ICBA
INDEPENDENT COMMUNITY BANKERS of AMERICA®

July 19, 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: Addressing Big Tech Stablecoin Issuance and Additional Community Bank Concerns

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, as you finalize the stablecoin legislation and move toward a markup before the August recess, I write to reiterate our views on this critical topic and to flag ongoing concerns. We thank the committee for its consideration of the community banking sector's perspectives and concerns as well as your engagement with key stakeholders throughout the legislative process.

As you know, 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. **While ICBA strongly supports the removal of provisions allowing nonbank access to Federal Reserve programs and services, we continue to have concerns about other provisions as detailed in previous letters.**

State-Qualified Nonbank Stablecoin Issuance Framework Creates Significant Risk

Our primary concern remains the inadequate proposed regulatory framework for state-qualified nonbank payment stablecoin issuers. Under the draft framework, the Federal Reserve's ability to approve and supervise state-qualified issuers would be significantly limited. The Federal Reserve would not have direct access to critical information needed to assess the safety and soundness of state-qualified stablecoin issuers, making consumers vulnerable. Additionally, standards for reserve, capital, liquidity, and risk management lack sufficient detail to preserve safety and soundness. This significantly impairs the ability of the Federal Reserve to protect the financial system from risk.

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.

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Big Tech Stablecoin Issuance

Risks posed by nonbank stablecoin issuers would be amplified in the case of issuers owned or controlled by non-financial commercial companies. Conflicts of interest would be impossible to regulate. **If one or more of the powerful big tech firms were to issue stablecoins, the threat to the security and privacy of consumer data would be exponentially greater.** Notably, under the state pathway these tech firms are not subject to the essential data protection protocols of the Gramm-Leach-Bliley Act, civil money penalties, or third-party vendor oversight, among other regulatory provisions. They should not be given the significant power and privilege of federally sanctioned private currency issuance.

Before allowing lightly regulated big tech greater access into our financial and monetary system, we ask for a rigorous examination of the potential ramifications for consumers and the American economy.

Nonbank Dominance of Stablecoins Would Sideline Community Banks

Here we highlight an additional concern which should be given adequate consideration: Nonbank stablecoin issuers would have a significant regulatory competitive advantage and would effectively crowd out bank issuers, creating a riskier financial system.

We recognize that previous drafts have attempted to apply the same regulatory regime to all stablecoin issuers – bank or nonbank. But this isn't the full story. Banks would remain at a significant competitive regulatory disadvantage. For example, for a bank subsidiary, stablecoin issuance would be likely considered a high-risk activity subject to burdensome requirements such as Bank Secrecy Act compliance, liquidity and risk-based capital requirements, and stress testing. Moreover, the difficulty of obtaining regulatory approval and subsequent additional regulatory burden would effectively sideline community banks.

Thank you for your consideration. We urge you to address the concerns noted above in this legislation.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the House Financial Services Committee

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