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Sir Jon Cunliffe, Chair of the CPMI
Centralbahnplatz 2,
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Sent by email to: cpmi@bis.org and consultation-03-2021@iosco.org

1 December 2021

Dear Sir John

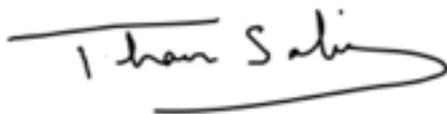
Re: Application of the Principles for Financial Market Infrastructures to stablecoin arrangements

We welcome the opportunity to provide input to the BIS and IOSCO consultation report (“Report”) on the “Application of the Principles for Financial Market Infrastructures to stablecoin arrangements”.

The EMA is a trade body of FinTech, BigTech and technology firms engaging in the provision of alternative digital payment services, including the issuance of e-money. As such, the EMA has a strong interest in the digitalisation of financial services and markets, the development of digital payment instruments and cryptoassets based on centralised as well as distributed architectures, and the debate on the emerging regulatory, supervisory, and central bank oversight approaches to stablecoins and stablecoin arrangements. Our members include leading payments and e-commerce businesses providing online payments, card-based products, electronic marketplaces, and increasingly cryptocurrency exchanges and other cryptocurrency related products and services.

We would be grateful for your consideration of our comments, which are set out below.

Yours sincerely



Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

General Comments:

We find the BIS and IOSCO consultative report on the “Application of the Principles for Financial Market Infrastructures to stablecoin arrangements” (“**the Report**”) very useful. We observe, however, that the proposed Report takes a principles-based approach, similar to the related “Principles for financial market infrastructures”. Accordingly, the proposed guidance and discussion regarding identified issues and challenges (e.g. forks, governance by smart contracts, probabilistic settlement) remain at a high-level. They address issues that are complex, requiring a high degree of technical expertise, and subject to ongoing change driven by both the rapid pace of technological innovation and the dynamics of the cryptoasset and stablecoin markets.

We consider it is therefore not possible - or advisable - to develop clear, actionable, guidance as part of a principles-based regulatory approach to stablecoin arrangements (“**SA**”). In our view, it would be more effective for regulators and the industry to engage in an ongoing dialogue to improve mutual understanding that can then inform globally consistent clear and actionable guidance and the evolving regulatory, supervisory, and central bank oversight practices.

Question 1: Is it clear when SAs are considered FMIs for the purposes of applying the PFMI?

Yes.

Question 2. Are the suggested considerations for determining the systemic importance of SAs clear, comprehensive and useful? Are there any risks or considerations missing?

We welcome the suggested guidance, which provides useful indications for firms engaging or considering engaging in the set up or participation in a stablecoin arrangement. We would, however, urge the BIS and IOSCO to elaborate on some of the key aspects of the suggested guidance.

It would be helpful if the Report could expand upon the notion of “systemic disruption”, distinguishing between the different levels (national/jurisdictional and international) at which disruptions of systemic relevance may operate. Providing real life examples of events the BIS and IOSCO had or would have qualified as systemic disruptions triggered or transmitted by payment systems would provide great value for industry.

We would also welcome additional clarity regarding the “potential to transmit” (as opposed to trigger) a systemic disruption. We assume that the possibility for a given payment system to transmit a systemic shock originating elsewhere in a national or international financial system alone is not sufficient to qualify that system as “systemically important”. Transmission must imply some degree of deepening or aggravating the systemic shock.

Regarding the size criteria set out in paragraph 2.1.3 under I., we would welcome concrete indicative percentage thresholds relative to the referenced financial system. We fully understand that, given the holistic nature of the assessment, any such thresholds cannot be binding, and provide at best a tentative indication. However, for the development of SAs and the business and operational models of participating firms, concrete indicative thresholds would be most welcome. In this regard we would also appreciate explicit confirmation that none of the existing electronic money systems qualify as systemically important.

Moreover, we would find it helpful if the Report could expand upon the concept of substitutability, which from the wording in paragraph 2.1.3 under IV. we understand would be relevant only for time-critical payment services.

Finally, we would urge the BIS and IOSCO to provide more specific guidance on the discretion addressed in paragraph 2.1.4 regarding the “potential growth and future state of an SA”. Though not presented as such, it appears to be a fifth consideration for the assessment of an SA as systemically important. As a consequence this means that a given SA would be considered as already “systemically important” if at the time of the assessment it only had the *potential* to grow to a certain size, which in turn had the *potential* to trigger or transmit a systemic disruption. It would mean that an SA could be qualified as systemically important today if according to the four considerations set out in paragraph 2.1.3 it were to be regarded as such only in the (possibly fairly distant) future. This approach would take the assessment into hypothetical territory. We understand the underlying concerns, but believe the criteria need further development in order to ensure that in such cases the assessment as systemically important is sufficiently well-founded and based upon a structured and internationally consistent approach.

Question 3. Is the guidance provided on governance clear and actionable to inform how SAs will need to ensure clear and direct lines of accountability and set up governance arrangements to observe the PFMI?

Question 4. What are the challenges that SAs may face due to the use of distributed and/or automated technology protocols and decentralisation, when seeking to observe Principle 2 on governance, in particular when ensuring the clear allocation of responsibility and accountability? Are the suggested considerations for determining the systemic importance of SAs clear, comprehensive and useful? Are there any risks or considerations missing?

We understand and welcome the Report’s holistic and integrated approach to SA governance requirements. We note however that in relation to outsourcing, there are already current (and evolving) standards for the governance of outsourcing relationships. We suggest that the Report aligns with these standards and does not apply additional requirements unless clearly justified.

Moreover, we believe any such standards need to be developed with a view to the much broader phenomenon of the accelerating fragmentation of value chains, not just in relation to the provision

of payment services, but across the full range of financial services. The “same business, same risks or risk profile, same rules” - approach requires the formulation of a consistent approach to cross-entity governance standards that could also apply to the fragmentation of value chains elsewhere such as traditional banking services that are likely to quickly scale up to systemic importance. Such work on related standards should be pursued jointly with other international bodies and BIS committees including the FSB, the BCBS, and the IAIS.

As set out upfront in our general comments and regarding in particular the specific challenges referred to in paragraphs 3.2.4. to 3.2.7 (e.g. smart contracts and other forms of software-assisted governance) we would encourage the BIS and IOSCO to engage in a dialogue with the industry to develop more specific guidance on the risk governance and management arrangements needed to address these challenges and mitigate the related risks. We would also observe that risks related to coding and the use of algorithms as part of the provision of financial services are not unique to SAs and call for the development of comprehensive and internationally consistent regulatory approaches jointly with other international regulatory bodies and BIS committees (e.g. FSB, BCBS and IAIS).

Question 5. Is the guidance on Principle 3 clear and actionable to inform how SAs will need to comprehensively manage risks from other SA functions and entities and their interdependencies?

The proposed guidance on principle 3 again emphasizes the need for an SA-wide risk governance and management framework and, additionally, the need to also address risks related to interdependencies. We would refer in this regard to our comments on question 4 and the more general comments provided upfront.

Question 6. Is the guidance on Principle 8 on settlement finality clear and actionable to inform how SAs will need to manage risks arising from a misalignment between technical and legal finality?

We do acknowledge the issues and challenges related to “probabilistic settlement” and the occurrence of forks, which the Report presents in a high-level, summary fashion. In line with our comments on question 3 we believe that going forward internationally consistent and actionable guidance on these issues needs to be developed as part of an ongoing technical dialogue between regulators and the industry. The proposed guidance is sufficiently open to set a useful frame for such a dialogue.

Question 7. Is the guidance on Principle 9 on money settlements clear and actionable to inform how SAs will need to manage risks associated with the use of a stablecoin as a settlement asset? In particular, is the guidance clear on the considerations which an SA should take into account when choosing a stablecoin as a settlement asset with little or no credit or liquidity risk as an appropriate alternative to central bank money?

Key issues related to money settlement as discussed in the Report, including management requirements regarding associated risks are currently the object of a very comprehensive regulatory proposal of the European Commission, which is progressing through the EU's legislative process. The sheer volume of the draft texts of the EU's co-legislators, apparent significant differences on some key issues as well as the legislative debate we have seen so far provide ample evidence that a discussion of these issues in the Report cannot do justice to the complexity of the matter. Here again we do not think that it is possible within the constraints of the Report to provide "clear and actionable" guidance. Instead, for the final Report, BIS and IOSCO may want to consider including, in addition to a high-level overview of the related issues, a reference to the prudential and conduct of business regimes that are being developed for SAs at the jurisdictional level.

Beyond this general observation we would just want to highlight one particularly important aspect. In our view the Report's emphasis on the importance of an SA-wide integrated governance and risk management framework covering all the participating entities and respective functions (see the proposed guidance on governance, interdependencies, and settlement finality) is not well aligned with the insistence on a mandatory redemption obligation in the bilateral relationship between the issuer and the holder of a given stablecoin. As the Report sets out clearly, SAs by their very nature rely on an integrated multi-functional and multi-entity ecosystem and network. That network underpins what one could refer to as operational redemption. Operational redemption in this decentralised network effectively offers risk diversification to the benefit of holders. On top of the issuer, the stablecoin holder can turn to the entity/ies providing the custody/trust services and holding the reserve assets that are "backing" the stablecoin and can exchange the stablecoin against fiat currency by turning to the entities that are providing exchanging/trading/reselling services. A redemption obligation is a typical and necessary feature of scriptural money created in the bilateral contractual relationship between a customer and a deposit-taking bank or issuer of electronic money. The basic concept underlying SAs and the corresponding contractual arrangements are different in nature. The application of the PFMI to SAs should respond to the resulting specific features of these emerging payments systems not least with a view to the benefits they offer to stable coin holders, rather than attempting to apply a regulatory regime that is ill-suited for a decentralized structure.

The significant potential of SAs to provide safe, efficient and low-cost payment services at national and cross-border level would be undermined if on top of the "operational" redemption SAs offer as multi-entity and multi-functional ecosystems one would also require a direct and bilateral redemption obligation of the issuer to the holders of stablecoins. We would urge the BIS and IOSCO to review in particular this aspect of the report.

Question 8. Are there other issues or principles of the PFMI where additional guidance for SAs would be useful? If so, what is the issue identified and how is it notable for SAs?

No!

Question 9. Are there any terms used in this report for which further clarification would be useful for SAs when seeking to observe the PFMI?

No!

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[American Express](#)
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