INDEPENDENT COMMUNITY
BANKERS of AMERICA®

December 15, 2022

Via Electronic Submission

Secretariat to the Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

RE: Public Consultation on Proposed Framework for the International Regulation of Crypto-Asset Activities

Dear Sir or Madam:

The Independent Community Bankers of America® ("ICBA")[1] welcomes the opportunity to provide feedback on the Financial Stability Board's ("FSB's") Consultative Document on Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets and the FSB's revised high-level recommendations for the regulation, supervision, and oversight of "global stablecoin" arrangements.

Responsible innovation in financial services is critical for banks to be able to offer solutions to meet new and existing customer needs while ensuring the consistency and stability that is the hallmark of traditional financial services. ICBA and its members appreciate the FSB's efforts to (i) advance the potential benefits of crypto-assets while understanding and accounting for potential risks, particularly in light of the growing interconnectedness of such crypto-assets and commensurate risks to financial stability, and (ii) coordinate the efforts of national regulatory

[1]*The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.*

With nearly 50,000 locations nationwide, community banks constitute roughly 99 percent of all banks, employ nearly 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding nearly $5.8 trillion in assets, over $4.9 trillion in deposits, and more than $3.5 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org

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authorities as jurisdictions consider how to develop policy standards and solutions to support new technologies within the banking system.

Digital assets, ranging from cryptocurrencies like bitcoin to various tokenized financial or nonfinancial assets, represent new efforts to advance the digital economy and deliver new ways to increase speed, efficiency, and transparency in financial services for consumers and businesses. The promises of these technologies, however, may be counter-balanced by serious concerns about, among other things, the potential for disintermediation of traditional financial services by decentralized finance ("DeFi"), the potential for volatility and instability in crypto-assets to spill over into other, deeply-interconnected crypto-assets and into the traditional financial system, and the use of cryptocurrencies to facilitate ransomware, money laundering, and other criminal activity.

ICBA and its members look forward to continued engagement with national authorities and international organizations to ensure that all community banks continue to play a leading role in developing the products and services that enable their customers and communities to benefit from advances in financial technology.

Background

Since the launch of bitcoin in 2008 and 2009, the market has been awash with thousands of new types of digital assets, ranging from cryptocurrencies similar to bitcoin to a variety of financial and non-financial tokenized assets. Over the last few years, growth in these crypto-assets has been rapidly accelerating, particularly as new products and services appeared that have broadened the appeal of crypto-assets from a niche investment class among enthusiasts to a more mainstream audience seeking financial services—mediums of exchange, stores of value or units of account—in many cases similar to the products and services offered by traditional financial services firms.

Both new and established technology companies, banks and other financial services providers have capitalized on the growing interest to offer a variety of products and services to an ever-widening audience—with some crypto firms going so far as securing high-value stadium naming rights, premier advertising during sporting events, and an array of celebrity endorsements. The influx of new customers and capital led to explosive growth in crypto-assets, which reached a market capitalization of over $2.8 trillion at the November 2021 peak.[2]

However, in the year that has followed, crypto-assets and many of the same firms that benefited from this explosive growth have been subject to large price declines and high volatility, with the market capitalization as of December 7, 2022 shrinking to less than $850 billion. This volatility,

[2] For information about market capitalization of crypto-assets, *see* CoinMarketCap, https://coinmarketcap.com/.

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coupled with a lack of transparency and oversight and structural deficiencies in the design of crypto-asset protocols and smart contracts has resulted in the failure of a number of key nonbank crypto firms and crypto-assets, including the Voyager and Celsius platforms, TerraUSD stablecoin, and, most recently, the FTX exchange.

In addition to losses of customer funds and restrictions on liquidity, these nonbank crypto firms' failures have highlighted the interconnectedness of crypto-assets and related firms. Crypto-asset activities of one firm or the use of a particular crypto-asset or protocol for a particular product or service—e.g., crypto-collateralized lending—experiencing volatility may spill over into other aspects of the crypto-asset market or potentially the traditional financial system. These risks are heightened by the speed and unpredictability in which crypto-assets are subject to large value swings, such as in the event of a security breach or the discovery of a programming flaw in critical smart contracts, and the resulting, "bank run"-like reactions by crypto-asset market participants.

ICBA Comments

The rapid growth of crypto-assets and the recent shift in focus on crypto-asset-related products towards consumers and retail use cases such as deposits, lending, and investments have brought these products into renewed focus for community bankers. ICBA worked with its members to solicit comments for FSB's proposed framework, and we have identified the following as the most critical considerations for FSB as it continues to develop and encourage international standards for regulation of crypto-assets and related products:

- ICBA and its members strongly support FSB's development of an approach to regulation that is based on the principle of "same activity, same risk, same regulation." We encourage authorities to apply consistent standards of regulatory and supervisory oversight and prudential requirements regardless of the nature of the firm conducting an activity or the particularities of the technology used, including decentralized technology that disperses or obfuscates authority.

- ICBA and its members support coordination and cooperation both across and within jurisdictions to ensure consistency and harmonization of regulatory and supervisory outcomes for crypto-assets, firms and activities, with appropriate flexibility for implementation of domestic priorities and to address unique characteristics of national-level financial markets and structures.

- ICBA and its members support efforts to bring global stablecoins within the existing regulatory perimeter where possible, and to expand regulatory and supervisory oversight and prudential requirements where necessary or appropriate to address the unique risks that stablecoins (including, but not limited to global stablecoins) pose to the crypto-asset market and potentially the broader financial system.

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Same Activity, Same Risk, Same Regulation

ICBA and its members strongly support the FSB's development of an approach that is based on the principle of "same activity, same risk, same regulation." Regulatory, supervisory and oversight requirements for a particular activity should not be lessened solely because the activity is conducted using a particular technology—when a particular crypto-asset or product involves particular risks, regulatory requirements should take account of such risks regardless of the underlying technology.

Recent market turmoil has highlighted this disparity: A number of non-bank firms which positioned themselves as comparable to providers of traditional financial services, offering products such as quasi-deposits, investments and lending, have failed or been forced into voluntary restructuring—with customers losing access to funds or potentially losing funds altogether. Unlike these firms, banks offering similar products are subject to comprehensive supervision and examination by prudential regulators, deposit insurance requirements, and a number of other safeguards designed to prevent the failure of an institution or loss of customer funds or liquidity.

As the FSB continues to develop recommendations applicable to all crypto-asset activities, we encourage the FSB to devote further research to the potential effects of DeFi and look forward to the results of the FSB's assessment of the potential risks to financial stability. By providing financial services via smart contracts, without the use of centralized parties, such as banks, insurance companies, or brokerages, DeFi threatens to disintermediate banks and traditional financial services providers and create a shadow banking system populated with unregulated, unaccountable platforms subject to catastrophic hacks, programming flaws, or other failures which could lead to instability throughout the crypto-asset ecosystem and beyond.

Consistency of Cross-Border Supervisory Approaches

ICBA and its members agree that cross-border cooperation and coordination are critical to ensuring consistency in regulatory and supervisory outcomes with respect to particular crypto-assets, products and firms. The cross-border nature of many crypto-assets presents myriad opportunities for inconsistent classification—and thus regulatory and supervisory oversight—and the potential for regulatory evasion or arbitrage among jurisdictions.

We note that these risks exist in the domestic context as well. In many jurisdictions, such as the United States, jurisdiction-, sector- or charter-specific regulations and supervisory approaches can result in gaps through which regulation of particular activities may fall or variations in the scope or extent of regulation, supervision or enforcement applicable to a particular crypto-asset or firm. These differences run counter to the principle of "same activity, same risk, same regulation," and efforts to encourage cross-border cooperation and coordination should also address harmonization within each jurisdiction to ensure that sectoral and other specific regulations are also consistent across jurisdictions.

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While harmonization of regulatory and supervisory outcomes among jurisdictions with respect to particular crypto-assets, firms and activities is important to prevent regulatory evasion and arbitrage, we encourage the FSB to consider the essentiality of national-level variations in regulation, supervision and enforcement. There is no "one size fits all" approach to financial regulation, and national jurisdictions require the flexibility to develop specific regulations or to set supervisory or enforcement priorities tailored to the unique features of the institutions within the national regulatory framework and the needs of the customers served by those institutions. As community bankers, ICBA and its members believe the most effective regulation occurs closer to home and providing jurisdictions with broad flexibility to implement domestic approaches—while maintaining an internationally-consistent floor to prevent regulatory evasion or arbitrage—will result in the best outcomes for customers.

Heightened Risks Associated with Global Stablecoin Arrangements

ICBA and its members have a strong interest in ensuring that stablecoins do not create systemic, investor, or consumer risk and that risks created by unregulated or loosely-regulated nonbank firms operating in this sector do not spill over into the traditional banking system. One of the defining characteristics of a global stablecoin ("GSC") is its potential reach and adoption across multiple jurisdictions. This reach—without a strong, internationally-consistent floor—introduces the potential for regulatory evasion or arbitrage, potentially allowing a stablecoin to gain substantial market influence without the regulatory or supervisory oversight or prudential requirements commensurate with the risks posed.

Consistent with the principle of "same activity, same risk, same regulation," we strongly support international and domestic efforts to bring all stablecoins—not only GSCs—within the existing regulatory perimeter. Any regulatory or supervisory regime applicable to stablecoins should be comparable to a functionally-similar product offered by a bank or other traditional financial services provider.

However, bringing stablecoins within the regulatory perimeter is a necessary, but not sufficient, step. As the 2022 collapse of the TerraUSD stablecoin demonstrated, stablecoins' unique characteristics can introduce new and difficult to assess risks, such as the potential for weaknesses in stabilization mechanisms to ensure a strong peg to the stablecoin' s reference asset to cause rapid destabilization. We support the FSB's revised recommendation that authorities require a GSC to maintain an effective stabilization mechanism, clear redemption rights and to meet prudential requirements. Indeed, ICBA and its members encourage authorities to apply these requirements to all stablecoins, not only GSCs, and to limit issuance activities to banks or other supervised financial institutions subject to capital adequacy, reserve and other prudential requirements.

Additionally, we note that certain types of stablecoins, including certain types of GSCs, may decrease the credit supply available to make loans in the Main Street economy. For example, to

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the extent stablecoins become a systemically-important means of payment or support crypto-asset-based financial products similar to those traditionally funded with deposits, consumers' retention of significant stablecoin balances in connection with these products may divert assets away from traditional financial institutions. This distortion may not directly affect the operation of the stablecoin, but if sufficiently large can negatively impact the broader financial sector and national economies. We encourage the FSB to continue to develop the recommendations and framework for the regulation of GSCs to more fulsomely address these types of secondary effects from GSCs, particularly where they may generate risk to financial stability.

ICBA and its members support efforts—both cross-border and among domestic authorities—to harmonize regulation of GSCs and other stablecoin. Consistent regulation, applied consistently across stablecoins, firms and activities, can spur responsible innovation by all participants in the financial system while ensuring that the further development of these novel assets does not pose undue risk to crypto-asset markets or the traditional banking system.

Conclusion

ICBA and its members appreciate the opportunity to comment on the Financial Stability Board's proposed framework for the international regulation of crypto-asset activities and look forward to continued dialogue to ensure that all community banks continue to play a leading role in developing the products and services that enable their customers and communities to benefit from advances in financial technology. If you have questions or require additional information about ICBA's statements, please contact me at (202) 821-4427 or by email at Brian.Laverdure@icba.org.

Sincerely,

/s/

Brian Laverdure, AAP
Vice President, Payments and Technology Policy

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