15 July 2020

To: Financial Stability Board
sent by email to: fsb@fsb.org

Re: Response to Consultative Document on GSC

Dear Sirs,

This Commentary was prepared by Asociación Civil para el Desarrollo de Ecosistemas Descentralizados (NGO Bitcoin Argentina) and is endorsed by Fundación Bitcoin Iberoamérica (Uruguay) and Alianza Blockchain Iberoamérica (an alliance of leading NGOs from Chile, Argentina, Mexico, Guatemala, Colombia, Panama, Spain, Bolivia and Uruguay).

The Consultative Document 'Addressing the regulatory, supervisory and oversight challenges raised by global stablecoin arrangements' released by the Financial Stability Board (FSB) on 14 April 2020 proposes 10 High Level Recommendations for effective regulatory, supervisory, and oversight approaches to Global Stable Coins (GSC)'.

The Consultative Document also highlights key international financial regulatory standards from BCBS, FATF, CPMI and IOSCO that could apply to GSCs and expresses that wider issues such as monetary policy, monetary sovereignty, currency substitution, data privacy, competition, and taxation issues are beyond scope.

The Recommendations are grounded in an assessment of a GSC arrangement's economic function and the principle of "same business, same risk, same rules", and focused on regulatory objectives and outcomes, authorities should apply and, if necessary, develop effective regulatory, supervisory and oversight approaches and cross-border cooperation mechanisms within their respective mandate and legal frameworks.

The Consultative Document recognizes the potential of GSC to bring efficiencies to payments (including cross-border payments), and to promote financial inclusion and if widely adopted to become systemically important in and across one or many jurisdictions, including as a payments infrastructure, and could become a substitute to currencies especially in Emerging Market and Developing Economies.

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The Consultative Document also claims that the activities associated with GSCs may pose risks and introduce vulnerabilities that can span across banking, payments, and securities/investment regulatory regimes both within jurisdictions and across borders, which may change over time and so challenge the effectiveness of existing regulatory, supervisory and oversight approaches.

The Recommendations call for regulation, supervision and oversight that is proportionate to the risks, and stress the need for flexible, efficient, inclusive, and multi-sectoral cross-border cooperation, coordination, and information sharing arrangements that take into account the evolution of GSC arrangements and the risks they may pose over time.

The Consultative Document is aimed at creating a new type of asset out of a colloquial expression used in the crypto communities, namely 'stable-coins'. What is the rationale behind such action? Are not the available categories of assets sufficient to make appropriate assessments in the current landscape?

As a corollary of the emergence of the 'initial coin offerings' phenomenon resulted the development of a sort of 'piercing the token veil' approach, that suggests to dive into the underlying features of the token to uncover what it actually represents.

The universe of what can be tokenized appears to be still in its incipient stages, and therefore, before stepping into the creation of new labels, a sound policy is to evaluate existing categories and see where the current developments fit.

What does a 'stable coin' represent?

The Consultative Document distinguishes stable coins from other crypto-assets in the existence of a stabilisation mechanism and a specific combination of multiple functions and activities and it is inferred that a stabilisation mechanism is one that purports to maintain a stable value.

One compelling idea of the Consultative Document is to analyze how the 'stable coin' achieves stabilization. The Consultative Document mentions, 'asset-linked' and 'algorithm based' 'stable-coins' or a hybrid of both.

Two observation of the Consultative Document may be determinant to arrive to a righteous characterization of 'stable-coins': (i) whether there may or may not be assets in reserve; and (ii) whether there may or may not be a right against the issuer.

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The following four combination arise:

A. there are assets in reserve and there is a right against the issuer
B. there are assets in reserve and there is no right against the issuer
C. there are no assets in reserve and there is a right against the issuer
D. there are no assets in reserve and there is no right against the issuer

Under A and B, two additional options may be considered: (i) what are the assets in reserve; and (ii) whether there is a direct claim on those assets.

The following conclusion can be made: if the assets in reserve are a 'single fiat currency' and there is a direct claim on the assets, then the 'stable-coin' is e-money, as defined by FATF (e-money is a digital transfer mechanism for fiat currency -i.e., it electronically transfers value that has legal tender status).

Under A and C, the developments in securities law can provide a response on whether there is a security token or not.

Under B and D, the absence of a right against the issuer or trusted third parties, may be indicative of a decentralized operation.

Therefore, decentralized 'stable coins' should not be considered e-money or securities and should fall within the characterization of virtual currencies, as defined by the FATF [virtual currency is a digital representation of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status].

The purpose of the Commentary is to add a basis to the evaluation of stable-coins using the 'piercing the token veil' concept and not to exhaust all the possible characterization for each one the possible stable coin arrangements.

Other problems emerge as soon as the idea of a 'stable-coin' asset class arises. What does stable stand for? What source should be used to make such classification? The code? The white-paper? Retroactively, that is, based on what the performance has been? What time-frame should be used to define that a token is, was or will be a 'stable-coin'?

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There are no merits to the idea of ‘stable-coin’ as a stand-alone asset class other than for colloquial use, the analysis should be focused on what is the token actually representing and the ‘piercing the token veil’ tool is a practical approach that is already extensively used.

We are open to further discussions on this and future developments.

Warm regards,

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