinion of Bacharach, J.); *see also* Hill, *From Cannabis to Crypto* at 145-46.

B. The Digital Assets Sector's Persistent Underbanking Concentrates Risk, Harms Consumers, and Drives Innovation Offshore.

This fundamental shift in approach to allowing master account access has an outsized impact on digital assets-focused businesses because they have struggled to obtain banking relationships with established financial institutions. Nic Carter, *Operation Choke Point 2.0 Is Underway, And Crypto Is In Its Crosshairs* (Feb. 8, 2023), https://shorturl.at/grcEm. And the reverberations of the decision extend to the entire digital assets ecosystem, including issuers, exchanges, and other businesses that serve the digital assets sector, and, by extension, the millions of Americans who utilize cryptocurrency. Nat'l Cryptocurrency Ass'n, *2025 State of Crypto Holders Report* 3 (2025) (A 2025 Harris Poll survey for the National Cryptocurrency Association estimated that twenty-one percent of U.S. adults, roughly 55 million people, own cryptocurrency.).

The Bitcoin blockchain was built to create a system of "electronic cash" that "would allow online payments to be sent directly from one party to another without going through a financial institution." Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System* 1 (2008), https://shorturl.at/6OHJb. But in the nearly twenty years since, the digital assets sector has matured, growing far beyond a niche industry focused on disintermediating services provided by traditional financial institutions. Over time, many new applications of blockchain technology have emerged, and digital assets have become integrated into the fabric of the U.S. (and global) economy. Morgan Stanley Inst., *Digital Assets Go Mainstream as Global Adoption Accelerates* (Feb. 27, 2026), https://shorturl.at/SujAu.

For example, the aggregate market capitalization for stablecoins—digital assets pegged to a fiat currency, such as the U.S. dollar—reached $317 billion in April 2026, an increase of more than fifty percent since early 2025. *Stablecoins in 2025: Developments and Financial Stability Implications*, FEDS Notes (Apr. 8, 2026), https://shorturl.at/1iaB1. Stablecoin transaction volume in June 2026 exceeded $1.79 trillion, which rivals major credit card networks. Martin Young, *Stablecoin Transaction Volume Hits Record $1.79T in June*, Cointelegraph (July 5, 2026), https://shorturl.at/hOzzH. In many instances, U.S. Treasury bills are held as reserves for stablecoins, and the two largest stablecoin issuers collectively held more than $165 billion in short-term U.S. Treasuries, making them among the larger holders of U.S. government debt. Daniel Fricke, *Stablecoins and the U.S. Treasury Market: A New but Still Small Investor Group*, SUERF Pol'y Brief No. 1431 (Apr. 30, 2026), https://shorturl.at/gHTip.

Despite this growth, strong legal, regulatory, and operational headwinds have created significant impediments for digital assets businesses to do business in the United States, jeopardizing the opportunity for the United States to lead in the development of businesses utilizing or seeking to utilize blockchain technology. While certain aspects of the regulatory environment have begun to shift, *see* Hester M. Peirce, Comm'r, SEC, *There Must Be Some Way Out of Here* (Feb. 21, 2025), https://shorturl.at/4C4vu, digital assets businesses still lack reliable access to banking services.

1. Digital Assets Businesses Historically Have Been Underbanked.

Many digital assets businesses rely on banks to manage operating funds, process payroll and customer payments, and provide the on- and off-ramps that allow customers to move between fiat currency and digital assets. Paul Tierno, Marc Labonte & Andrew P. Scott, Cong. Rsch. Serv., R48430, *Banking and Cryptocurrency: Policy Issues* 1, 7-10 (Feb. 20, 2025). Ultimately, when customers convert digital assets to dollars, "dollars must flow through the banking system." *Id.*, at 2.

Digital assets businesses have faced difficulty obtaining and maintaining reliable banking relationships, a problem commonly described as "underbanking." As the digital assets sector grew, demand for ordinary banking services expanded, while a series of supervisory and regulatory measures discouraged banks from meeting it. Gina Heeb & Vicky Ge Huang, *Crypto Knocks on the Door of a Banking World That Shut It Out*, Wall St. J. (Apr. 21, 2025), https://shorturl.at/kfgzw; *see also* OCC, NR 2025-114, *Comptroller*

Issues Statement on Congressional Debanking Report (Dec. 1, 2025), https://shorturl.at/QEvKn (statement of Comptroller of the Currency Jonathan V. Gould).

2. There are Widespread Consequences to the Underbanking of the Digital Assets Sector.

While not all banks have excluded digital assets businesses, the sector has heavily relied on a small number of willing providers. Concentration of critical banking services leaves those businesses and their customers vulnerable to operational disruption, shifts in supervisory posture, changes in risk appetite, and the loss of key banking relationships.

Those risks materialized in March 2023, when two of the most digital asset-active banks, Silvergate and Signature, closed within a week. Their settlement networks were wound down, industry liquidity was impaired, and businesses scrambled to secure basic services from replacement correspondents. Silvergate Capital Corp., *Silvergate Capital Corporation Announces Intent to Wind Down Operations and Voluntarily Liquidate Silvergate Bank* (Mar. 8, 2023). Commentators observed that the sector's remaining banking options were predominately smaller, less risk-averse institutions, further increasing concentration. Custodia's own experience of being twice debanked by correspondent partners reflects the same fragility at the level of a single business.

That fragility flows directly from the issue presented here. When chartered institutions serving the digital assets sector lack access to master accounts, businesses must rely on banks whose willingness to serve them may fluctuate with the supervisory climate. The consequences ultimately fall on consumers. When Silicon Valley Bank failed holding $3.3 billion of the reserves backing a stablecoin used by millions, the instrument lost its dollar peg and traded below $0.88 until federal regulators guaranteed the bank's deposits. *See* Paul Tierno, CRS, IN12148, *The Role of Cryptocurrency in the Failures of Silvergate, Silicon Valley, and Signature Banks* (Apr. 25, 2023). Ordinary holders of a dollar-denominated instrument bore the cost of a banking-infrastructure failure they could neither foresee nor control.

The precarious nature of the digital assets banking environment has created significant disincentives for such businesses to enter (or remain) in the U.S. market. As banks retreated from the sector amid heightened supervisory scrutiny, digital assets businesses and developers increasingly moved operations abroad. Staff of H.R. Comm. on Fin. Servs., 119th Cong., *Operation Choke Point 2.0: Biden's Debanking of Digital Assets* (Dec. 2025). The migration is measurable. The share of the world's blockchain developers based in the United States has fallen by roughly half since 2015, from thirty-eight percent to nineteen percent. *See* Electric Capital, *2024 Crypto Developer Report* (2024), https:// shorturl.at/e2Bws. Each departure reduces the options available to Americans, who increasingly use digital assets not only as investments but also for online purchases and remittance-like payments. *2025 Crypto Holders Report*, *supra*, at 6.

II. Recent Supervisory Developments Demonstrate the Practical Importance of the Question Presented.

A. The Board's Account Access Guidelines Relegate the Institutions Serving the Digital Assets Sector, State and Federally-Chartered Alike, to the Strictest Tier of Review.

Developments in the Federal Reserve's supervisory framework further illustrate the practical significance of federal banking discretion in this area.

In 2019, responding to the scarcity of banking services available to the digital assets sector, Wyoming created a unique bank charter—the Special Purpose Depository Institution ("SPDI")—that allows institutions to provide custody and banking services. Wyo. Div. of Banking, *Special Purpose Depository Institutions*, State of Wyo., https://shorturl.at/AyP36 (last visted Aug. 12, 2026). Unlike traditional banks, these institutions maintain at least 100 percent reserves of customer funds and do not lend money. *Id*.

Many market participants viewed the framework as a significant innovation building upon the long-recognized value of the American dual banking system, under which institutions may be created under either state or federal charters. As the OCC has explained, "the varied powers and regulatory approaches possible in different states enable state systems to serve as laboratories for innovation," and "this potential diversity of standards is a valued attribute of the… dual banking system." OCC, *National Banks and the Dual Banking System* (Sept. 2003), https://shorturl.at/sEQaN.

In August 2022, citing the "recent uptick in novel charter types," the Board issued its Account Access Guidelines (the "Guidelines") to be utilized by Regional Reserve Banks evaluating master account applications. 87 Fed. Reg. 51,099, 51,109-51,110 (Aug. 19, 2022). These Guidelines clarify an original proposal by the Board on May 5, 2021, which suggested the level of Regional Reserve Bank scrutiny would hinge on whether the institution was federally insured. *Id.* at 51,109. While traditional commercial banks maintain federal deposit insurance, many state-chartered institutions and fintech-focused banks operate without it. *What's in a Charter?*, Bank Pol'y Inst. (Nov. 7, 2025), https://shorturl.at/D8Kfv.

Under the Guidelines, requests for accounts and services are sorted into three tiers that determine the level of scrutiny a Regional Reserve Bank applies. 87 Fed. Reg. 51,099, 51,109-51,110 (Aug. 19, 2022). Tier 1 consists of federally insured institutions, which receive the most streamlined review. Tier 2 includes uninsured institutions subject by statute to prudential supervision by a federal banking agency, but an uninsured federally chartered institution qualifies only if its holding company is subject to Federal Reserve oversight. *Id.* at 51,109. Tier 3 consists of the remaining eligible institutions, which "generally receive the strictest level of review." *Id.* at 51,110. One member of the Board charactered Tier 3 as "unobtanium," noting that institutions "just can't qualify" for master account access under that level of review. Am. Bankers Ass'n, *Update from the Fed*, YouTube (Mar. 11, 2026), https://shorturl.at/5Mq9i.

The panel described the tiers without reference to the holding company condition, Pet. App. 11a, although the Guidelines impose it and the dissent below reproduced their text in full. *Id.* at 51a. That omission matters because uninsured national trust banks chartered by the OCC are subject to prudential supervision by a federal banking agency, as the Board acknowledged in adopting the Guidelines. 87 Fed. Reg. at 51,110 n.12. Yet, those institutions typically neither accept demand deposits nor make commercial loans, meaning their parent companies are not bank holding companies subject to Board supervision. *See* 12 U.S.C. § 1841(c). Because those institutions lack a holding company overseen by the Federal Reserve, they fail to qualify for Tier 2 and are placed in Tier 3 alongside Petitioner.

As a result, Tier 3 encompasses institutions at opposite ends of the dual banking system. Petitioner reaches Tier 3 as a state-chartered institution without a federal prudential supervisor. An uninsured national trust bank reaches the same tier despite holding a federal charter and being supervised by a federal supervisor. A common denominator among these disparate groups is that they encompass many of the banking institutions designed to serve businesses in the digital assets sector.

B. While the Guidelines Restricted Direct Access, Supervisory Measures Simultaneously Discouraged Banks From Serving the Sector at All.

Beginning in 2022, the Federal Reserve required supervised institutions engaging in digital asset activities to notify supervisory staff and later required state member banks to obtain supervisory non-objection before engaging in certain stablecoin-related activities. Bd. of Governors of the Fed. Rsrv. Sys. ("Fed. Rsrv."), Supervisory Letter SR 22-6 (Aug. 16,

2022) (withdrawn Apr. 24, 2025); Fed. Rsrv. Supervisory Letter SR 23-8 (Aug. 8, 2023) (withdrawn Apr. 24, 2025). These discretionary measures imposed additional supervisory review and ongoing monitoring requirements on subject institutions seeking to participate in digital assets markets. Fed. Rsrv., Supervisory Letter SR 23-7 (Aug. 8, 2023) (withdrawn Aug. 15, 2025).

In 2025, the FDIC released 175 supervisory documents relating to banks that engaged in crypto-related activities, including 25 "pause" letters issued to 24 institutions "interested in pursuing crypto- or blockchain-related activities." FDIC, *FDIC Releases Documents Related to Supervision of Crypto-Related Activities*, Feb 5, 2025, https://shorturl.at/ktFJ0. The FDIC acknowledged that requests from such institutions were "almost universally met with resistance" and stated that the resulting supervisory environment caused the "vast majority of banks" to stop pursuing those activities. *Id.*

A recurring instrument of this supervisory posture was "reputational risk," an examination concept that permitted supervisors to criticize a bank for serving lawful but disfavored customers without identifying any financial or operational deficiency. *See* Fed. Rsrv., *Statement on Reputation Risk Proposal by Vice Chair for Supervision Michelle W. Bowman* (Feb. 23, 2026), https://shorturl.at/24SDI; FDIC, *Statement by Chairman Travis Hill on the Final Rule to Remove Reputational Risk from the FDIC's Supervisory Program* (Apr. 7, 2026), https://shorturl.at/w6UjQ. The House Financial Services Committee found that regulators invoked the concept to discourage banks from maintaining digital asset relationships. Staff of H.R. Comm. on Fin. Servs. *Operation Choke Point 2.0*, *supra*, at 10. Because a reputational-risk criticism requires no finding that an activity was unsafe or unlawful, it left banks with no standard to satisfy and no determination to contest. Julie Anderson Hill, *Regulating Bank Reputation Risk*, 54 Ga. L. Rev. 523, 532-34 (2020). The consequence was that the sector's main remaining path to the payment system, indirect access through willing correspondent banks, narrowed at the same moment direct access was foreclosed.

C. Regulators Have Now Repudiated These Policies, Confirming That Access to Banking Services Rises and Falls With Discretion.

These policies, and the practices of the banking regulators, have since changed. On March 20, 2025, the OCC announced that it would no longer examine institutions for reputation risk and removed the concept from its handbooks and guidance. OCC, NR 2025-21, *OCC Ceases Examinations for Reputation Risk* (Mar. 20, 2025), https://shorturl.at/YUH5C. Days later, the FDIC advised Congress that it planned to "eradicate this concept from [its] regulatory approach." Letter from Travis Hill, Acting Chairman, FDIC, to Rep. Dan Meuser (Mar. 24, 2025). The Federal Reserve followed with a similar announcement removing reputational risk from its examination programs on June 23, 2025. Fed. Rsrv., *Federal Reserve Board Announces That Reputational Risk Will No Longer Be a Component of Examination Programs in Its Supervision of Banks* (June 23, 2025), https://shorturl.at/jl1Rg.

On August 7, 2025, the President issued the "Guaranteeing Fair Banking for All Americans" executive order, directing all federal banking regulators to strip reputation-risk concepts from guidance and examination materials within 180 days and to remediate politicized debanking. Exec. Order No. 14,331, 90 Fed. Reg. 38,925 (Aug. 7, 2025). The OCC and FDIC have since adopted a final rule prohibiting the use of reputation risk, and the Board has proposed its own. 91 Fed. Reg. 18,279 (Apr. 10, 2026); 91 Fed. Reg. 9,499 (Proposed Feb. 26, 2026).

The digital asset-specific supervisory guidance was withdrawn as well. OCC, Interpretive Letter 1183 (Mar. 7, 2025) (rescinding Interpretive Letter 1179); FDIC, FIL-7-2025 (Mar. 28, 2025) (rescinding 2022 notification requirement); Fed. Rsrv., SR Letter 22-6 & SR Letter 23-8 (withdrawn Apr. 24, 2025); Fed. Rsrv., SR Letter 23-7 (rescinded Aug. 15, 2025).

In roughly one year, every significant feature of the 2022-2023 supervisory posture was dismantled through the same administrative discretion that created it. This allowed lawful businesses to be cut off from the banking system and then restored to it without any change in law. The speed and breadth of that reversal underscore the importance of master-account access for institutions serving innovative sectors. A correspondent relationship lasts only as long as the correspondent bank's risk tolerance and the prevailing supervisory environment permit.

The point extends beyond this industry. Banking access cannot function on unstable ground. It determines whether businesses can hold funds, make payroll, and settle transactions, and interruptions carry consequences that run through the broader economy. *See supra* Part I.A. In a domain of such economic significance, durability is essential. The recent shift in policy may be welcome to the digital assets sector, but a favorable policy resting on unreviewable discretion is no more durable than the unfavorable one it replaced. Institutions cannot make long-term infrastructure investments based on supervisory cycles that may change with each administration. The judicial construction of the MCA that Custodia seeks from this Court would secure the access Congress guaranteed to all eligible institutions regardless of shifting policy winds.

D. Reserve Banks Continue to Dispense Access as a Matter of Grace, Not Under Any Articulated Standard.

On March 4, 2026, the Federal Reserve Bank of Kansas City ("FRBKC") granted a limited-purpose master account to Kraken Financial, a Wyoming SPDI, for an initial one-year term subject to restrictions. FRBKC, *Federal Reserve Bank of Kansas City Approves Limited Account* (Mar. 4, 2026), https://shorturl.at/qdn1j. Following Kraken's master account approval, members of the House Financial Services Committee wrote to the FRBKC within weeks, questioning the basis and timing of the approval. Letter from Maxine Waters, Ranking Member, H. Comm. on Fin. Servs., to Jeff Schmid, Pres. & Chief Exec. Officer, FRBKC (Mar. 26, 2026), https://shorturl.at/y4WTZ.

The episode illustrates that access decisions under the current framework turn on discretionary judgments that are not tied to any consistent or reviewable legal rule or statutorily articulated standard. The same Regional Reserve Bank that denied master account access to one SPDI granted access to a different SPDI, with no explanation for the rejection of one or acceptance of the other. The question of the digital assets sector's access to critical banking services has now been answered in opposite ways within three years, and in each instance the answer improperly rested on discretion.

III. The GENIUS Act Has Substantially Increased the Number of Institutions for Which the Question Presented is Consequential.

In July 2025, Congress enacted the GENIUS Act, creating a federal framework for payment stablecoins and identifying several categories of eligible issuers. Pub. L. No. 119-27, 139 Stat. 419 (codified at 12 U.S.C. § 5901 *et seq*.) Those include federal qualified payment stablecoin issuers, such as uninsured national banks approved by the Comptroller, 12 U.S.C. § 5901(11), and state qualified payment stablecoin issuers operating under state regimes certified as substantially similar to the federal framework, 12 U.S.C. § 5901(31). A Wyoming SPDI like Petitioner may qualify as a state issuer if Wyoming's regime is certified. Yet under the Guidelines discussed *supra*, both uninsured national banks without bank-holding-company parents and state-qualified payment stablecoin issuers, which may include Custodia, would be assigned to Tier 3.

Access to a master account is important for a payment stablecoin issuer, which must issue and redeem stablecoins on demand, manage reserves against those obligations, and settle transactions. Congress recognized that reality. The GENIUS Act permits issuers to hold reserves in, among other assets, "money standing to the credit of an account with a Federal Reserve Bank." 4(a)(1)(A)(i) 139 Stat. 425. An institution cannot hold such balances without a master account.

The Act addresses Federal Reserve account access only once, and solely to preserve existing law. Section

4(a)(13) provides that nothing in the Act "shall be construed as expanding or contracting legal eligibility to receive services available from a Federal Reserve bank or to make deposits with a Federal Reserve bank, in each case pursuant to the Federal Reserve Act." 139 Stat. 433.

The GENIUS Act thus increases the scale of the question presented. Before its enactment, the Regional Reserve Banks' discretionary regime primarily affected novel charter types. Congress has now authorized an entire class of payment stablecoin issuers whose ability to operate efficiently depends on access to the accounts at issue here. A permitted issuer must redeem stablecoins on demand, hold reserves that may include Federal Reserve balances, and settle in dollars. Congress plainly contemplated that Federal Reserve accounts would be available to support those activities, expressly authorizing reserve holdings in Federal Reserve accounts while preserving existing law governing account eligibility. Yet under the decision below, an issuer that satisfies every requirement Congress imposed may still be denied access to the account necessary to perform those functions. Whether the Federal Reserve Act permits that result therefore bears directly on whether the framework Congress created can operate as Congress intended.

IV. Absent Review Now, the Question Will Entrench or Evade Resolution.

In the year since the decision below, the President has formally questioned who controls access to the Federal Reserve's payment system and under what standard. At the same time, the Board has begun constructing a new access framework that presupposes an answer. Both efforts rest on the premise that access to Regional Reserve Bank accounts and services is not a statutory right afforded to eligible institutions.

Neither effort can conclusively resolve whether that premise is correct. An executive order cannot amend the Federal Reserve Act, and the Board cannot fairly construe the statute that constrains it. Meanwhile, decisions on pending applications have been suspended, the Board's framework is scheduled to be finalized within months, and the GENIUS Act takes effect on January 18, 2027. If the Court does not resolve the question now, a regulatory architecture will be built on an unsettled foundation.

A. The Executive Branch Has Asked the Question Presented, But Cannot Answer It.

On May 19, 2026, the President signed Executive Order 14,405, Exec. Order No. 14,405, 91 Fed. Reg. 30,475. The Order asks the Board to evaluate, within 120 days, whether and how uninsured depository institutions and non-bank financial companies, including digital assets businesses, may obtain direct access to master accounts. *Id*. It further asks the Board to assess whether the twelve Regional Reserve Banks have legal authority to grant or deny access independently, and what Board-level regulations or policies exist or could be adopted to ensure that applicants are evaluated consistently. *Id*. In substance, that is the question presented here.

The Order cannot definitively supply the answer. The Order requires only a report, due while this Petition is pending, in which the Board will assess the scope of its own statutory authority. The Order expressly creates no enforceable rights or benefits.

Id. Nor can an executive order alter the statutory mandate of the Federal Reserve Act.

B. The Federal Reserve is Building a New Access Architecture on the Contested Premise.

The Board, meanwhile, is building on the decision below. On May 20, 2026, the Board issued a formal proposal to create "payment accounts" with significant constraints. 91 Fed. Reg. 30,627 (May 26, 2026). The proposal contemplates limited-purpose accounts with no intraday credit, no discount window access, no interest on balances, automated overdraft controls, and closing balance limits set for each institution at up to $1 billion. *Id*. The Board intends to finalize the framework before the end of 2026. *Id*. at n. 27.

The architecture was operational even before the proposal issued. As noted above, two and a half months before the Board published its proposal for comment, the FRBKC granted the Kraken Financial account on terms drawn from the Board's December 2025 request for information. As that Regional Reserve Bank later explained, the account's controls on overdrafts, closing balances, discount window access, and interest on balances "are consistent with the standardized controls and restrictions described in the RFI," such that the account "could be viewed as a pilot of the payment account concept." FRBKC, *Supplemental Information Regarding Kraken Financial Account* (May 8, 2026); *see supra* Part II.D. The proposal now carries those same terms forward. *See* 91 Fed. Reg. at 30,637-30,639. The framework was being implemented through individual discretionary grants by Regional Reserve Banks before completion of the public notice-and-comment process for the broader proposal.

At the same time, the Board has encouraged Regional Reserve Banks to pause decisions on pending Tier 3 access requests while the rulemaking proceeds, leaving eligible applicants, including OCC-chartered national trust banks whose applications have been pending since August 2025, with no prospect of a decision through at least the end of the year. *See infra* at 28; *see* Anchorage Digital Bank, N.A., Comment Letter, Docket No. OP-1878 (July 27, 2026), https://shorturl.at/9HNuN.

Every element of this program presupposes the holding below. If the MCA means what Petitioner contends, the premise of the entire framework is wrong.

C. The Payment Account Proposal Concedes the Need for Direct Access But Cannot Substitute for the Statutory Right.

As noted *supra*, the Board's proposal acknowledges that direct access to Regional Reserve Bank services can reduce reliance on intermediaries and increase competition and innovation in the payments marketplace. *See supra* at 5.

What the proposal concedes in principle, however, it withholds in design. As proposed, the payment account excludes FedACH, caps closing balances, provides no intraday credit, and pays no interest. By the Board's own 2025 Payments Study, ACH carried $104 trillion in 2024, 74 percent of all noncash payment value, so an account holder without ACH access still needs correspondent banks for everyday payments. Fed. Rsrv., *2025 Federal Reserve Payments Study: National Payment Volumes, Top-Line Data (CY 2015–24)* (July 1, 2026), https://shorturl.at/BDQTC. The balance cap forces daily sweeps to intermediaries, and without intraday credit, wire settlement is unworkable at institutional volume. The account thus preserves the correspondent dependence it is intended to diminish. For national banks, which Congress requires to be Federal Reserve members, 12 U.S.C. § 222, the result is an account that carries every obligation of membership while denying its central benefit. *See* Anchorage Comment Letter, *supra* at 22. And for the permitted payment stablecoin issuers Congress has just authorized, a capped account that pays no interest is poorly suited to the reserve management their federal framework requires, even though Congress expressly contemplated Federal Reserve balances as a reserve asset. *See supra* Part III.

More fundamentally, whatever access the framework extends will exist on terms set by the Board and revocable at the discretion of each Regional Reserve Bank. This is not the equivalent of a statutory entitlement. The lone account granted under the pilot runs for a single year, subject to restrictions of the Regional Reserve Bank's design. *See supra* Part II.D. The proposal reserves to the Regional Reserve Banks discretion to impose additional restrictions on any account or "to remove access to service or close an existing account" on a case-by-case basis. 91 Fed. Reg. at 30,637. Whether the statute permits access on those terms, or instead guarantees eligible institutions an account, is a predicate legal question the rulemaking presupposes.

Nor is another vehicle likely to reach this Court in time. The Board has encouraged the Regional Reserve Banks to exercise their discretion to pause decisions on Tier 3 access requests while it completes the rulemaking. *See* 91 Fed. Reg. at 30,635 & n.27. Judicial review requires a decision to review, and while the pause holds, eligible applicants will receive none. Any future challenge would then need to proceed through a new denial, a district court, and a court of appeals, years after the payment account framework has been finalized and implemented. The digital assets sector will have absorbed the framework's costs and constraints in the interim, whether or not the framework rests on a sound reading of the statute. If years later the Court should determine this discretion is not available to the Board, or the Board again determines to change its policy, the digital assets sector will absorb significant switching costs borne by the delay.

This case, by contrast, presents the question cleanly and at the right moment. It arrives on a full summary judgment record, raises a purely legal question of statutory interpretation, and involves an applicant that undisputedly met all statutory eligibility criteria for a master account. Nor is the timing open-ended. The Board's report to the President is due in September 2026. The payment account rule is targeted for the end of 2026. The GENIUS Act takes effect on January 18, 2027. Each milestone that passes will further entrench the premise that master account access is discretionary. Resolving the statutory question now is far less disruptive than unwinding a finalized regulatory architecture later, imposes lower potential switching costs, visits less harm on market participants, and it is the only path that answers the question for the state and federal institutions Congress has already authorized.

The Executive and the Federal Reserve are now acting on the very premise the Petition contests, and neither has the power to decide whether that premise is correct. The MCA either entitles eligible institutions to the accounts through which Congress's mandate of open access is delivered, or it leaves access to the nation's payment systems subject to administrative discretion. Only this Court can say which, and this case is the vehicle to do so.

CONCLUSION

For the foregoing reasons, and those set forth by the Petitioner, the Court should grant the Petition for a writ of certiorari.

Respectfully submitted,

DANIEL STABILE
Counsel of Record
THANIA CHARMANI
ANDREW HINKES
LOGAN PAYNE
SPENCER PEEK
WINSTON TAYLOR LLP
200 Park Ave.
New York, NY 10166
(305) 910-0787
dstabile@winston.com

Counsel for The Digital Chamber, Amicus Curiae

August 13, 2026