Independent Banker
August 2023
Portfolio

[tag] Checks and Balances

[hed] Staking a claim in the digital assets debate

[dek] As Congress and other federal agencies discuss the evolving marketplace of cryptocurrency and a CBDC, ICBA is ensuring the voice of community banks are being heard.

[byline] By Susan Sullivan, ICBA

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With digital assets now valued at $1.2 trillion and high-profile collapses of cryptocurrency lenders and exchanges like FTX, Congress and regulatory agencies have increased their attention on this industry. ICBA is working to ensure community banks are included in the conversation.

In the debate over the regulation of digital assets, ICBA is committed to ensuring the traditional banking system remains a safe haven from the sector’s instability, protecting consumers and investors from risks including scams and misrepresentations, and ensuring that community banks are not disadvantaged compared with much less-regulated entities.

[subhed] Addressing risks of cryptocurrency

Limited regulation and oversight applied to the crypto asset marketplace exposes consumers and investors to significant risks, including highly volatile fluctuations in value. Policymakers and law enforcement have also raised significant concerns about the use of cryptocurrencies for illicit activities, including money laundering, sanctions evasion and ransomware.

According to Chainanalysis, crypto hackers stole $3.8 billion in 2022, including $1.7 billion stolen by North Korea-linked hackers. ICBA is especially alarmed by the numerous crypto firms that have deceived consumers by falsely claiming their products are FDIC insured.

A top focus of policymakers crafting crypto regulatory frameworks is whether crypto assets are considered securities or commodities. ICBA strongly supports a Securities and Exchange Commission (SEC) proposal that would confirm that crypto exchanges must follow the same rules as other entities that trade securities.

In a June comment letter, ICBA agreed that most crypto assets likely meet the definition of a security and should be treated as such by regulators; therefore, crypto exchanges should adhere to securities laws and regulations.

ICBA is also encouraging banking regulators to communicate clear guidelines on how community banks can responsibly offer crypto products and services. If stablecoins or other digital assets will serve as a cornerstone of the digital economy, then community banks need clear guidance as they develop safe and innovative solutions.

[subhed] Protecting the financial system from stablecoin instability

Stablecoins are a type of digital asset that attempts to maintain a stable value by being pegged to a national currency or backed by assets, such as commercial paper or commodities. Stablecoins aren’t currently subject to comprehensive federal regulation, are highly susceptible to runs and lack many critical consumer and anti-money laundering protections.

The House Financial Services Committee has been crafting legislation to create a regulatory framework for unregulated stablecoins since last year. ICBA supports bringing stablecoins into the regulatory perimeter but has raised concerns about frameworks that allow risks to the financial system to multiply while creating an unequal playing field.

Of particular concern are efforts by nonbank stablecoin issuers and other crypto-related entities to gain access to Federal Reserve master accounts or the payment system. ICBA has consistently opposed these efforts.

Proposed regulatory frameworks have also included paths for licensing nonbank issuers that do not comprehensively address their risks. In particular, the inclusion of a state charter pathway that allows issuers to circumvent federal regulation could create opportunities for regulatory arbitrage and heighten systemic risk. These frameworks could also leave the door open for large commercial companies like Twitter, which was recently granted a state money transmitter license, to issue their own stablecoins.

ICBA strongly believes that the safety and soundness of the financial system requires nonbank stablecoin issuers to be subject to the same regulatory regime as banks. Otherwise, underregulated entities will continue to pose risks to consumers and disintermediate community banks if widely adopted for payments.

[subhed] The problems with CBDC

ICBA opposes the creation of a U.S. central bank digital currency (CBDC), which is under consideration by the Federal Reserve and Biden administration. As a digital liability of the Federal Reserve that is widely available to the general public, CBDC would disintermediate community banks by directly competing for deposits that fund local lending.

While the Federal Reserve has said it would only introduce a direct-to-consumer CBDC with authorization from Congress, ICBA is working to prevent Congressional approval, especially with better alternatives like FedNow, which achieve many of the stated goals of a CBDC by allowing financial institutions to provide safe and efficient instant payments.

Many members of Congress have acknowledged these risks, introducing ICBA-supported legislation that would prohibit the Fed from issuing a CBDC. This includes, among others, the Power of the Mint Act (H.R. 3402) by Reps. French Hill (R-Ark.) and Jake Auchincloss (D-Mass.), Rep. Emmer’s (R-Minn.) CBDC Anti-Surveillance State Act (H.R. 1122), and Sen. Ted Cruz’s (R-Texas) No Retail CBDC Act (S. 887), which would prohibit Federal Reserve banks from issuing a CBDC directly to an individual.

As Congress and regulators debate the regulatory approach to digital assets, ICBA will continue to urge policymakers to prioritize protecting the financial system and to consider the specific impacts of all digital assets on community banks and their customers.

Susan Sullivan is ICBA’s vice president, congressional relations

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