

**Statement for the Record**  
*On Behalf of the*  
**American Bankers Association**  
*Before the*  
**United States Senate**  
*Committee on*  
**Banking, Housing, and Urban Affairs**  
**February 15, 2022**



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Chairman Brown, Ranking Member Toomey, and distinguished Members of the Committee, the American Bankers Association (**ABA**)<sup>1</sup> appreciates the opportunity to submit a statement for the record for the hearing titled “Examining the President’s Working Group on Financial Markets Report on Stablecoins.” The topic of today’s hearing is an important one.

The origins of cryptocurrency were driven by the desire to build a “trustless” financial system, where parties can transact directly with each other without the need for intermediaries. But the trust inherent in our regulated banking system is important to consumers and as interest in cryptocurrencies and other digital assets such as stablecoins continues to grow, consumers engaging with digital assets most often seek out trusted financial institutions to act as financial intermediaries.<sup>2</sup> ***ABA believes that customers who choose to access digital asset markets, including stablecoins, will be best served when they can do so through fully regulated banks where they are afforded robust consumer protection.*** To accommodate this customer demand, banks are actively developing ways to safely and responsibly allow their customers to buy, hold, and sell digital assets through their existing banking relationships, as well as become involved in stablecoin arrangements. We have encourage regulators to acknowledge that such digital asset activities are generally permissible for banks, as

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<sup>1</sup> *The ABA is the voice of the nation’s \$23.3 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$19.2 trillion in deposits and extend \$11 trillion in loans.*

<sup>2</sup> *See, e.g., NYDIG, Survey: Bitcoin + Banking (Jan. 2021), [https://assets-global.website-files.com/614e11536f66309636c98688/616db2743df0d03cf3824093\\_NYDIG-Survey-Bitcoin-Banking.pdf](https://assets-global.website-files.com/614e11536f66309636c98688/616db2743df0d03cf3824093_NYDIG-Survey-Bitcoin-Banking.pdf).*

functions incidental to the permissible banking activities, when conducted in a safe and sound manner, notwithstanding the novel technology involved.<sup>3</sup>

Recently, the President's Working Group on Financial Markets, together with the FDIC and OCC, released a report on stablecoins that are pegged or linked to the value of fiat currencies (**Report**).<sup>4</sup> Given the risks these products pose to consumers, the payments system, and the broader financial system, the Report recommends that Congress act promptly to enact legislation to ensure that stablecoin arrangements are subject to a consistent and comprehensive federal prudential regulatory framework. The Report also identifies certain interim measures detailing how financial and banking regulators can address stablecoin risks falling within their respective jurisdictions. In addition, in the absence of Congressional action, the Report recommends that the Financial Stability Oversight Council (**FSOC**) consider steps to address the risks outlined in the Report. ***ABA agrees that action is urgently needed to address the gaps in the federal regulation of the stablecoin market and urges Congress to enact the Report's recommendations.***

Stablecoins are unique among digital assets in that their stable value positions them as a functional alternative to a traditional deposit account. This introduces a new set of risks that banking regulations are well positioned to address. Stablecoins often seek to maintain their stable value by holding reserve assets and offering to redeem a stablecoin one-to-one for its fiat counterpart. When offered through a bank, these assets are subject to oversight that ensures the reserves are sound and there is appropriate liquidity to pay outstanding claims. That oversight is also critical to assure that the responsible party can and will deliver the reserve asset according to the terms of the stablecoin arrangement upon redemption. Even if stablecoins remain outstanding and unredeemed, their usefulness in payments transactions depends upon this degree of stability. However, many stablecoins today are issued by non-banks which are not subject to the same oversight designed to mitigate the risks they pose to consumers and the financial system.

The lack of regulation for nonbanks is particularly concerning as the rapidly evolving uses of stablecoins is fueling significant market growth. To date, stablecoins have primarily been used to facilitate digital asset trading and lending activities, but

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<sup>3</sup> See ABA Comment Letter on FDIC RFI on Digital Assets (July 15, 2021), <https://www.aba.com/advocacy/policy-analysis/aba-comment-letter-on-fdic-rfi-on-digital-assets>; see also OCC Interpretive Letter No. 1179, Chief Counsel's Interpretation Clarifying: (1) Authority of a Bank to Engage in Certain Cryptocurrency Activities; and (2) Authority of the OCC to Charter a National Trust Bank (Nov. 18, 2021), <https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1179.pdf><https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1172.pdf>.

<sup>4</sup> President's Working Group on Financial Markets, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, *Report on Stablecoins* (Nov. 2021), [https://home.treasury.gov/system/files/136/StableCoinReport\\_Nov1\\_508.pdf](https://home.treasury.gov/system/files/136/StableCoinReport_Nov1_508.pdf).

increasingly they are being used as a store of value and means of payment for real-world goods and services (e.g., Facebook/Meta’s new digital wallet using stablecoins, called “Novi Wallet”).

While enthusiasts claim that stablecoins have the potential to support faster and more efficient payments options, any innovations come from a position of strength. The United States has one of the most efficient, safe, and modern payments systems in the world. Banks have invested significant resources in expanding faster, safer, more inclusive options, including P2P, real-time payments systems (e.g., The Clearing House Real Time Payment Network (RTP) and the Federal Reserve’s FedNow), and upgraded Automated Clearing House (ACH) products.

In contrast, many non-bank stablecoins are designed to circumvent this established regulatory architecture and pose a number of unmitigated risks including harm to consumers, the potential for stablecoin runs, and payment system risks, the latter of which could spill over into the broader financial system. The possibility that some stablecoins may rapidly scale, particularly as affiliates of commercial entities, also raises additional issues related to the concentration of economic power and concerns that transactions through unregulated entities may compromise protections against money laundering and terrorist financing.

Existing regulation of stablecoin arrangements is neither comprehensive nor sufficient to address these nonbank risks. The Securities and Exchange Commission (**SEC**) and the Commodity Futures Trading Commission (**CFTC**) exercise jurisdiction over certain aspects of stablecoin activity. At the state level some states subject virtual currencies, including stablecoins, to money transmission laws, but other states are undecided in their approaches. While these state laws are often aimed at a range of policy goals, including consumer protection and prevention of payment instrument default, they are not consistently applied and lack rigorous supervision and enforcement. This has resulted in a patchwork of guidance at a state and federal level that fails to ensure that all stablecoin arrangements are subject to appropriate prudential oversight on a consistent and comprehensive basis and that consumer financial protection laws are rigorously enforced.<sup>5</sup> This is particularly troubling in the case of stablecoins that may pose systemic significance once scaled.

Accordingly, ABA supports appropriate regulatory and legislative actions to provide a comprehensive federal regulatory framework for stablecoins. While Congressional action is pending, we encourage regulatory agencies to use their existing authorities to identify and address the risks of nonbank stablecoin arrangements, as well as FSOC to

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<sup>5</sup> Accepting and transmitting activity denominated in stablecoins does make a person a money transmitter under the Bank Secrecy Act (**BSA**). As a result, administrators of stablecoins, and potentially other participants in stablecoin arrangements, are required to register as money transmitter businesses (**MSBs**) with the Financial Crimes Enforcement Network (**FinCEN**) and become subject to AML and sanctions requirements. However, FinCEN has delegated its supervisory authority to a variety of different entities.

engage in a determination of whether certain activities conducted within a stablecoin arrangement are, or are likely to become, systemically important payment, clearing, and/or settlement activities.

In connection with this, ABA wishes to emphasize that any regulatory or Congressional action should:

- Provide a clear and comprehensive definition of “stablecoin” that avoids creating loopholes or permitting regulatory arbitrage and that clearly differentiates stablecoins from other types of digital assets. This would also ensure the regulatory treatment of stablecoins is appropriately calibrated to their risks;
- Recognize that nonbank stablecoin arrangements can pose *both* systemic risks *and* consumer and investor protection concerns, making it critical to regulate not just stablecoin issuers, but also other participants in the stablecoin ecosystem, including custodial wallet providers and parties engaged in the business of stablecoin trading and/or brokerage;
- Encourage banking and financial regulators to collaborate on and coordinate a comprehensive approach to prevent the rise of unregulated (or under-regulated) stablecoin issuers and platforms that could pose risks to consumers, investors, the financial system, and the general economy; and
- Provide consistent treatment of banks and non-banks that engage in similar stablecoin activity to prevent regulatory arbitrage and ensure all customers are protected equally.

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<b>ABA Assessment of Legislative Recommendations in the PWG Report</b>	
<b>Legislative Recommendations</b>	<b>ABA Assessment</b>
<p><b>Stablecoin Runs:</b> Require stablecoin issuers to be insured depository institutions, subject to appropriate supervision and regulation at the depository institution and the holding company level, and require them to be subject to standards and regulations aimed at managing liquidity risk.</p>	<p>ABA supports this recommendation.</p> <p>A key risk related to the use of stablecoins is the possibility for loss of value. The design of Stablecoins sets them up as a store of value that can be used as an alternative to bank deposits. To protect stablecoin users and prevent stablecoin runs it is critical to maintain trust in the value of a stablecoin. The PWG report identifies the following factors that could undermine this confidence:</p> <ul style="list-style-type: none"> <li>(1) use of reserve assets that could fall in price or become illiquid;</li> <li>(2) a failure to appropriately safeguard reserve assets;</li> <li>(3) a lack of clarity regarding the redemption rights of stablecoin holders; and</li> <li>(4) operational risks related to cybersecurity and the collecting, storing, and safeguarding of data.</li> </ul> <p>Banking regulation is designed to address exactly these risks and requiring stablecoin issuers to be insured depository institutions is the most effective way to address them while guarding against stablecoin runs. This would provide for supervision on a consolidated basis; prudential standards; and, potentially, access to appropriate components of the federal safety net.</p> <p>Furthermore, insured depository institutions, which include both state and federally chartered banks and savings associations, have deposits that are covered, subject to legal limits, by deposit insurance, and have access to emergency liquidity and Federal Reserve services, unlike stablecoin issuers that are not insured depository institutions.</p>
<p><b>Payment System Risk:</b> Require custodial wallet providers to be subject to appropriate federal oversight.</p>	<p>ABA supports these recommendations.</p> <p>Custodial wallet providers play a key role in the stablecoin ecosystem and should be</p>

<p>Provide the federal supervisor of a stablecoin issuer with the authority to require any entity that performs activities that are critical to the functioning of the stablecoin arrangement to meet appropriate risk-management standards.</p>	<p>subject to appropriate federal oversight to address payment system risk. This should include, among other things, requirements for clear and complete disclosures and protections against fraud, manipulation, and related risks, as well as appropriate risk management standards.</p> <p>Oversight at the federal level is critical because there is a patchwork of guidance at the state and federal level that fails to ensure that all stablecoin arrangements are subject to appropriate prudential oversight on a consistent and comprehensive basis and that consumer financial protection laws are rigorously enforced, and that the entities issuing stablecoins are subject to rigorous supervision and enforcement.</p>
<p><b>Systemic Risk and Concentration:</b> Require stablecoin issuers to comply with activities restrictions that limit affiliation with commercial entities.</p> <p>Supervisors should have authority to implement standards to promote interoperability among stablecoins.</p> <p>In addition, Congress may wish to consider other standards for custodial wallet providers, such as limits on affiliation with commercial entities or on use of users' transaction data.</p>	<p>ABA supports imposing activities restrictions that limit the affiliation of stablecoin issuers with commercial entities to prevent inappropriate concentrations of economic power and to address additional concerns about systemic risk.</p> <p>Interoperability among stablecoins and between stablecoins and other payment instruments is critical in order not to disrupt existing payments systems.</p> <p>Appropriate restrictions that limit affiliation of custodial wallet providers with commercial entities and the use of users' transaction data will help to prevent concentration of economic power.</p>