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June 13, 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 our views on the most recent draft stablecoin legislation, the subject of today’s hearing. 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. 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.

Our previous letters have flagged concerns with regulatory disparity the draft bill would create between bank and nonbank stablecoin issuers. State-licensed nonbank issuers in particular would create opportunities for regulatory arbitrage and heighten systemic risk. Unfortunately, the latest draft does not adequately address these concerns, which we reiterate below.

State Qualified Stablecoin Issuance Framework Creates Significant Risk

Our primary concern remains inadequate regulation of state qualified nonbank payment stablecoin issuers. Under the draft 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.

By contrast, state-chartered banks are subject to much more rigorous regulation. This includes coordinated dual oversight by both their state and primary federal regulator, the Gramm-Leach-Bliley Act, civil money penalties, and third-party vendor oversight, among other regulatory provisions. None of these would apply to state qualified stablecoin issuers. We note that the new draft gives state regulators the option to enter into an MOU with the Federal Reserve under which the Federal Reserve

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WASHINGTON, DC
1615 L Street NW
Suite 900
Washington, DC 20036

SAUK CENTRE, MN
518 Lincoln Road
P.O. Box 267
Sauk Centre, MN 56378

866-843-4222
www.icba.org

would carry out supervision, examination, and enforcement. It is not clear why such critical regulatory functions should be optional.

The Federal Reserve's ability to ensure the safety and soundness of state qualified issuers would be limited. 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.

Gaps in Federal Qualified Nonbank Payment Stablecoin Regime

The concerns noted below have been flagged in previous letters. Unfortunately, the current draft does not adequately address them.

- **Same activities, same regulation.** While we recognize that the draft attempts to apply the same regulatory regime to all stablecoin issuers, bank or nonbank, it 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. The closure of Silvergate, a favored bank of the crypto industry, was a direct result of a run on deposits triggered by the collapse of FTX late last year.
- **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. The application of a short "clock," triggering deemed approval, is without precedent in financial regulation. Given the stakes for systemic safety, applications must be subject to a rigorous, detailed, and thorough review, for which 60 days is completely inadequate. The predictable outcome is a rubberstamped or "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.

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 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.

Thank you for your consideration. We urge you to address the concerns noted above in a revised draft.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the House Financial Services Committee