

July 15, 2020

Via Electronic Mail

Financial Stability Board
Email: fsb@fsb.org

Re: Financial Stability Board consultation dated April 14, 2020: Addressing the regulatory, supervisory and oversight challenges raised by “global stablecoin” arrangements

Ladies and Gentlemen:

CLS Bank International (“CLS”) welcomes the opportunity to respond to certain questions set forth in the Financial Stability Board’s (“FSB”) consultative document “*Addressing the regulatory, supervisory and oversight challenges raised by ‘global stablecoin’ arrangements*” dated April 14, 2020 (the “Consultation”). CLS fully supports the objectives of the proposed recommendations included in the Consultation, which are designed to advance consistent and effective regulation and supervision of global stablecoin (“GSC”) arrangements.

I. Background

CLS was established by the private sector to mitigate settlement risk (loss of principal) associated with the settlement of payments relating to foreign exchange transactions, and is the operator of a financial market infrastructure (“FMI”) that is the predominant settlement system for foreign exchange transactions (the “CLS System”). The CLS System is the world’s largest multicurrency cash settlement system, providing payment-versus-payment settlement in 18 currencies to 72 direct participants (“members”) some of which provide access to the CLS System for over 26,000 third party institutions. CLS is an Edge Act corporation organized under the laws of the United States and is regulated by the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York (collectively referred to as the “Federal Reserve”). Furthermore, the 23 central banks whose currencies are settled in the CLS System have established the CLS Oversight Committee, organized and administered by the Federal Reserve. The CLS Oversight Committee operates in accordance with the Protocol for the Cooperative Oversight Arrangement of CLS (the “CLS Protocol”)¹. As a systemically important FMI, CLS is also subject to the April 2012 CPSS-IOSCO Principles for financial market infrastructures (the “PFMI”), as applicable to payment systems.

II. CLS’s responses to certain of the questions posed in the Consultation.

CLS is pleased to provide its responses to questions 7, 9(b) and 10, set forth below.

¹ https://www.federalreserve.gov/paymentsystems/cls_protocol.htm

1. **Response to question 7: “Do you have comments on the potential regulatory authorities and tools and international standards applicable to GSC activities presented in Annex 2?”**

CLS supports the preliminary analysis of the CPMI-IOSCO (referenced in Annex 2 and set out in Annex 4), which establishes that the PFMI apply to systemically important stablecoin arrangements that are deemed to perform “*systemically important payment system functions or other financial market infrastructure (FMI) functions that are systemically important* (emphasis added).” (see Section 3.2 of the Consultation). To the extent that GSC arrangements involve the creation of a system that facilitates value transfers between market participants, we believe that such systems can introduce systemic risk. In such circumstances, these systems should be required to conform to the same high standards that currently apply to systemically important payment systems today.

CLS likewise agrees that additional thought is required with respect to *how* systemic importance will be determined and how this concept might ultimately be reflected in the PFMI.² The current guidance set forth in Section 1.20 of the PFMI (see footnote 2 of this letter) will not be sufficient in a purely global context. For example, the PFMI standard for systemic importance presupposes a determination by one or more national authorities of systemic importance. With respect to GSC, the determination will ultimately depend on a cross-border determination. In developing a determination framework, important questions for consideration include but are not limited to: 1) will multiple jurisdictions need to jointly make the determination?; 2) what if the GSC is systemically important in some, but not all, of the jurisdictions in which it operates?; and 3) what if the GSC is systemically important (or potentially systemically important) only when considering the use of the GSC in a global context but not in any single jurisdiction?³ Accordingly, CLS supports the establishment of a framework to determine whether a stablecoin qualifies as a GSC as a result of its global systemic importance (e.g., Annex 5 to the Consultation).

2. **Response to question 9(b): “Are cross-border regulatory, supervisory and oversight issues appropriately identified?”**

A. Identification of Issues. CLS believes that the issues have been appropriately identified and agrees with the following high-level principles set forth in the Consultation:

- “*differentiated jurisdictional approaches could give rise to regulatory arbitrage and fragmentation without close coordination and a common set of standards.*” (see

² Section 1.20 of the PFMI currently provides some guidance regarding the threshold determination of systemic importance: “*FMI*s that are determined by national authorities to be systemically important are expected to observe these principles. Where they exist, statutory definitions of systemic importance may vary somewhat across jurisdictions, but in general a payment system is systemically important if it has the potential to trigger or transmit systemic disruptions; this includes, among other things, systems that are the sole payment system in a country or the principal system in terms of the aggregate value of payments; systems that mainly handle time-critical, high-value payments; and systems that settle payments used to effect settlement in other systemically important FMIs. The presumption is that all CSDs, SSSs, CCPs, and TRs are systemically important, at least in the jurisdiction where they are located, typically because of their critical roles in the markets they serve.”

³ Please refer to Section 1.3 of the Consultation, which notes that “*individual jurisdictions on their own may not be able to adequately monitor stablecoin adoption and materiality of risks. For example, a stablecoin that may not pose systemic risk in any one jurisdiction may nonetheless pose such risk globally if it has a presence across many jurisdictions and therefore has a high linkage to the global financial system. This may create a case for monitoring of stablecoin at the global level.*”

Section 4.1 of the Consultation) In a cross-border space, there must be a common regulatory framework/ set of standards applied (or developed, if no standards apply) at the global level to ensure a level playing field across jurisdictions;

- existing regulations should apply for activities and entities according to the “*same business, same risks, same rules*” principle (see Section 3.1 of the Consultation). Additional work is important in order to determine the extent to which different GSC models fit naturally into existing regulations and standards – which may necessitate further guidance from regulators in respect of the interpretative issues⁴; and
- cross-border cooperation, coordination and information sharing by relevant authorities is critical and responsibility E of the PFMI provides a strong basis for cooperation among such authorities responsible for oversight at a cross-border level, should the GSC’s activities be within scope of the PFMI (see Section 4.3 of the Consultation).

B. International Oversight. As noted in Section 4.3 of the Consultation, CLS is subject to a bespoke oversight arrangement, reflected in the CLS Protocol (see footnote 1 above) that was created “*to provide a mechanism for mutual assistance in carrying out their [i.e., each participating central bank’s] individual responsibilities in pursuit of their shared public policy objectives for the safety and efficiency of payment and settlement systems and their focus on the stability of the financial system.*”⁵ CLS believes that this type of arrangement is well suited to serve as an initial starting point for the consideration of appropriate, comprehensive oversight and supervision of GSC arrangements. CLS notes, in particular, that the CLS Protocol establishes a comprehensive framework for, *inter alia*, the primary responsibility and coordination of CLS oversight, the organization of the cooperative oversight arrangement, the assessment of the CLS system, the approval of proposed new currencies, the review of other CLS proposals, oversight information, the exchange of information between participating central banks and Federal Reserve supervisors of CLS, procedures to achieve consensus, confidentiality, and amendments to the CLS Protocol.

Each of the issues listed above, as well as other issues, would need to be addressed in the GSC context, which is likely to prove more complex. To cite just one example, we note that the CLS Oversight Committee is comprised of representatives from central banks of issue of CLS-settled currencies. With respect to a GSC, depending on the specific GSC arrangement, the services provided and the jurisdictions in which the GSC is or may be systemically important, there are likely to be a number of other relevant stakeholders in addition to central banks (e.g., securities authorities) that have a substantial interest in the GSC’s oversight arrangements.

If it would be helpful, CLS would be pleased to share its experiences with respect to the CLS Protocol with the FSB, as it considers the appropriate level of oversight for GSCs.

⁴ For example, would the transfer of a digital asset on a distributed platform constitute a transfer order for the purposes of settlement finality legislation?


⁵ Please refer to Section 9 of the CLS Protocol.

3. Response to question 10: “Do you think that the recommendations would be appropriate for stablecoins predominately used for wholesale purposes and other types of crypto-assets?”

As a systemically important FMI that settles underlying foreign transactions with finality, purely in the wholesale markets, CLS is neutral with respect to the framework that should ultimately apply with respect to GSC in the retail context.⁶ However, in response to question 10, CLS believes that the recommendations in the Consultation are an appropriate starting point for the discussion regarding GSC in the wholesale context. Accordingly, CLS’s responses to questions 7, 9(b) and 10 in this letter relate only to the potential framework for GSC in this wholesale context.

CLS appreciates your consideration. Please do not hesitate to contact us if you have any questions regarding this letter.

Best regards,



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⁶ CLS notes that the FSB has specifically highlighted that the recommendations could also be relevant for stablecoins or other crypt-assets that pose similar risks, potentially including stablecoins that are used only for wholesale transactions among financial institutions (see Section 5 of the Consultation).