ABI RESPONSE TO THE FSB consultation "Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements

General comments on the consultation document

ABI highlights the need for bespoke legislative regime for stablecoin issuers that could include disclosure requirements on governance, reserve management policy, stability maintenance mechanism and tokens transfer. In particular, it has been highlighted that stablecoins may fall into more than one regulatory category. Consequently, which existing regulatory regime applies typically depends on the specific design features or issuer. To this extent, a key pillar for a homogeneous framework dedicated to cryptoassets is a common and international classification.

While supporting a technology-neutral approach, the strict application of current regulations clashes with some intrinsic characteristics of particular forms of stablecoin. For example, it should be noted that in some more decentralised DLT systems it is difficult to precisely identify the operators that meet the definition of PSD2. At the same time, the existence (or the absence) of a claim for end-users or redemption rights is crucial to determine whether a 'stablecoin' would fall into existing EU legislation (such as the EMD2 or AIFMD).

Although we are not sure which regulatory category a stablecoin may belong to, we believe it is essential that, in any case, a regulatory area to abide by for GSCs/SCs should be the one relevant to KYC and AML/TCF.

To conclude, we agree that the purpose of this consultation keep the considerations concerning global stablecoins and CBDCs separate. As regards the ABI position on CBDC, see Annex I.

Question 1: Do you agree with the analysis of the characteristics of stablecoins that distinguish them from other crypto-assets?

Stabilisation mechanisms distinguish stablecoins from other crypto-assets. The existence of an arrangement comprised of interrelated functions and activities that can be provided by one or several entities is certainly inherent to stablecoins. However, many of these functions and activities can be found in other crypto-assets too (e.g. issuing, creating and destroying stablecoins, Operating the infrastructure, validating transactions, storing the private keys providing access to stablecoins (wallet), exchanging, trading, reselling, and market making).

The main characteristics of stablecoins, compared to other crypto-assets, are: (i) their relative stability and the essential trust that may result from this stability and (ii) the fact that they are "programmable money".

(i) Concretely, the core value proposition of stablecoins is to provide a better store of value to allow to carry out transactions related to crypto-assets without leaving the DLT environment.

(ii) "programmable money" could potentially introduce a major disruption and support to focus interesting use cases.

We consider necessary to have a defined, complete and official classification of the various types of stablecoin as a matter of urgency. The stabilization mechanism is the element that allows to distinguish stablecoins from other crypto-assets and, for this reason, the various types of stablecoins

can be categorized mainly in relation to the ways in which stabilisation is pursued. A classification related to the possible mechanisms which reflect what underpins stablecoins value, would be a classification in relation to the riskiness of these instruments.

Classifying stablecoins on the basis of what is backing their value allows us also to highlight that some stabilisation mechanisms require the intervention of accountable institutions (i.e. issuers and/or third-parties) that can be held responsible by regulators and users, whereas other stablecoins cannot be associated with any liable party.

In line with what has been defined by the ECB on August 2019 in the Occasional Paper No230, stablecoins can be described as being:

• supported by funds, which implies the issuer's commitment to their redeemability and the need for someone (possibly a custodian) to take responsibility for their safekeeping (hereinafter referred to as "tokenised funds");

• supported by other traditional asset classes, which require a custodian for their safekeeping and are in the possession of the issuer only as long as the user does not claim them back ("off-chain collateralised stablecoins");

• supported by assets, typically crypto-assets, which can be held for safekeeping in a decentralised manner and do not need an issuer to be identified ("on-chain collateralised stablecoins"); and

• supported solely by users' expectations about the future purchasing power of their holdings, which does not require the accountability of any party, nor the custody of any underlying asset ("algorithmic stablecoins").

Question 2: Are there stabilisation mechanisms other than the ones described, including emerging ones, that may have implications on the analysis of risks and vulnerabilities? Please describe and provide further information about such mechanisms.

Mechanisms described in par. 1.1 seem to be complete. Just to mention and add to the described primary mechanisms, it exists some kind of stablecoin arrangements which use secondary stabilisation mechanisms. Although they are used to a very limited extent, for a complete analysis of secondary stabilisation mechanisms we recommend *ECB Occasional Paper Series No 230.*

Question 3: Does the FSB properly identify the functions and activities of a stablecoin arrangement? Does the approach taken appropriately deal with the various degrees of decentralisation of stablecoin arrangements?

Yes, we believe that the functions identified by FSB are exhaustive. In addition, we would like to consider, with reference to the business models of the stablecoin issuer and in particular for reserve management activities, the payment of the interest rate on the deposit related to the anchored fiat currency.

Question 4: What criteria or characteristics differentiate GSC arrangements from other stablecoin arrangements?

We agree with the definition on global stablecoin provided ("a potential reach and adoption across multiple jurisdictions and the potential to achieve substantial volume"). However, on one hand it is necessary to clearly separate the specific case of CBDC, on the other hand the distinction between GSCs and stablecoins seems to be in some way theoretical. Potentially every stablecoin could be a global stablecoin, considering that one of their function is to enhance the efficiency of cross-border payments and that they could scale rapidly. Moreover, stablecoins token can be issued on different blockchain, so it is easy to switch from different scalable architectures with different volumes. Having said that, given the potential for rapid growth in terms of the adoption of a stablecoin and based on the potential threat to financial stability that can be endangered by legal uncertainty, money laundering, financing of terrorism, stability of payment systems, cyber security, operational resilience, market integrity, data privacy, consumer protection, tax compliance, we support that the regulatory regime applicable to any stablecoin, even if it is not considered systemically important in the first analysis, should be implemented in proportion to their potential diffusion and rapid scalability. For example, a proportionate common regulatory approach could be applied to all issuers of stablecoin for their future potential to be of systemic significance. Hence, in case any stablecoin becomes systemically important, it could be managed with a timely proportionality adjustment.

Question 5: Do you agree with the analysis of potential risks to financial stability arising from GSC arrangements? What other relevant risks should regulators consider?

Yes, we agree with the analysis of potential risks to financial stability arising from GSC arrangements. A globally successful private stablecoin could undermine bank deposit funding. This is a significant side-effect, which could arise from the use of crypto-assets and should therefore be considered when considering tailored regulation. As one of the main function of banks is to engage in maturity transformation – which is the transformation of short-term liabilities, like deposits, into long-term assets, such as mortgages or SME credit – the ability of banks to exercise some of their core functions would be negatively impacted if deposit funding would see a significant decrease as a result of the increasing use of stablecoins. Retail deposits at banks may decline, increasing bank dependence on more costly and volatile sources of funding, including wholesale funding. In those countries whose currencies are part of the reserve, a portion of deposits drained from the banking system (when retail users buy stablecoins) may revert to domestic bank deposits and short-term government securities.

In addition, a privately issued stablecoin with global reach and respective user base may undermine the ability of nation states (depending on geography and market) to define their own money or conduct monetary policy. If a private stablecoin initiatives would establish itself as a trusted store of value and as an alternative means of exchange in transactions to publicly issued currency like the fiat currency, central banks would be impacted in their ability to carry out their mandate to intervene in the economy of their respective jurisdiction through monetary policy.

Banks, just as they play a fundamental role in current financial ecosystem, need to play an important role in a financial ecosystem even utilizing DLT, including stablecoins. Operations based on stablecoin solutions will require an infrastructure to run processes such as identity solutions, data management and settlements. Picturing a possible interconnected environment using stablecoins in relevant data ecosystems, require a layer of trusted services.

Finally, as a means of payment, stablecoins may have material negative impacts on safety, efficiency and integrity of payment systems, and thus on the financial stability. If they are not properly regulated, stablecoins may become a weak link jeopardizing the payment systems, whether at domestic or international level.

Question 6: Do you agree with the analysis of the vulnerabilities arising from various stablecoin functions and activities (see Annex 2)? What, if any, amendments or alterations would you propose?

It is important that the same regulatory standards apply to all actors involved in the payment industry, regardless of whether they are traditional or crypto. Financial institutions are highly regulated and KYC controls are an essential process in their AML efforts. We believe that financial institutions would be able to commit to doing business with a VASP if the VASP is able to provide adequate information on KYC. A European or global identity standard could improve anti-money laundering compliance for activities in the crypto world by providing KYC information that could help meet mandatory anti-money laundering requirements.

Crypto-assets, including stablecoins, should be included in the EU legal framework for AML/CTF. It is important to maintain a level playing field across the EU by adding crypto-assets services to the requirements of the AML/CFT legal framework. A harmonized approach to EU regulation seems to be the most appropriate way to prevent detrimental regulatory fragmentation or gaps across Europe.

European policymakers should ensure that, together with legislative action and regulatory work on this field, Financial Intelligence Units (FIUs), the European Supervisory Authorities and National Competent Authorities shall play a leading role promoting the knowledge, expertise, training and information sharing with banks, as well as the use of new IT solutions that might assist banks and other obliged entities in effectively understanding and handling the ML/TF risk factors raised by stablecoin initiatives.

Question 7 Do you have comments on the potential regulatory authorities and tools and international standards applicable to GSC activities presented in Annex 2?

Two other very important issues are (i) the profile of the issuers of stablecoins and (ii) the articulation between Central Bank Digital Currencies (CBDC) and stablecoins.

(i) Given the potential impacts for monetary policy transmission and financial stability, we believe that only a CBDC or, at most, a commercial bank digital currency, since they are different forms of a genuine money, can fully perform the functions of money: store of value, means of payment, unit of account. However, it seems that the impact the CBDC could have both in terms of financial stability (risk of “digital” bank run) and on the monetary policy transmission (cost and volume of bank lending and money creation) should be carefully monitored. Moreover, as regards the financial markets, in order to carry out end-to-end transactions with “tokenized” assets on the blockchain, financial institutions need a liquid and safe asset for making settlements. A detailed analysis should be conducted to assess whether a CBDC and/or a wholesale ledger for commercial bank digital

currencies (that would be convertible at parity with a fiat money) would be the best solution to satisfy this need. We believe CBDC could be an effective way to allow the circulation of money on a blockchain and make a safe and liquid payment instrument. However, it should not jeopardize the current framework of monetary policy which has very much proved its worth

(ii) The question of the necessary coordination between CBDCs and stablecoins, from the time of issuance to their use journey and convertibility is of strategic importance. The coordination between the issuance of CBDCs and stablecoins should be very carefully assessed. It could in particular have a major impact on the role of commercial banks in the future. One major question would be the role of commercial banks for monetary creation.

ABI supports the crucial role that commercial banks could play in the distribution of a CBDC and, in particular, thanks to the role of banks, it is possible to identify technical solution and operational framework able to preserve current characteristics of cash, while adding several typical benefits of the digital world (already satisfied by digital payment instruments), such as the ability not to lose money and, in this period where sanitary risk is under attention, to operate contactless.

With regard to payment systems, we would like to emphasize that it is necessary to have the same common regulatory standards for different countries. The same regulations (e.g. transparency, PSD2) should apply regardless of whether they refer to payments with traditional currencies or cryptocurrencies.

Question 8: Do you agree with the characterisation of cross-border issues arising from GSC arrangements?

To better support their introduction into the market in a secure manner, a cross-border coordination mechanism at international level is needed. In this perspective, competent international authorities should promote common coordination to increase the authorities' knowledge of GSCs arrengements, risks posed, and opportunities offered, and to inform their approach to regulation and supervision. Where a stablecoin issuer makes an express application for a licence in one States, it is essential that the NCAs handle the application by informing the relevant supervisory authorities of the specificities of the stablecoin that could bring it within the national regulatory perimeter.

In addition, while supporting the principle that no global stablecoin can start its operations in one specific market without proper authorisation, it is useful to reiterate that some types of instruments, some of which are very complex in terms of infrastructure and governance, are already operating within the market without authorisation, based solely on shared consumer confidence. It is of the utmost importance that regulatory and supervisory authorities acts in a united and coordinated way on these issues also referring to consumer protection, data protection, taxation, cyber security, operational resilience, money laundering, terrorism financing which could be intensified.

Question 9: Are the proposed recommendations appropriate and proportionate with the risks? Do they promote financial stability, market integrity, and consumer protection without overly constraining beneficial financial and technological innovation?

The recommendations target a robust regulatory framework for global stablecoins, thereby appearing quite appealing to ensure regulatory compliance before commencing operations.

To be able to define the precise scope of the rules which could be applicable to stablecoins and in order to guarantee an adequate enforcement by the authorities as they have been identified in the recommendation, we deem it necessary to develop a classification of the various types of crypto-assets. Such a classification would make it possible to define rules adapted to each of the different categories of stablecoin.

With regards to Recommendation 10, as by definition GSC may be used globally, we strongly suggest modifying the wording in order to clarify that "GSC must abide by any regulatory, supervisory and oversight requirements of any jurisdiction it will be used before commencing any operations in that jurisdiction."

9a. Are domestic regulatory, supervisory and oversight issues appropriately identified?

It is essential to provide legal clarity in terms of applicable consumer protection rules for crypto-assets, including stablecoins. Regulation, supervision and oversight for stablecoins should be based on the principle 'same services, same risks, same rules'. This approach would ensure that the regulatory framework remains technology-neutral to encourage innovation and promote a level playing field. An approach based on these principles would help to mitigate risks and achieve regulatory objectives, while ensuring the necessary flexibility for a regulatory framework that takes account of future technological developments.

ABI agrees with the call for clarity on the applicability of regulatory regimes. A pan-European approach to ensuring a level playing field would be helpful to avoid harmful regulatory fragmentation. Moreover, such an approach could fill gaps in the existing regulatory framework.
To facilitate a pan-European approach to stable currencies - avoiding damaging regulatory and supervisory fragmentation - a common understanding of what instruments exist is needed. A shared common taxonomy for cryptoassets, including stablecoins, would be useful to provide the basis for national actions in this field.

As regards national regulatory measures for the protection of consumers and investors of stable money, the guarantee of transparency is of fundamental importance. Not unlike traditional financial instruments, consumers and investors need to understand the financial importance of the stablecoins product in question. Within this understanding, the risks must be adequately disclosed.

To conclude, we firmly believe that national regimes should fit into a larger framework to be adopted at regional (e.g. European) and eventually global level.

9b. Are cross-border regulatory, supervisory and oversight issues appropriately identified?

9c. Do the recommendations adequately anticipate and address potential developments and future innovation in this sector?

A discussion must reflect the needs of users - especially concerning the financial sector - in the context of the digital transformation. Europe's digital sovereignty could benefit from forward-looking initiatives, while carefully considering the risks and challenges involved.

This sector requires process changes and infrastructure adaptations that better meet the needs of the market by continuing to guarantee security, trust and reliability. It is useful to direct investments towards those changes that bring added value. For example, payments within the EU do not need any particular improvement, given the investments made also recently for ordinary credit transfers and especially for instant credit transfers. That said, there should be no overlap, but given the instruments available, potential use cases not covered or properly covered by current instruments should be identified and innovation introduced.

10. Do you think that the recommendations would be appropriate for stablecoins predominately used for wholesale purposes and other types of crypto-assets?

In order to answer this question, more details on the models that can be adopted, and the possible use cases should be examined. By the way, we always agree with the “same services, same risk, same rules” principle.

11. Are there additional recommendations that should be included or recommendations that should be removed?

With the aim of ensuring a level playing field a maximum harmonization international framework should be provided. Cooperation between national competent authority is not sufficient. It is crucial to limit interpretative, applicative and supervisory disparities between States in order to avoid regulatory arbitrage. It is also important to avoid duplication in authorization processes.

12. Are there cost-benefit considerations that can and should be addressed at this stage?

Depending on the economic context, there are different costs and benefits. In developing economies, the greatest benefit could be financial inclusion, while in advanced economies, where the level of bank currency diffusion is highly ramified, the greatest benefit could be the efficiency of cross-border payments. Given the potential for stablecoin diffusion between economies that may have different macro and micro contexts, GSCs arrangements should be regulated and supervised through an International framework, reducing disparities between States, regulation arbitrage and avoiding duplication in authorization processes.

ANNEX I: ABI, 10 considerations for a central bank digital currency

1. Monetary stability and a full respect of the European regulatory framework must be taken in account as a priority.

2. Italian banks are already working on a distributed ledger infrastructure thanks to Spunta DLT project. They want to be part of the change that come from such an important innovation like digital currency.

3. In the financial environment, a programmable digital money represents an innovation able to profoundly modify the way we conceive currency and exchange. This transformation can potentially deliver a great added value, in particular in terms of efficiency for both operational and support process. This is the reason why is so important to dedicate attention and energies to develop, quickly and in collaboration with the entire ecosystem, new instruments able to primarily support the development of the Euro area.

4. It is necessary that digital money deserves the maximum trust from the public. To this extent, it is essential that the highest standards of regulatory framework, security and supervision are fully respected.

5. Thanks to the key role played by the Central Bank, a CBDC represents the instruments that, more than others, can satisfy the innovation needs in alignment with the current framework of rules, existing instruments and interoperability with the analogical world. At the same time, an instrument like this may reduce the attractiveness of analogue tools issued by private or (in the fully decentralised implementation) non identifiable actors, due to a higher inherent risk.

6. To deliver at its maximum the potential of transformation of such kind of tools, it is of absolute interest the possibility, currently under consideration, to issue a retail European CBDC, that can represent an innovation of cash. Thanks to the role of banks, it is possible to identify technical solution and operational framework able to preserve current characteristics of cash, while adding several typical benefits of the digital world (already satisfied by digital payment instruments), such as the ability not to lose money and, in this period where sanitary risk is under attention, to operate contactless.

7. Analysing every detail, it would be possible to define how to distribute, store and exchange digital money in a way that enable to combine customer needs, together with the ability to ensure that the monetary policy is transmitted to the real economy and compliance to the regulatory framework. For sure, in each of these objectives, banks role is crucial.

8. A key success factor for the adoption of CBDC is to reach a frictionless user experience, ensuring at the same time full interoperability between digital and analogical world and a complete circularity among all ecosystem actors.

9. According the technological choices that will be taken, a particular attention to the protection of personal data of our citizens is required (privacy).

10. Thinking to the future that awaits us, the availability of a CBDC will enable several very interesting use cases: to foster peer.to-peer value transmission, supporting money exchange between person and machine and in a machine-to-machine scenario; to facilitate cross-border transactions settlement, reducing interest rate, exchange and counterparty risks; to promote, thanks to the programmability of this instrument, the automatic execution of payments when predefined situations arise, reducing administrative processes.