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Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2, CH-4002 Basel, Switzerland

Japanese Bankers Association

Comments on *Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements*

The Japanese Bankers Association[1] (the "JBA") appreciates the opportunity to comment on the Financial Stability Board's ("FSB") consultative document on *Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements* ("the Consultative Document"), released on April 14, 2020.

I. General Comments

The JBA welcomes the Consultative Document, which covers a number of important issues on features, risks and vulnerabilities of "global stablecoin" arrangements ("GSCs") as well as 10 high-level recommendations. Given that stablecoins or those at the development or testing stage may scale quickly and have global systemic importance, the JBA believes that making globally applied high-level recommendations at this stage is a suitable and appropriate action for addressing potential regulatory, supervisory and oversight challenges posed by the GSCs.

The JBA generally agrees with the 10 high-level recommendations proposed in the Consultative Document, which, we believe, help advance consistent and effective regulation, supervision and oversight of GSCs and achieve effective cross-border cooperation and information sharing among authorities. In particular, the JBA is of the view that the principle of "same business, same risk, same rules" included in the recommendation is fundamental in designing the framework, which ensures financial stability, reducing opportunities for regulatory arbitrage, and maintaining level playing fields. The result of the FSB survey conducted in advance to the Consultative Document finds that a stablecoin could fall within one or multiple regulatory classifications in different jurisdictions. It is therefore quite imperative for all relevant authorities to review existing financial regulation as to whether or not they are sufficient to address risks posed by GSCs and examine whether any

[1] The Japanese Bankers Association is the leading trade association for banks, bank holding companies and bankers associations in Japan. As of July 15, 2020, JBA has 117 Full Members (banks), 3 Bank Holding Company Members (bank holding companies), 73 Associate Members (banks & bank holding company), 58 Special Members (regionally-based bankers associations) and one Sub-Associate Member for a total of 252 members.

opportunities of regulatory arbitrage exist under the current regulatory framework[2].

The following section provides details of the points.

II. Specific comments

(Comment on Question 1 & 11)

Treatment of conventional payment services provided across multiple jurisdictions

The Consultative Document *refers to stablecoins as a category of crypto-assets rather than using the broader reference to digital assets* and identifies the characteristics of stablecoins as *(a) "stabilization mechanism"* and *(b) "combination of multiple functions and activities"*. However, conventional payment services, e.g. e-money services, could also apparently meet the two key characteristics. For instance, the stored values of most conventional payment services are pegged to a single fiat currency by the reserves, and the payment services provides three core functions involving a number of constituent activities, such as insurance & redemption of the coins, transfer of coins, and interactions with coin users for storing and exchanging coins.

The JBA believes that, at the very least, those payment services should not be precluded from the scope of the regulatory, supervisory and oversight framework for GSCs. This is consistent with the fundamental principle of "same business, same risk, same rules". Provided an e-money or cross-border payment service operated on a global SNS platform, it could raise the same vulnerabilities as GSCs, when it has global systemic importance determined by the elements of Annex 5. For instance, its weakness in the infrastructure could give rise to global operational and AML/CFT risks. Given the recent incident by a global payment service provider in Europe, it is also evident that those payment services require regulatory and supervisory cooperation among financial authorities. The differences between GSCs and those payment services are merely their structure and technologies used, and neither of them are conclusive factors in terms of risks and vulnerability to financial stability. If the two services are differentiated in the regulatory framework, it suggests that payment service providers can avoid regulatory scrutiny by deliberately structuring them or choosing technologies.

(Comment on Question 5 & 11)

Tiered approach to international active stablecoins

The Consultative Document mentioned that *the recommendations could be relevant for stablecoin arrangements that may pose risks to financial stability only in some countries or regions*. It can be read that even if a stablecoin is actively used only in a few jurisdictions (e.g. only in U.S and Japan) but not on a global scale, it could fall within the scope of the framework for GSCs when it has systemic

[2] For example, where a stablecoin can be fully repayable on terms and the reserves of the stablecoin can be invested at discretion, the functions and activities of the stablecoin are, in nature, almost the same as banking businesses. In this case, the stablecoin should be subject to the similar regulations to those applied to banks, even if there is no single entity that should be authorized as a bank.

importance in either of the jurisdictions. If so, the JBA supports the acute argument and proposes clarifying the expression “could be relevant”.

Given that there remains a risk that such “international active stablecoins” could pose systemic risk in multiple jurisdictions, the absence of international standards and supervisory corporation for such stablecoins is still problematic. The JBA does believe that it is inappropriate to leave them without any coordinated regulatory and supervisory responses until it becomes globally systemically important. Further, jurisdictions that try to invite service providers of “international active stablecoins”, may have incentives to loosen the regulations without considering the impact on other jurisdictions where the stablecoins are traded. The JBA, therefore, suggests that the regulatory, supervisory, and oversight framework for stablecoins should be extended and be more comprehensive with a tiered approach, namely (i) the “international active stablecoins” that are subject to international minimum requirements and (ii) “global stablecoins” that are subject to incremental requirements depending on their systemic importance.

(Comment on Question 9 & 11)

Treatment of stablecoins exchangeable with GSC

Where a stablecoin or a stored value of conventional payment services discussed above, can exchange with GSCs, they should be treated as parts of the GSCs ecosystem and be subject to the regulatory, supervisory and oversight framework for GSCs. If the stablecoins and payment services are left outside the scope of the GSC framework, it may give rise to regulatory arbitrage. There is currently no international standard for stablecoins and conventional payment services. The regulations over them can differ by jurisdiction[3] and are not necessarily compatible with the framework for GSCs. That would suggest GSC providers can enjoy regulatory arbitrage by providing services with the combination of unregulated stablecoins and GSCs across multiple jurisdictions. For example, provided that a GSC ecosystem consists of clustered regional stablecoins exchangeable with a GSC and the overarching GSC functioning to connect each regional stablecoin to others, the GSC arranger can deliberately avoid many of regulatory requirements only applicable to GSCs. Therefore, the JBA suggests that a stablecoin and a stored value of conventional payment services exchangeable with GSCs be also covered in the Consultative Document.

[3] For example, e-money services in Japan are not subject to the regulations for AML and CFT, and required to secure only half, rather than the full amount, of the unused balance of the outstanding. If an e-money is exchangeable with a GSC, GSC providers can evade the AML and CFT requirements or reserve requirements of GSC by the combination of the e-money license or the partnership with external payment service providers.

(Comment on Question 10)

Treatment of wholesale stablecoins

The JBA understands that the recommendations focus on financial regulatory and supervisory issues relating to privately-issued GSCs predominately intended for retail use. Meanwhile, the stablecoins predominately used for wholesale purposes[4] have quite different characteristics in nature from the GSCs used as a means of payment and/or store of value for retail consumers and businesses. For example, the Fnality project (initially the “Utility Settlement Coin” project)[5], which is backed by central bank deposits, is limited to the use of settlement in financial market transactions and is not supposed to be widely used. Further, those will be subject to the Principles for Financial Market Infrastructures (PFMI), and risks to the financial institutions engaging in the transactions can be addressed by bank regulations and supervisions.

The JBA believes that the full sets of recommendations are not necessary to be applied to the wholesale stablecoins, considering different characteristics from retail stablecoins such as limited users and use as mentioned above. If the same regulations with retail GSCs were uniformly applied to the wholesale stablecoins, it would bring negative impacts on the project for enhancing cross-border payments[6].

(End)

[4] Stablecoins used only by a limited set of actors, ie financial institutions or selected clients of financial institutions (wholesale). https://www.bis.org/cpmi/publ/d187.pdf

[5] https://www.fnality.org/news-views/usc-continues-to-evolve

[6] https://www.fsb.org/2020/04/enhancing-cross-border-payments-stage-1-report-to-the-g20/