July 16, 2019

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of community banks across America, with more than 52,000 locations, I write to thank you for convening tomorrow's hearing on "Examining Facebook's Proposed Cryptocurrency and Its Impact on Consumers, Investors, and the American Financial System." The proposed creation of Libra, if allowed to proceed, would be a significant and irreversible development that would alter the global financial landscape. ICBA endorses the recent comments of Federal Reserve Chairman Jerome Powell who cited "many serious concerns regarding privacy, money laundering, consumer protection and financial stability." The stakes are too high to proceed without a thorough understanding of the risks and consequences, intended and unintended.

ICBA supports Chairwoman Waters' recent letter to the leadership of Facebook and Calibra calling for a moratorium on the implementation of Libra pending a comprehensive review by Congress and regulators of the serious concerns carried by this proposal. ICBA is currently reviewing the Chairwoman's draft "Keep Big Tech Out of Finance Act," which would ban large platform utilities from becoming financial institutions. We appreciate the Chairwoman's effort in drafting this legislation and strongly support its intent. The purpose of this letter is to express the community bank perspective on Libra.

Facebook's market power, influence, and data sharing jeopardize consumer privacy

With some two billion users worldwide and no true competitors, Facebook wields monopolistic power in social media. Facebook owns and manipulates a wealth of detailed user data, including profile information, browsing history on Facebook as well as linked apps, demographic data such as educational attainment, race and ethnicity, political and religious views, and other known and unknown information. Facebook shares this information with marketers and other third parties and is in fact in the business of extracting revenues from this data. This business model contains an inherent tradeoff between user privacy and revenue opportunities its investors count on. Facebook had profits of $22 billion in 2018. The company has a vested interest in meeting Wall Street's earnings expectations. Policymakers should be extremely cautious about allowing Facebook to expand its reach into users' financial data through the creation of Libra.

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Facebook has been fined an unprecedented $5 billion by the Federal Trade Commission for sharing user data with Cambridge Analytica for the purpose of creating targeted political messages and influencing American elections. This is far from the only documented case in which Facebook has given unauthorized access to user data to third parties.

In other cases, Facebook security weaknesses have exposed as many as 50 million users to hijackers. If Facebook were allowed to leverage their monopoly power in the digital payments arena, thereby obtaining users' income data and other financial data, users' exposure and privacy risk would reach hazardous levels. The integration of tech giants and consumer finance would result in an enormous concentration of financial and technological data and assets.

Privacy standards contained in the Gramm-Leach-Bliley Act, which ICBA supports, ensure consumers of financial institutions receive enhanced protection of their personal information. In addition, these institutions are required, through law and regulation, to provide privacy notices and disclosures to customers about the information they collect and share and the purposes for which it is used. ICBA believes that all entities that handle personal information, including the Libra Association and its partners and third parties that contract with these entities, should be required to safeguard personal financial information and provide consumer notices and disclosures in a manner comparable to financial institutions. These requirements should be enforced by agency supervision and examination.

Financial Stability

In addition to the serious privacy concerns noted above, Libra must be carefully regulated to ensure that it does not pose a threat to financial stability in the United States and abroad.

According to the Libra white paper, the value of a unit of Libra would be pegged to the value of a basket of government-issued currencies. The Libra Association would stand ready to redeem Libra for anyone of the currencies that make up the basket at the prevailing exchange rate.[1] To meet this obligation, they would hold reserves which would be invested in various assets. The return on these assets would be distributed among Libra investors, though not Libra users.

To be operated safely, the size of these reserves and the quality and liquidity of its investments would need to be carefully regulated. Any number of events – for example, a devaluation of one of the currencies that make up a basket or loss of confidence in Libra's reserve investments – could precipitate a run on Libra, with users demanding immediate redemptions on a mass scale. There would be nothing comparable to a deposit insurance system to reassure holders of Libra of its expected exchange value. Failure to liquidate its reserves to honor these redemptions could precipitate a global crisis.

In this sense Libra may be compared to an international money market fund that fixes the value of a share at $1 to guarantee its redemption value and give the appearance of cash, while investing in short term debt.[2] Money market funds were viewed as virtually riskless investments until the fall of 2008

[1] The Libra Association is an association of entities including Facebook and its 27 partners (to date) which would govern the cryptocurrency and its blockchain and asset reserves.
[2] The comparison of Libra to a money market fund was suggested by Jon Sindreu. See Sindreu, Jon. "Can Facebook's Libra Avoid Regulators? History Suggests Not." Wall Street Journal. July 4, 2019.

when, after the failure of Lehman Brothers, investors began to doubt the worth of their investments. A surge of redemption requests in the Primary Reserve Fund totaled $40 billion, causing it to “break the buck,” and other money market funds in the U.S. and abroad followed suit. Ultimately a taxpayer-backed, government guarantee was needed to prevent the money market fund industry from being overwhelmed by redemption requests. It is worth noting that this turmoil in the money market fund industry occurred despite investor protection regulation as well as regulation of money market fund investments.

Without strong regulation, Libra would be vulnerable in the same way money market funds have been and would pose considerably more systemic risk if Libra’s ambition for a world-wide crypto currency is realized.

A new avenue for money laundering

Unless Libra is subject to Anti-Money Laundering / Bank Secrecy Act (AML/BSA), it would create an avenue to money laundering that would undermine law enforcement. Libra would become the currency of choice for criminals as well as terrorists. Community banks are willing participants in the nation’s mandated anti-money laundering programs. But the value of these programs would be significantly compromised if they do not include Libra.

Appropriate regulation of Libra

If implementation of Libra is authorized, appropriate regulation is needed to ensure public trust and to mitigate against the significant risks outlined above. This regime should be comparable to the multitude of regulations applicable to traditional, functionally similar payments products and services offered by the closely regulated banking system and should include requirements covering:

Capital adequacy and reserves	Activity restrictions
Due diligence	Information security
Business resiliency	Ownership and control
Anti-money laundering and anti-terrorist financing	Reporting & maintenance of books and records
Consumer protections	Privacy
Safeguarding customer information	Vendor and third-party management
Ongoing examination	

Without such a regime, there will be a dangerous, unprecedented level of risk to consumer privacy, digital commerce, and the global financial system.

ICBA thanks you again for raising the profile of this important issue. We look forward to offering ongoing input as you continue to study the risks of Libra and other digital currencies and devise an appropriate regulatory regime.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the House Financial Services Committee