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National Association of Federally-Insured Credit Unions

December 13, 2021

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Pat Toomey
Ranking Member
Committee on Banking, Housing, and
Urban Affairs
United States Senate
Washington, DC 20510

Re: Tomorrow's Hearing: "Stablecoins: How Do They Work, How Are They Used, and What Are Their Risks?"

Dear Chairman Brown and Ranking Member Toomey:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts on issues of importance to credit unions ahead of tomorrow's hearing, "*Stablecoins: How Do They Work, How Are They Used, and What Are Their Risks?*" NAFCU advocates for all federally-insured not-for profit credit unions that, in turn, serve over 127 million consumers with personal and small business financial service products.

NAFCU appreciates the work of the Committee in examining the integration of digital assets into traditional financial products. Recent years have seen increased interest in cryptocurrencies, with prices reaching new highs time and time again. With so much capital flowing into crypto, credit unions need to keep up to maintain relevancy to the interests and needs of the evolving customer base. In order to ensure the long-term viability of the credit union system and the National Credit Union Share Insurance Fund, credit unions need rules of the road and cryptocurrencies need to be subject to proper oversight.

Distributed ledger technology (DLT) and other technologies related to digital assets present an increasing array of potential operational efficiencies. For example, smart contracts and the use of digital representations or tokens of traditional assets may have the capacity to reduce credit unions' operational costs, enhance regulatory compliance, and reduce instances of human error, fraud, and other misconduct. Digital identification built on DLT may not only enable credit unions to more robustly contribute to BSA/AML efforts but also more quickly and accurately engage the unserved, underserved, and credit invisible and guide them along the path to financial inclusion. While these technologies are exciting and may provide operational advantages, some regulators have been behind the pace of innovation in providing rules and guidance and adopted a disjointed approach. Regulators are only now beginning to embrace some of the technologies. For example, on January 4, 2021, the Office of the Comptroller of the Currency (OCC) released Interpretive Letter 1174 permitting national banks and Federal savings associations to use digital assets adopting the term "stablecoin" and related technologies to perform payment activities and other bank-permissible functions. Then in November the OCC released Interpretive Letter 1179, which

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adopts a more conservative posture towards activities addressed in previous interpretive letters and states that a bank should not engage in certain cryptocurrency and stablecoin related activity until it receives a non-objection from its supervisory office. However, the OCC also reaffirmed that all prior crypto-related activities mentioned in past letters are in fact legally permissible. The Federal Deposit Insurance Corporation issued an RFI on digital assets in May 2021, seeking comment on digital asset use cases, risk, supervision, and deposit insurance. The National Credit Union Administration published a similar RFI for digital assets and related technologies in July. Neither agency has yet provided any substantive guidance on these issues. This disjointed regulatory approach amongst the financial services regulators creates uncertainty and threatens to stifle innovation.

Additionally, the President's Working Group on Financial Markets (PWG) recently released a report recommending Congress enact legislation requiring all payment stablecoin issuers to be insured depository institutions. In later describing American depositors' access to federal deposit insurance and their financial institutions' access to emergency liquidity and Federal Reserve services, the Report adopts and cites the Federal Deposit Insurance Act definition of an insured depository institution. By adopting this narrow definition, which includes banks and savings associations but not credit unions, the Report risks legislators and other regulators interpreting the Report as recommending that Congress enact legislation requiring a stablecoin issuer to obtain a bank charter – not either a bank charter or a credit union charter. This piecemeal approach, if left unchecked, will result in competitive disadvantages, market distortions, and reduced innovation. We urge Congress to explore ways to provide regulatory certainty and parity across the financial services system and ensure a level playing field for all. We urge you to ensure the needs of credit unions are considered in any legislative approach you consider in the future.

We thank you for the opportunity to share our thoughts and look forward to continuing to work with you on including emerging technologies into financial services. Should you have any questions or require any additional information, please contact me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at (703) 258-4981 or lplush@nafcu.org.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs