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May 5, 2023

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Re: Community Bank Perspective on Revised Draft Stablecoin Legislation

Dear Chairman McHenry and Ranking Member Waters:

On behalf of the Independent Community Bankers of America and the nearly 50,000 community bank locations we represent, I write to offer the community bank perspective on the revised draft stablecoin legislation before the Financial Services Committee. Community banks have a strong interest in ensuring that digital assets such as stablecoins issued by non-bank entities do not harm investors, consumers, or the financial system.

Crypto and digital assets were created for the specific purpose of preserving anonymity in transactions. This makes their regulation that much more difficult. Any legislation attempting to regulate non-bank stablecoin issuers must take into account the significant time, resources, and specialized expertise required to investigate these issuers, their transactors, and any risks they may pose to consumers. We thank the committee for its consideration of our perspective on this draft and its engagement with key stakeholders throughout the legislative process. In particular, ICBA strongly supports the removal of provisions allowing nonbank access to Federal Reserve programs and services as well language exploring a Central Bank Digital Currency.

Currently, stablecoin arrangements are not subject to comprehensive consolidated supervision and lack many critical consumer and anti-money laundering protections. This regulatory gap allows risks to the financial system to multiply and creates an unequal playing field with highly regulated community banks. ICBA supports the draft legislation's goal of establishing a clear federal regulatory framework that addresses the gaps in existing regulatory authority. Unregulated stablecoins must be brought within the regulatory perimeter. However, we remain concerned that the legislation does not go far enough in ensuring that non-bank stablecoin issuers are adequately supervised and do not pose undue risk to the banking system.

Provided below is a summary of our feedback, noting changes from the previous draft which we support as well as areas of significant concern. Thank you in advance for your consideration.

Changes we Support

Removal of nonbank access to Federal Reserve programs and services. We thank the committee for removing language that would have made nonbank payment stablecoin issuers eligible for Federal Reserve master accounts. Master account access would have allowed for the creation of stablecoins backed with central

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bank money and access the Fed payments system. Highly regulated depository institutions like community banks are given access to Federal Reserve programs and the payment system because they are subject to rigorous and comprehensive federal supervision and examination. The banking model of such institutions is well understood. Granting this access to nonbank payment stablecoin issuers, which are not subject to the same stringent regulatory oversight, would create significant risks to the safety and soundness of our traditional payments system. The speculative and volatile nature of the crypto-asset ecosystem, the veils of secrecy under which these entities operate, and their complicated international structures only heighten these risks. We urge members of the committee to ensure this language is not contained in final legislation.

Removal of Central Bank Digital Currency (CBDC) language

We thank the committee for its removal of language requiring a study of a Federal Reserve Digital Dollar and briefing on CBDC. A U.S. CBDC would introduce significant privacy and cybersecurity risks to the nation's monetary system and obstruct bank deposit taking and lending, thus threatening the stability of the U.S. banking system. ICBA supports payments innovation and efforts to increase financial inclusion, but we do not believe a CBDC is the best way to achieve those objectives. We urge Congress to keep these significant risks in mind when considering whether to authorize the creation of a CBDC.

Areas of Concern

The bill provides three pathways to become a licensed payment stablecoin issuer: insured depository institution applicants, federal qualified nonbank applicants to the Federal Reserve, and state qualified nonbank applicants established and approved by a state payment stablecoin regulator.

Gaps in Federal Qualified Nonbank Payment Stablecoin Regime

- **Same activities, same regulation.** While we recognize that the draft attempts to apply the same regulatory regime to all stablecoin issuers, bank or nonbank, this is not the full story. The draft does not take into account the robust regulation to which chartered banks are subject. Regulation of nonbank stablecoin issuers should be comparable to that of traditional, functionally similar payments products and services offered in the banking system. As recent stablecoin events have shown, stablecoin activity carries the risk of rapid contagion and destabilization of the well-regulated banking system.
- **Unprecedented application approval.** Federal Reserve review of applications would be undermined by a provision that would deem them approved when a decision is not rendered within 60 days. Placing such a limited clock on application review for the offering of novel products and services, let alone participation in a regulated industry, is without precedent in financial regulation. Given the stakes for systemic safety, applications must be subject to rigorous review, which necessarily involves a more detailed and thorough review than could possibly be conducted in only 60 days. In the absence of sufficient time to adequately review applications, the predictable outcome is a rubberstamped “deemed” approval of numerous, high-risk, nonbank applicants, and increased risk to the financial system.
- **Substantive requirements.** To protect consumers and the financial system, any regulatory framework for nonbank stablecoin issuance must contain capital adequacy and reserves; activity restrictions; due diligence; information security and privacy; business resiliency; ownership and control of data; anti-money laundering and anti-terrorist financing; reporting and maintenance of books and records; consumer protections; consumer information safeguards; vendor and third-party management; and ongoing federal examination.

Risks in State Qualified Stablecoin Issuance Framework. Of most concern to ICBA is the framework for state qualified nonbank payment stablecoin issuers. Under this framework, nonbanks would be licensed and overseen by their state regulator without approval by the Federal Reserve. Standards for reserve, capital, liquidity, and risk management would lack sufficient detail to preserve safety and soundness. Unlike state-chartered banks, which are subject to oversight by both their state and primary federal regulator, state qualified nonbank issuers would not be subject to comparable coordinated dual oversight.

In the previous draft legislation, the Federal Reserve had authority to approve state qualified issuer applications. Unfortunately, this authority was removed in the current draft, thus limiting the Federal Reserve's ability to ensure the safety and soundness of these institutions. The Federal Reserve would be forced to rely on examination reports and supervisory information provided by state agencies, having no authority to require issuers to file reports and information with the Federal Reserve. Without direct access to critical information needed to assess the safety and soundness of state-qualified stablecoin issuers, consumers would be vulnerable. This significantly impairs the ability of the Federal Reserve to conduct comprehensive and equivalent oversight comparable to that of banks, and is a significant departure from the closely coordinated dual system of oversight of community banks.

ICBA is concerned that the state framework would create opportunities for regulatory arbitrage because nonbank stablecoin issuers would be incentivized to seek approval from the state with the least regulatory requirements and oversight. It also creates a pathway for a non-uniform and even contradictory 50-state regime that is ripe for bad actors to take advantage of loopholes and lax oversight. Further, it is unlikely that states are prepared to regulate stablecoins, especially given stablecoin issuers' capacities to quickly scale into global stablecoins that facilitate international payments.

Thank you for your consideration. Again, we look forward to reviewing and responding to your draft legislation.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO
CC: Members of the House Financial Services Committee