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„Analysis of the FSB, BIS, IOSCO, OECD, and other international standard setting bodies' reaction to Libra (Diem)“

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ABBREVIATIONS

AML	Anti-Money Laundering
BIS	The Bank of International Settlement
BoJ	The Bank of Japan
CBDCs	Central Bank Digital Currencies
CPMI	The Committee on Payments and Market Infrastructures
CSBS	Conference of State Bank Supervisors
CTF	Counter-Terrorist Finance
EMDEs	Emerging Economies and Developing Economies
ETFs	Exchange Traded Funds
FATF	The Financial Action Task Force
FCA	The Financial Conduct Authority of the UK
FMCBG	Finance Minister and Central Bank Governors (G20)
FRB	The Federal Reserve Bank of the US
FSB	The Financial Stability Board
FTC	The Federal Trade Commission of the US
GSCs	Global Stablecoins
G7	The Group of 7
G20	The Group of 20
IMF	The International Monetary Fund
IOSCO	The International Organization of Securities Commissions
JFSA	The Japan Financial Services Agency
MMF	Money Market Funds
OECD	The Organization for Economic Co-operation and Development
PFMI	The CPMI-ISCO Principles for Financial Market Infrastructures

SEC The Securities and Exchange Commission of the US

TBTF Too Big To Fail

Abstract

This thesis presents the analysis of the position of each of the global financial policy setting bodies toward the global stablecoin initiative, the Libra (Diem) project by Facebook and its partners. It evaluates their publications on innovation in financial services industry before and after the announcement of the Libra (Diem) project.

The ultimate goal of this study is to understand the important role that the global regulatory community plays, and the importance of democratic discourse in the shaping and regulation of the new-social-order-forming technology and data use. Taking the example of the global regulatory community's actions towards this spectacular BigTech led currency-making endeavor, this study examines the role they played in turning a private entity's business project into a big policy issue, bringing to the attention of the public that this new instrument could potentially break and replace the current basic infrastructure that support our society.

By comparing the global financial regulatory community's reaction towards this project and the reaction of other government entities and international bodies' towards previous impactful services that have disrupted the fundamental basis of our societies, this thesis argues that the global community's reaction towards this project was distinctively more stringent in comparison with preceding innovations, effectively putting to halt the endeavor to create a new data-driven global currency system.

This thesis attempts to formulate hypotheses on what drove this harsh treatment by the global regulatory community. For one, it may have been just a part of the general trend in which regulators, policy shapers and the public's attitude toward BigTech's disruptive projects has shifted to be more skeptical and stricter, ensuing the revelation of the inherent issues within data-driven society through scandals such as Facebook's Cambridge Analytica data scandal. On the other hand, one may argue that it was an isolated phenomenon that can only be explained by the fact that the financial services industry is a distinctively a regulated industry, and the fact that this endeavor is not protected as constitutionally backed rights, such as the Freedom of Speech and Secrecy of Correspondence, unlike other existing disruptive services.

Through the streamlining of the justifications the global regulatory standard setters have provided for their stance on the Libra (Diem) project, this paper concludes that the crux of the rationale behind their tough attitude is their concern about the potential of Libra to become the

society-altering, system-replacing, paradigm-shifting project that would set the new universal norm. This initiative, in essence, is an endeavor to create a new universal currency system that has the potential to exist outside of the global monetary and financial regime and possibly replace it. Their view is that the global financial system has the maximum chance of remaining stable and to enduring stress if the delicate balance achieved by the hundreds of years of effort and craftsmanship by central banks and regulatory bodies stays protected from the stress and changes brought about by an external stress factor that would be powerful enough to challenge that delicate balance.

Global financial regulatory community was very quick to address the crux of these issues that this disruptive new currency system may entail, showing their awareness and recognition of the irrevocability of a new order/system once it is implemented and becomes ubiquitous. Their prompt action created room and time for meaningful public discussion, giving the general public a say in an endeavor by a private entity that can cause a drastic change in the fundamental essence of our society.

In conclusion this thesis argues that the level of engagement by the regulatory community on this yet-to-be born, nascent Libra project marks a significant milestone in how we, as a society, confront society altering and uncontrollable, disruptive new services that sweep our society away, as an important policy issue.

Deutsche Kurzfassung

Diese Master Thesis präsentiert eine Analyse der Positionen jedes der globalen finanzpolitischen Entscheidungsgremien gegenüber dem globalen Stablecoin-Projekt, dem Libra (Diem)-Projekt. Ziel dieser Studie ist es, die Bedeutung des demokratischen Diskurses für die Gestaltung einer neuen Gesellschaftsordnung zu verstehen. Am Beispiel der Position der Finanzaufsichtsbehörden zu diesem Vorhaben werden die Gründe für die Reaktion der Regulierungsgemeinschaft auf ein neues Instrument untersucht, das das derzeitige System ersetzen könnte. Diese argumentiert, dass die Reaktion der Weltgemeinschaft auf dieses Projekt ausgesprochen streng war und das Projekt effektiv gestoppt hat. Durch die Analyse der Begründungen für ihre Haltung kommt diese Arbeit zum Schluss, dass die Hauptsorge der Regulierungsgemeinschaft das Potenzial der globalen Stablecoins war, die gesellschaftsverändernde, systemersetzende und paradigmwechselnde neue universelle Norm zu werden. Diese Initiative könnte ein neues Währungssystem schaffen, das das Potenzial hat, außerhalb des globalen Währungs- und Finanzsystems zu existieren. Diese Arbeit kommt zum Schluss, dass sie den Übergang von der passiven Haltung der Regierungen hin zu Initiativen großer Technologieunternehmen markiert.

1. Introduction

When free search platform was first introduced by Google, free communications platform by Facebook, payment service platform by PayPal, few people predicted the impact they would have on our everyday life as well as in shaping our minds, and how lucrative those business models would become. In retrospect, those innovations were revolutionary, and they drastically changed our societies and caused gradual demolition of the basis and fundamental principles of democracy, such as free speech and privacy. In hindsight, those innovations posed enormous risks to our societies. But the convenience they provided enabled them to become widespread in every corner of the society and to be an essential part of our lives, with many businesses and consumers who have come to rely on them. The universality and indispensability of those services trumped the voices that warned us of the risks they contained. It wasn't until recently, and long after those disruptive services were first introduced, that the changes those services brought about to our societies became subject of regulatory scrutiny. For decades, the Justice Department and the Federal Trade Commission have sat rather silently as Google, Facebook and other tech titans aggressively acquired their rivals and potential rivals¹. Also, it wasn't until the risks actually materialized, courts, regulators and policy makers began to take actions against those issues, and even after major issues presented themselves, they were slow to take effective actions. Take Facebook's Cambridge Analytica scandal for example, the SEC, the FTC, and the Justice Department looked into the case, and yet, they struggled to obtain a full grasp of the situation and to regulate this sector². As a result, our societies have experienced a paradigm shift where the technology and platform services have gradually but fundamentally challenged and altered that basis of our democracy. Under this new paradigm, data plays a key role: big tech firms continue to thrive and grow as they continue to collect and leverage on the data their users

¹ Steven Pearlstein, 'Facebook and Google cases are our last chance to save the economy from monopolization' *The Washington Post* (Washington DC, 18 December 2020)
<https://www.washingtonpost.com/business/2020/12/18/google-facebook-antitrust-lawsuit/>

² Tony Romm, 'It's about time': Facebook faces first lawsuit from U.S. regulators after Cambridge Analytica scandal' *The Washington Post* (Washington DC, 20 December 2018)
<https://www.washingtonpost.com/technology/2018/12/19/dc-attorney-general-sues-facebook-over-alleged-privacy-violations-cambridge-analytica-scandal/>

provide. As they acquired competitors and collected data on a large scale, big data is monopolized by a limited array of gigantic tech firms. Moreover, the complex nature of their data collecting means makes it difficult for those outside of their decision-making personnel, including regulators, to have a say in the new world order they effectively build. It is as though democratic regimes governed by law is being gradually replaced by new world order where those who have access to data and technologies that attract and amass more data dictate the directions that our societies take. These changes occurred with such little democratic policy discussions or regulatory interventions. Considering the magnitude of their impact, there should have been more society-wide policy discussion and in-depth regulatory review to be had before they have reached the level of ubiquity that is impossible to overturn.

In June 2019, Facebook and its partners (the Libra Association) released a white paper announcing the launch of a type of cryptocurrency called Libra. Libra is an initiative that essentially merges the world's largest social media platform ran by Facebook, with their own digital currency ecosystem with a potential to become a platform that provides innovative financial services³.

Yet, after facing a series of fierce criticism by global and US regulators and policy makers, major members of the Association left the project. Facebook executives tried to explain the benefits the project could bring to the society, and yet the regulators did not budge and continued to express their concerted disapproval for the creation of this new currency. As a result, they drastically undercut the main features of the Libra currency: its feature as a new powerful currency which would enable Libra to be and to dictate the new global financial order. The Libra, under the original plan, was a stablecoin that would be pegged to more-than-one fiat currencies, making it a new currency system, rather than just another alternative payment tool. Yet, after they faced the regulatory backlash, they renamed the initiative from Libra to Diem and quietly changed the plan to make it single-currency stablecoins. (Although they claim that they are offering this single-currency stablecoins “in addition to the multi-currency coin,⁴” they seem

³ Libra Association, 'An Introduction to Libra' (*Press release*, 23 July 2019) 5 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

⁴ Diem Association, 'Welcome to the official White Paper v2.0' (16 April 2020) <<https://www.diem.com/en-us/white-paper/>> accessed 30 December 2020

to understand that the multi-currency coin is unrealistic under this regulatory climate, and their primary focus seems to have shifted to the single-currency stablecoin initiative.). Unlike what Libra would have been, Diem is not much different from existing payment services platforms.

In essence, it became inevitable to put a halt to the Libra project because of the backlash from the regulators. The situation has been described as follows: “Central banks and financial regulators... threatened to block it and the project has been delayed and reshaped as a result.”⁵

When Google’s search engine and Facebook’s social media platform, and even financial services platforms, such as PayPal and Bitcoins, were first launched, they were examined by regulators and the general public and they have not been controversy free. Moreover, cryptocurrency markets have been subject to regulatory actions under securities law⁶. However, none of them has faced the type of concerted pre-launch disapproval by regulatory communities as Libra. Libra faced immediate and strong criticism by global regulatory community which made it unfeasible to go through with their plan. The backlash against Libra was distinctive from its big-tech initiative predecessors in the following manners. Firstly, the disapproving views were published prior to the launch and most of them were on yet-to-be realized risks and were based on apprehension about the paradigm shift that it would cause to the global financial system, particularly on the current financial regime under which states have monetary sovereignty. Secondly, although the opinions expressed by the domestic and international regulators and policy makers were not legally binding, they were powerful enough to effectively stop them from launching this initiative: global regulatory standard setting bodies and policy makers acted in unison to effectively prohibited the Libra initiative.

In this paper, I would like to examine the rationale behind the strong disapproving stance that the global regulatory bodies and policy makers took on the launch of Libra and analyze the legitimacy of their collective actions that effectively functioned as prior restraint on the implementation of Libra. (Although they renamed and changed Libra to Diem, in this paper, I

⁵ Christian Kraemer and Michael Nienaber, ‘Big European states call for cryptocurrency curbs to protect consumers’ (*Reuters Technology News*, 11 September 2020) <<https://www.reuters.com/article/eu-economy-cryptoassets/update-4-big-european-states-call-for-cryptocurrency-curbs-to-protect-consumers-idUSL8N2G8258>> accessed 30 December 2020

⁶ Raphael Auer and Stijn Claessens, ‘Regulating cryptocurrencies: assessing market reactions’ (*BIS Quarterly Review*, September 2018) 51 <https://www.bis.org/publ/qtrpdf/r_qt1809f.pdf> accessed 30 December 2020

would like to focus my analysis on Libra instead of Diem, particularly on the elements of Libra that attracted a lot of criticism from the global regulatory community.). To that end, i) I would like to analyze the standards set by international finance standard setting bodies, such as the FSB, and streamline the reasonings they have provided to support their positions and standards, and ii) I would also like to study and analyze the differences in their treatment of Libra and other disruptive platform services, such as those by Google, Facebook, and PayPal have provided. Through this analysis, I would like to try to assess the regulatory climate surrounding big tech's platform services by identifying both the reasons to think this strong regulatory reaction was an isolated phenomenon or something that is likely to be the norm from now on.

2. Background

2.1 What is Libra (Diem)?

Libra is open-sourced (i.e., people can create their own applications on it), permissioned network of a particular type of crypto-assets called stablecoins⁷. Stablecoins are crypto-assets “designed to maintain a stable value relative to another asset (typically a unit of currency or commodity) or a basket of assets. These may be collateralized by fiat currency or other commodities or supported by algorithms.⁸”

Through “Calibra wallet”, which would be built on top of the Libra blockchain and integrated into Facebook, users would be able to store their tokens and to transfer another wallet. The Libra coin would be backed by a reserve, or collateral assets consisting of a basket of fiat currencies and short-term securities⁹.

It would be operated and governed by the Libra Association, which was founded by the Libra Association, led by the world's biggest social media company, Facebook, Inc., and it

⁷ Diem Association, ‘Welcome to the official White Paper v2.0’ (16 April 2020) <<https://www.diem.com/en-us/white-paper/>> accessed 1 January 2020

⁸ FSB, ‘Regulatory Issues of Stablecoins’ (18 December 2019) 3 <<https://www.fsb.org/wp-content/uploads/P181019.pdf>> accessed 30 December 2020

⁹ OECD, ‘*The Policy Environment for Blockchain Innovation and Adoption: 2019 OECD Global Blockchain Policy Forum Summary Report*’ (OECD Blockchain Policy Series 2019) 11 <<https://www.oecd.org/finance/2019-OECD-Global-Blockchain-Policy-Forum-Summary-Report.pdf>> accessed 30 December 2020

would be available to Facebook's billions of users across the globe to make financial transactions online. Besides Facebook, the Libra Association consists of various firms from various industries, such as payment, technology, telecommunication, online marketplace, venture capital and non-profits¹⁰.

Libra's expected use cases are as a means of payments (P2P, P2B, and B2B payments) and as store of value¹¹.

Libra's value would be pegged to one or a basket of national currencies, such as the US dollar and EURO. Although it is unclear, Libra coin holders would be given the entitlement to redemption at their face value from the Libra Reserve¹².

After receiving an enormous amount of criticism from regulatory communities, the Association, in essence, revoked their spectacular plan and changed their initiative to a completely incomparable service product: not an independent/universal currency but just a money transmitting service. They renamed it to Diem.

2.2 Libra's uniqueness

Libra is different from preceding tech initiatives in the following ways. Such distinct features and originality of the business model are what generated the intense criticism it faced.

2.2.1 Comparison with other cryptocurrencies:

The European Central Bank has defined cryptocurrencies as "a type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community."¹³ They are, in general, currency-like assets that are not backed by governments; they utilize blockchain technologies to support the system of trust needed for the currencies to circulate. Crypto-assets are revolutionary in a sense

¹⁰ Libra Association, 'An Introduction to Libra' (*Press release*, 23 July 2019) 4 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

¹¹ Ibid. 8

¹² Ibid. 8

¹³ European Central Bank, 'Virtual Currency Schemes' (Eurosysteem, October 2012) 5 <<https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemes201210en.pdf>> accessed 30 December 2020

that they are currency-like assets, independent from governments/central banks. They have no fixed values and are not backed by governments or with any tangible assets; therefore, their value is solely backed by the trust and expectations people have in them.

Since Satoshi Nakamoto first introduced the Bitcoin scheme to the world¹⁴, many types of cryptocurrencies have been born and become widely used. Ethereum, which differentiates itself from Bitcoins with the implementation of smart contract functionality, is another type of cryptocurrency that is exchanged globally.

The characteristics of typical cryptocurrencies, such as Bitcoins and Ethereum, are as follows.

- Permission-less

Typical cryptocurrencies are decentralized platforms that utilize a permission-less system, where anyone can participate in the system through “proof of work” or through solving a puzzle that lets you add a block to its chain. When Satoshi Nakamoto first introduced this scheme, this permission-less feature was introduced as what could free us all from financial limitations by creating a “grass-roots” financial system that is not based on the system of trust; therefore, controlled by the central banks and powerful financial institutions such as banks.¹⁵ The IMF is said to have recognized the main advantage of digital assets as “permission-less financial inclusion.” The promise of greater financial inclusion that cryptocurrencies provide has often been associated with their permission-less nature¹⁶.

¹⁴ Satoshi Nakamoto, ‘Bitcoin: A Peer-to-Peer Electronic Cash System’ (November 2008) <<https://bitcoin.org/bitcoin.pdf>> accessed 30 December 2020

¹⁵ Ibid. 1

¹⁶ Paddy Baker, ‘Crypto’s Biggest Challenge: Permissioned Digital Currency’ (*Crypto Briefing*, 25 October 2019) <<https://cryptobriefing.com/crypto-digital-currencies/>> accessed 30 December 2020

Libra, on the other hand, would take the form of a private and permissioned blockchain platform at least for the first several years. Only a handful of trusted entities would be allowed to participate in the system and to be in charge of keeping track of the ledger.¹⁷¹⁸

- Reliance on its intrinsic value

Just as fiat currencies, cryptocurrencies' values are derived from their own value and their price is determined by the market of supply and demand. Just as sovereign currencies are no longer pegged to US dollars since Bretton Woods and their values are supported by the trust and confidence people have in each of those currencies and the sovereign states' monetary system, cryptocurrencies' values are supported only by the trust people place in the cryptocurrencies themselves and the networks that support them.

Libra's value is also derived from its own value and the price would be determined by the market of supply and demand. Yet, its value is not solely supported by its intrinsic value or the amount of trust people place in the initiative itself as it would be pegged to a basket of fiat currencies and short-term government securities¹⁹.

- Aptness as a payment method:

The "meteoric price swings" of cryptocurrencies is what made them unfit to be used as payment means. In other words, because the value and price of typical cryptocurrencies fluctuate, they are used mostly for speculative investment purposes and are not fit to be used in the payment market.

On the other hand, because Libra is supported by one of the most powerful companies in the world, including Facebook, and it is a stablecoin whose value would be backed by a basket of

¹⁷ Libra Association, 'An Introduction to Libra' (*Press release*, 23 July 2019) 4 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

¹⁸ Toshendra Kumar Sharmer, 'Permissioned and Permissionless Blockchains: A Comprehensive Guide' (*Blockchain Council*) <<https://www.blockchain-council.org/blockchain/permissioned-and-permissionless-blockchains-a-comprehensive-guide/>> accessed 30 December 2020

¹⁹ Libra Association, 'An Introduction to Libra' (*Press release*, 23 July 2019) 3 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

real assets²⁰, Libra would likely be stable enough in value to be used as a medium of payment. Stablecoins were invented as a new cryptocurrency to “minimize the fluctuations in value typical to payment tokens such as Bitcoin by backing the tokens with assets, such as currencies, commodities, real estate or securities” so they can be used as a means of exchange²¹.

Each one of these three distinctive features that makes Libra a unique invention, has already been introduced by prior endeavors.

For example, JPM Coins by JPMorgan would be operated with a permissioned settlements system. Also, Libra would not be the first stablecoin to be introduced to the market. For example, Tether is a stablecoin, whose value is backed by U.S. dollars and other assets. Moreover, Tether holders are supposed to be able to choose to redeem 1 U.S. dollar for every 1 unit of Tether they hold. Additionally, there are stablecoins that are pegged to the value of assets, such as gold and diamonds²². Also, Libra would not be the first cryptocurrency to be used as a payment method. For example, Tether is “a blockchain-enabled platform designed to facilitate the use of fiat currencies in a digital manner.”²³ Tether’s intended use case is as a payment method rather than a store of value or speculative investment²⁴. Moreover, there is a

²⁰ Libra Association, ‘An Introduction to Libra’ (*Press release*, 23 July 2019) 7 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

²¹ FINMA, ‘FINMA publishes “stable coin” guidelines’ (*Press release*, 11 September 2019) <<https://www.finma.ch/en/news/2019/09/20190911-mm-stable-coins/>> accessed 30 December 2020

²² David Hamilton, ‘What is Tether? Everything You need to Know’ (*Securities.io*, 7 May 2021) <<https://www.securities.io/what-is-tether-a-look-at-the-worlds-most-popular-stablecoin/>> accessed 30 December 2020

²³ Tether, ‘FAQs’ <https://tether.to/faqs/?__cf_chl_jschl_tk__=980644e4434bcca5217939e80a04ee37d90adc5-1607754197-0-AU6L4LgLO5PYHg-898i10ncEn7yHUZb3F-y73lhXQMZ6wfp2-yN6p-WoFzqms8xSer0TkVGorbpam9vyCkq4AlBnDxa9b82qBrf_7UjEuaxwkuT7nvcZU_ZiFUnB8E2QQ-It3FFXjHr-Loxt3RMHMQMSbPjZzcgeK1PbZePddy0dNYW3qaj4-sgpPEDVUVn8jXogVbgEdpOJplmC9ezcu2vZiYoAmQD7y3WyXd7b4hltYLFOMlqvqOBvFvc_TSuiMq-jZsVQfG4fS1olypOraGO21N6Q1GsWBpimipCDGg-cP-8mSmPXch6gq9phtqc0Q> accessed 30 December 2020

²⁴ *Ibid.*

semi-cryptocurrency initiative, called Ripple which enables almost instantaneous and cheap cross-border transfer of money²⁵.

As shown above, each of these most-talked-about features that Libra has, is nothing new under the sun.

Rather, Libra's distinctiveness from other cryptocurrencies stems from the combination of the abovementioned characteristics and the fact that Libra would be run by a group of some of the most important companies in the world, with the potential to be used by their users, Facebook's 2.7 billion monthly active user-base in particular. With the globally permeating user-base, it is plausible and even likely that Libra would become a ubiquitous financial tool once launched, which would enable it to overcome the challenges that existing cryptocurrencies have faced: liquidity issues, acceptance as payment method, and value retention and yet would face a new set of issues: stability issues, large-scale liquidity issues. The already existing user base that its connection with Facebook would provide would allow them to have the potential to "be the first to have a truly global footprint"²⁶. For this reason, Libra could potentially become an alternative currency with a share of global payments larger than U.S. dollars.

In essence, Libra has been given an enormous amount of attention unlike the preceding cryptocurrency initiatives because of the combination of the three distinctive features that set them apart from traditional cryptocurrencies and also its potential global reach and adoption it may generate due to the fact that it is established by one of the biggest network company in the world.

2.2.2 Comparison with existing payment service providers

Payment instrument/service providers, such as PayPal and Facebook Pay did not face this kind of scrutiny from the global regulatory community at their genesis.

Payment service providers that provide simple money transmitting services (e.g., credit transfer and mobile/online payment services) are not required to obtain rigorous banking license.

²⁵ Cointelegraph, 'What is Ripple? Everything You Need to Know' <<https://cointelegraph.com/ripple-101/what-is-ripple>> accessed 30 December 2020

²⁶ Benoît Coeure, 'Introductory remarks to the Committee on the Digital Agenda of the Deutscher Bundestag' (*BIS CPMI Speech*, 25 September 2019) <<https://www.bis.org/cpmi/speeches/sp190925.htm>> accessed 30 December 2020

They can run those businesses with simple money transmitter license as long as their activities fall within the State definition of money transmitter. Money transmitters “work behind the scenes” to connect multiple financial institutions (i.e., acquiring and issuing banks or credit unions), payment networks such as credit card or debit card companies, and businesses/individuals and transfer fiat money among them²⁷.

For such simple payment service providers (money transmitters), countries and regions have laws and regulations that are less strict than those on banks and focus primarily on consumer protection, cyber security, protection against financial crimes including money laundering and terrorist finance²⁸²⁹³⁰.

PayPal, Apple Pay, Facebook Pay all operate under such simple money transmitter license in the U.S.

The reason why money transmitters are not required to obtain banking license and can operate with simple money transmitter licenses are as follows. Unlike banks, money transmitters do not accept clients’ money deposits or lend money to clients. Banks are authorized to use the money that clients deposited to invest the money to make more money. Since there is a time lag between when clients deposit money and when they withdraw their deposits, and banks have the authority to “use” the money, depositors are exposed to credit risks if banks fail to manage and maintain sufficient funds. That’s why regulators’ “entity-based” regulations on banks are quite stringent. They vary from strict capital and liquidity requirements, community reinvestment requirements, merger and affiliation restrictions, to prior approval/notice requirements for much

²⁷ Worldpay Editorial Team, ‘What are payment service providers?’ (*FIS*, 11 July 2019) <<https://www.fisglobal.com/en/insights/merchant-solutions-worldpay/article/what-is-a-payment-service-provider>> accessed 30 December 2020

²⁸ European Commission, ‘Payment services’ <https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/payment-services/payment-services_en> accessed 30 December 2020

²⁹ MAS, ‘Payments’ <<https://www.mas.gov.sg/regulation/payments>> accessed 30 December 2020

³⁰ David Yount, ‘Ask the business license guru: Who needs a money transmitter license?’ (*licenselogix*) <<https://www.licenselogix.com/faq/who-needs-a-money-transmitter-license>> accessed 30 December 2020

of their activities³¹. Also, the type of financial data money transmitter is limited to the information pertaining to the transactions that they transfer the money for whereas banks have access to holistic information about people's livelihood from their salaries to how and when they spend their money.

In that regard, Libra is more like a bank than a money transmitter. People who buy Libra coins would pay for them with fiat currencies and those fiat currencies would be “deposited” in the Libra Reserve, and the Libra Association would use the fiat currencies to invest in other currencies and securities. By design, Libra coin holders are exposed to the same type of credit risks that bank depositors are exposed to; therefore, Libra is distinctive from other non-bank payment service providers that are being exempted from the regulatory scrutiny that banks face. Also, Libra has the potential of being used in every aspect of people's livelihood. As a result, Libra can potentially acquire the types of information only banks have access to if not more. Combined with the information about their personal lives that Facebook has gathered through its social media services, the financial data this new platform would provide them would allow them to further leverage on bigdata.

On the other hand, money transmitters only serve as a channel to transfer money and since they are not authorized to “use” (i.e., lend or invest) that money, there is minimal room for credit risks to exist³².

PayPal still operates with money transmitter licenses in the U.S. When PayPal was first launched, there were no set rules or authority to regulate the new and disruptive service that PayPal was going to provide. It was even unclear which category of financial service supplier PayPal would fall under. PayPal took advantage of the situation and argued they should not have to be licensed as a bank because they don't engage in fractional-reserve banking and its funds are, in general, kept in commercial interest-bearing checking accounts, and they won the argument. As PayPal engages in small lending services today, critics argue that PayPal should in

³¹ CSBS, 'License to Bank: Who lends and processes payments in the fintech age' (CSBS, 28 September 2020) <<https://www.csbs.org/policy/statements-comments/license-bank-who-lends-and-processes-payments-fintech-age>> accessed 30 December 2020

³² Mercury Cash, '3 Differences between a money transmitter and a bank' (Mercury Cash, 16 May 2020) <<https://blog.mercury.cash/2020/05/16/3-differences-between-a-money-transmitter-and-a-bank/>> accessed 30 December 2020

fact be required to obtain banking license. Moreover, in some other regions, such as the EU, PayPal operates under banking license³³. Therefore, it is actually debatable whether PayPal should be classified as a simple money transmitter rather than a bank. Yet, at least to some regulators/legislators, PayPal's business model contains smaller risks than traditional banking business models do for the fact that they don't accept deposits or lend/invest money as extensively as banks do and there is smaller room for credit/consumer/market impact risks.

Scalability is another feature that sets Libra apart from preceding payment-service providers. While Facebook has 2.4 billion monthly active users, the number of PayPal's active users is 286 million. The potential reach of Libra is much greater than that of PayPal's. The bigger the user base and volume of transactions, the bigger the effect of potential issues that the initiative could cause. Moreover, Libra has the potential of being used for all sorts of financial activities whereas PayPal's services are used merely for certain types of transactions.

2.2.3 Comparison with banks

Banks are highly regulated entities. They are held to the highest standard of regulations. To prevent bank runs which could ensue systemic risks, the confidence in them need to be kept high at all times.

Libra has the potential to provide all functions of banks and to replace them³⁴. The reasons are as follows.

Just as banks, Libra entity accepts U.S. dollars (and other assets) and uses them to invest in other assets, including developed countries' fiat currencies. Libra coins are like account receivables and Libra holders are like depositors in this regard.

The view that Libra is akin to banks is widely shared. For example, a former president of the US wrote on his Twitter page, "If Facebook and other companies want to become a bank,

³³ Carlos Perez, 'PayPal granted banking license in Europe' (*InfoWorld*, 15 May 2007) <<https://www.infoworld.com/article/2660971/paypal-granted-banking-license-in-europe.html>> accessed 30 December 2020

³⁴ Katsuto Iwai, 'Currency is all about credit/trust in that currency. Hence, the Libra scheme is outrageous' *The Asahi Shimbun Globe* (Tokyo, 13 November 2019) <<https://globe.asahi.com/article/12871929>> accessed 30 December 2020

they must seek a new Banking Charter and become subject to all Banking Regulations, just like other Banks, both National and International.³⁵”

The similarities between the mechanism of Libra and banks are as follows.

Libra was going to invest a big portion of the money it receives from its users, which would expose them to the risks of the depreciation of the assets it invests in. Although the Libra Association said that they were only going to invest in highly secure assets, such as developed countries’ fiat currencies and government bonds, there was no guarantee that their value would not depreciate, especially in times of stress. Moreover, because Libra’s reserve assets would likely be highly concentrated in developed economies fiat currencies and other secure government securities, Libra would be deeply affected by central banks’ move into negative rates, just as banks are. In times of stress, it might become difficult for them to generate the operational costs with the reserve assets, so they might have to pass along the costs to the users, just as banks may have to pass along the costs of negative rates policies to their depositors.

Moreover, the loss of confidence in the institution/initiative could result in bank-runs which could result in economic depression, just as the bank-runs to major banks have caused recessions in the past. Given the potential size of Libra, any liquidity issues could result in economic depression of unimaginable size.

Also, once Libra becomes part of the global financial system, it would be so closely intertwined with other financial institutions that its failure could easily transfer to other financial institutions, resulting in a credit crisis across the board, and eventually a recession or depression at a global scale.

While Libra is similar to banks in the above manners, it lacks the safety net and crisis prevention measures that banks are required to have in place. For one, Libra is not part of the global and domestic banking regulatory networks that protect their users and prevent financial crisis. For example, when banks become insolvent, their consumers/investors are protected under deposit insurance systems that exist in all major economies. Banks are heavily regulated in part because they are part of deposit insurance systems and their consumers receive compensations from the deposit insurance system. If the Libra Association does not become a

³⁵ Reuters Staff, ‘Trump blasts Bitcoin, Facebook’s Libra, demands they face banking regulations’ (*Reuters*, 12 July 2019) <<https://www.reuters.com/article/instant-article/idUKW1N23501D>> accessed 30 December 2020

bank or a member of a deposit insurance system, when Libra becomes insolvent, Libra tokens (which would be the equivalent of account receivables in banks) would become worthless and their holders would lose all of the values they hold in Libra coins. In this regard, Libra holders are exposed to much higher insolvency risks than bank depositors.

Furthermore, given the scale Libra may gain, Libra could have the kind of impact that the banks that are considered “Too Big to Fail.” Since the Global Financial Crisis in 2007 onward, global regulatory bodies, such as the FSB and BIS have focused much of their resources to the prevention of the next global financial crisis. One of the key measures they have implemented to achieve that goal is to classify banks of certain size as banks that are “too big to fail,” and to impose stringent requirements on them. For example, the liquidity and capital requirements are set higher for those banks. As Libra has the potential to become bigger than the biggest banks in the world, if it instigates a credit crisis, the probability of it causing a global financial crisis is higher than TBTF banks. Yet, as Libra is not technically a bank, it may not have to comply with such stringent regulations. Also, given the uniqueness of Libra’s schemes that set them apart from traditional banks, the existing regulations may not be effective to prevent the risks that Libra could impose to the global financial system. In this regard, the existing financial regulatory frameworks do not protect the world from the deadly stress Libra could place on our financial system.

2.2.4 Comparison with fiat currencies:

Fiat currencies are not the only type of money that global financial regulators consider to be legitimate “money”. According to a report by the IOSCO, the core economic criteria of money are i) as a unit of account, ii) a stable store of value and iii) efficient means of exchange³⁶.

Considering the characteristics of Libra, described above, Libra has the potential to meet all three of these criteria. As a Libra holder can sell Libra to the Libra Association at the face value at any given time, the Libra Association, which “prints and burns” Libra, would behave like central banks do with fiat currencies.

³⁶ IOSCO, ‘Global Stablecoin Initiatives’ (March 2020) 3

<<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD650.pdf>> accessed 30 December 2020

The two major critical differences between Libra and fiat currencies are as follows.

First, Libra's value would be backed by other monies.

Monies, such as fiat currencies, are valuable only to an extent the consensus about the value people place in them.³⁷ Without this consensus, money is worthless, and it would not help you buy anything. In other words, this consensus about how valuable money is, is what enables them to function as currencies.

Currently, central banks, such as the FRB of the U.S. and the Bank of England of the U.K. hold the monopoly on producing fiat currencies. The fact that they are backed up by government is the most important reason why fiat money is considered legitimate, the fiat money is trusted, and people accept 'money' in exchange for their services/goods. Fiat money has no intrinsic value and the trust and approval by people in the government that prints the money or the fictional value that people place in the money is the only value fiat money has.

This makes our money vulnerable to the "mood swings" of the economy as the value of it depends on the value and trust people place in the amount of currency. Consequently, the desire to attach a currency's value to something valuable and finite that we place faith in has been quite strong. In fact, throughout history of civilization, our currencies had been metal based, such as gold and silver, or currencies that are backed by them, so their value was derived from the worth of those commodities, until the Bretton Woods system was brought to an end in 1971. Today most modern paper currencies are sovereign backed fiat money; they are valuable only to the extent people trust the money that represents the human capital of the citizens of the country and the governments that issues them. In other words, their value is derived from the trust people have in the value of it or the relationship between supply and demand and from the responsibility that the central banks take on to maintain the value of the money.

In short, the confidence we have placed in money and the government that supports it is what supports the monetary system. Without the credence or almost blind trust in this system, money would be worthless. In this sense, money is very fragile. To conclude, the following statements explain the phenomenon quite well. "Money is a collective act of the imagination,

³⁷ John Murphy, 'What is money, why do we trust it and has it become too confusing?' (*BBC Radio 4's Analysis*, 26 March 2012) <<https://www.bbc.com/news/business-17458645>> accessed 30 December 2020

and it's a thing which we have invested our trust in, and it works because we do that³⁸. "Money is a shared fiction. Our mechanism for storing and exchanging agreed-upon units of value, a tool so powerful that wars are fought over it, springs entirely from our collective imagination."³⁹

On the other hand, Libra is a stablecoin and it would be pegged to a basket of fiat currencies or a fiat currency and its users would have the right to redeem a certain amount of cash with a certain amount of Libra coins. This way, the value of Libra is designed not to fluctuate on its own by "piggybacking" on U.S. dollars, other developed countries' currencies and secure securities. Yet, as a "currency" that would not be entirely pegged to a single currency and backed by the same amount of the currency, Libra's value would remain independent from any particular fiat currency. As a result, there would be slight or large discrepancy between the value of the fiat currencies it is pegged to and the actual value of Libra itself. It is uncertain how that discrepancy adds to the complexity of the global currency system and how it would affect the "mood swings" of people's confidence in fiat monies and our global currency system.

2.2.5 Comparison with local currencies:

Some of the smaller and more private currency initiatives are not only accepted but also supported by their domestic regulators/legislators.

Local currencies, such as Ithaca HOUR, are even supported and endorsed by legislations. The Ithaca HOUR is a local currency used in Ithaca, New York where Cornell University faculty and students reside. Ithaca HOUR was first invented by a student at Cornell University, and it is the oldest and largest local currency system in the United States that is still operating. Local currencies are allowed to be circulated only if they are programmed for specific economic development purpose listed in 7 U.S. Code Section 1727d.

³⁸ John Murphy, 'What is money, why do we trust it and has it become too confusing?' (*BBC Radio 4's Analysis*, 26 March 2012) <<https://www.bbc.com/news/business-17458645>> accessed 30 December 2020

³⁹ Michael J. Casey, 'Money Reimagined: As Tech, Politics and COVID-10 Collide, a Global Reset Looms' (*CoinDesk*, 10 April 2020) <<https://www.coindesk.com/money-reimagined-as-tech-politics-and-covid-19-collide-a-global-reset-looms>> accessed 30 December 2020

In general, governments and regulators have been supportive of smaller scale currency initiatives as long as they are created to serve specific purposes and are kept being small scale so they would not challenge or upset the global/national financial system.

Libra, on the other hand, was designed to be used for a variety of reasons and they would be used at a large scale.

2.2.6 Comparison with other big-tech business models:

2.2.6.1 Big tech's signature businesses

Libra is obviously not the first globally impactful and highly disruptive initiative by big-tech companies. Google, Facebook, Amazon, Alibaba are some of the most notable big-tech companies that introduced services that didn't exist at the time and have become ubiquitous infrastructures.

Some of these big-tech companies have faced lawsuits and regulatory sanctions for incompliance with laws and regulations. For example, Facebook's social media platform services have faced significant amount of criticism and has been under regulatory scrutiny for how they mishandled data and privacy and for their questionable mergers and acquisitions practice in light of antitrust laws, as well as for their refusal to ban political ads that include false statements. But the legal and regulatory issues those tech companies are facing are distinctive from the global regulatory backlash that Libra has faced in the past two years in the following manners.

Google and Facebook did not face regulatory scrutiny at the outset while Libra faced regulatory backlash even before its launch.

Google and Facebook are facing legal and regulatory issues on an ad hoc basis. Some of the legal and regulatory penalties they have faced are enormous, and some argue that break up these gigantic entities is the only cure to the problems. But none of these entities was asked to completely refrain from launching the businesses or from continuing to provide their services. Also, for each of the legal and regulatory penalties that they have faced, the burden of pleading and proof has been on the regulator's side; regulators have been responsible to lay out why those regulations are justified.

Google's search engine services and Facebook's social media services succeeded in industries that had not been considered essential infrastructures to people at their genesis. Only

recently, their services are starting to be recognized as a basic infrastructure that people cannot easily opt out from relying on.

On the other hand, Libra is trying to compete in an industry that is known to provide basic infrastructure that everybody depends on, the global financial system. The global financial system is undeniably one of the most essential and integral infrastructures that supports our livelihood.

2.2.6.2 Big tech's financial services initiatives

Libra is not the first financial services initiative by a big tech firm. For example, Amazon has begun providing loan and insurance services. As financial services industry is centered around data, it is an industry where firms that have access to data would have strong leverage on. That is why big tech firms have been eager to enter into financial services industry.

Given the potential positive and negative effects of big tech's financial services initiatives, particularly in EMDEs, global financial regulatory bodies have been working closely with national financial authorities to develop effective regulatory and supervisory policies on big tech's finance-related initiatives⁴⁰.

2.3 Failure of the Libra initiative: recent developments

Libra was first publicly unveiled by Facebook and its partners on June 18th, 2019 and they announced that they were going to launch this initiative in the first half of 2020. Yet, a series of the concerns publicly raised by the regulators and policy makers made it infeasible to do so. Had it actually been launched; it would have been the first cryptocurrency with a potential to become a ubiquitous infrastructure. Everybody, including the founders of Libra, was aware that it was going to have to undergo some regulatory oversight, but it surprised not only cryptocurrency enthusiasts, but also the larger communities surrounding technology as well as financial services industries that the global financial regulators were very quick to essentially “ban” this project altogether.

⁴⁰ FSB, 'Big tech in finance: Market developments and potential financial stability implications' (9 December 2019) <<https://www.fsb.org/wp-content/uploads/P091219-1.pdf>> accessed 31 December 2020

To counter the initial set of policy makers' criticism, the CEO of Facebook, Mark Zuckerberg spoke before members of Congress to explain the company's global finance mission and how this initiative would cure one of the worst problems that face our society today.

Mr. Zuckerberg and other leaders of this initiative repeatedly made clear that they would not launch the project without approval by US regulators. For example, in October 2019, Zuckerberg stood before the House Financial Services Committee and testified that Facebook "will not be a part of launching the Libra payments system anywhere in the world unless all U.S. regulators approve it."⁴¹ Also, the CEO of Calibra, David Marcus said, "Facebook will also get "appropriate approvals" before launching Libra."⁴² Such regulatory approvals were never granted. Nor has there been any noteworthy advancements in the discussions about regulations and supervisions of the Libra Association at global financial regulators' level, which essentially became a prerequisite to the launch of their service.

As the Libra initiative faced unprecedented level of regulatory blowback, a number of original members, including the payments titans, including, PayPal, Visa, Mastercard, and Stripe, left the Libra Associations.

The Libra Association was forced to rethink their strategy. In their original plan, Libra was going to be a new independent currency whose value will be dependent upon the trust people place in the Libra currency. The Association mentioned that "Libra will need to be accepted in many places.... In other words, people need to have confidence that they can use Libra and that its value will remain relatively stable over time."⁴³ The most essential feature of this project was going to be that Libra is not pegged to a single currency, which makes it a new currency system instead of another payment tool. They stressed this aspect in their official

⁴¹ Lauren Freiner, 'Zuckerberg: Facebook 'would be forced to leave' the Libra Association if it moves forward before regulators approve' (*CNBC*, 25 October 2019) <<https://www.cnbc.com/2019/10/23/facebook-would-leave-libra-association-if-it-moves-forward-before-approval.html>> accessed 30 December 2020

⁴² Benjamin Bain and Austin Weinstein, 'Facebook Says Libra Won't Launch Until Regulators Satisfied' (*Bloomberg*, 15 July 2019) <<https://www.bloomberg.com/news/articles/2019-07-15/facebook-says-libra-won-t-launch-until-regulators-satisfied?sref=DmYxpl7f>> accessed 30 December 2020

⁴³ Libra Association, 'An Introduction to Libra' (*Press release*, 23 July 2019) 3 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

publication, saying “it is important to highlight that this means one Libra will not always be able to convert into the same amount of a given local currency (i.e., Libra is not a “peg” to a single currency). Rather, as the value of the underlying assets moves, the value of one Libra in any local currency may fluctuate.⁴⁴” In essence, they changed the objective of their project from the grandiose scheme to create a universal currency (i.e., a stablecoin backed by a basket of fiat currencies, ran by Facebook) into just another payment facilitating system (i.e., US-dollar-pegged stablecoin). In November 2020, Libra was renamed as “Diem” as the Libra Association⁴⁵ (now renamed as the Diem Association) signified their departure from the extremely ambitious endeavor that had previously been planned to drastically change the way the global financial system functioned.

3. Global regulators/policy makers’ assessment of the Libra initiative:

3.1 Overview

Due to the magnitude of their impact and the cross-border nature of their endeavor, issues pertaining to Libra have been taken up by international standard-setting bodies, such as G20’s FSB and FATF, G7, IMF and OECD as an important policy agenda for them to discuss and to provide guidance on to national governments. Since the announcement of the Libra project in June 2019, the global standard-setting bodies have published a number of reports on the Libra project and global stablecoins. The sheer number of working groups set up by global policy makers to examine globally impactful stablecoins in reaction to the announcement of Libra in June 2019 is a testament to how wary they are of the disruptive impact that Libra would have to the global financial system.

When disruptive services are first introduced, there usually are ambiguity and confusion about under which category of regulatory framework they fall, who their regulators are, or what laws and regulations would be applicable to them because those new innovative services do not necessarily fit into any of the existing categories. As a result, new and disruptive services tend to

⁴⁴ Libra Association, ‘An Introduction to Libra’ (*Press release*, 23 July 2019) 7 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

⁴⁵ Nikhilesh De, ‘Libra Rebrands to ‘Diem’ in Anticipation of 2021 Launch’ (*Coindesk*, 1 December 2020) <<https://www.coindesk.com/libra-diem-rebrand>> accessed 30 December 2020

be left unregulated or not adequately regulated at the outset. Yet, that was not the case for the Libra initiative.

Although it was yet to be determined under which category of regulations Libra would fall, global regulators did not shy away from engaging in in-depth supervision of Libra. There are no set rules on what regulations are applicable to stablecoins. Depending on the features, the structures or the way stablecoins are used, stablecoins can fall under several categories of financial services; therefore, fall within various regulatory rules set for different financial instruments or services⁴⁶. For example, stablecoins and other cryptocurrencies could even be “designed as financial instruments, such as transferable securities under the Markets in Financial Instruments Directive (MiFID II).⁴⁷” As the Libra initiative has not been launched, with important attributes subject to change, it is unclear under which category of financial regulations Libra would fall.

Financial regulators from across the globe have focused their resources on analyzing how Libra could be a threat to the global financial system rather than dwelling on the question of which existing regulations would be applicable to Libra.

3.2 Evaluation of the Libra initiative by each of the global standard setting bodies

In this chapter, I would like to discuss what each of the global regulatory policy setting bodies and policy making bodies has opined on the acceptability of the Libra from regulatory and policy issue standpoint. Although they often do not specifically mention the name, Libra, in their publications, Libra has been the main subject of discussions in most of the main financial services standard setting bodies’ public discussions in the year following its announcement in June 2019. They discussed extensively the risks that global stablecoins would cause to the financial system. Given the timing and background behind how the term, “global stablecoins” or GSCs, was coined and the fact that Libra is currently the only stablecoin that fits the definitions they have provided for GSCs, when they say GSCs, they are clearly referring to Libra. The term

⁴⁶ IOSCO, ‘Global Stablecoin Initiatives’ (March 2020) 2

<<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD650.pdf>> accessed 30 December 2020

⁴⁷ European Commission, ‘Questions and Answers: Digital Finance Strategy, legislative proposals on crypto-assets and digital operational resilience, Retail Payments Strategy’ (24 September 2020)

<https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_1685> accessed 30 December 2020

GSCs was coined by the FSB regulators and they refer to “stablecoins with a potential global reach and the ability to rapidly scale in terms of users/holders of the crypto-asset.”⁴⁸ The Bank for International Settlements (BIS) defines GSC as “an initiative built on an existing large customer base with the potential to scale rapidly.”⁴⁹ IOSCO describes “stablecoin initiatives with a potential global reach” as ‘global stablecoins.’⁵⁰

While they all acknowledged the potential benefits of this financial innovation, all of them raised strong concerns about how this endeavor could upset the global financial system and other risks impose on our society.

How each of those international organizations has classified and analyzed Libra is as follows.

3.2.1 IMF

IMF is the international financial institution that handles macroeconomic policies. They have analyzed Libra from the standpoint of its implications of global macroeconomy.

IMF was among the first international organizations to react to Libra and their report set the tone for the global financial regulators’ tough stance on Libra. On July 15th, 2019, they published a report, titled “FINTECH NOTES: The rise of digital money” in which it warned the public of the following risks that digital currencies may pose to the society. Although they didn’t specifically mention Libra in their report, due to the timing it was published and the reported background to why this report was published, it is clear that the objective of this report was to give a warning to the international community about this new audacious project by Facebook and its partners. They laid out the set of areas of issues that Libra could cause money laundering risks, user protection issues, the issues pertaining to private entities, such as the Libra

⁴⁸ FSB, ‘Regulatory Issues of Stablecoins’ (18 October 2019) 3 <<https://www.fsb.org/wp-content/uploads/P181019.pdf>> accessed 30 December 2020

⁴⁹ BIS, ‘Investigating the Impact of Global Stablecoins’ (*G7 Working Group on Stablecoins*, October 2019) 3 <<https://www.bis.org/cpmi/publ/d187.pdf>> accessed 30 December 2020

⁵⁰ IOSCO, ‘IOSCO Statement: The Board of the International Organization of Securities Commissions. Statement on IOSCO study of emerging global proposals’ (4 November 2019) <<https://www.iosco.org/news/pdf/IOSCONEWS550.pdf>> accessed 30 December 2020

Association and Facebook, gaining access to people's financial data, the impact it could have on states' monetary policies and instability of the financial system as a result, and the problems that might ensue the mal handling of data on international capital flow.

In sum, IMF is mainly concerned with the following issues: 1) Libra and Facebook's handling of data and 2) Libra's effect on global macroeconomic conditions.

3.2.2 G7:

G7 is an intergovernmental economic organization, consisting of the 7 advanced economies in the world. It consists of Canada, France, Germany, Italy, Japan, the United Kingdom, the United States. The summit meetings are held annually to discuss global economic policies. Also, those countries' finance ministers meet semi-annually.

On July 17th and 18th, 2019, following Libra's announcement in June 2019, G7 Finance Ministers and Central Bank Governors gathered for a meeting in Chantilly, France. According to the Chair's Summary, they discussed the risks that global community faces with the launch of the Libra project and expressed their view that they fail to convince them that those risks will be properly addressed⁵¹. The chair described Libra as a stablecoin project with global and potentially systematic footprint and emphasized his view that projects with such globally impactful implications "raise serious regulatory and systematic concerns, as well as wider policy issues, which both need to be addressed before such projects can be implemented."⁵² The Chair listed the following as the major regulatory concerns that Libra would raise: AML/CFT, consumer and data protection, cyber resilience, fair competition, and tax evasion. They discussed the impact Libra could have on monetary policy transmission, financial stability and "smooth functioning of and public trust in the global payment system."⁵³

⁵¹ G7, 'Chair's Summary: G7 Finance Ministers and Central Bank Governors' Meeting. G7 Finance Ministers and Central Bank Governors' meeting in Chantilly' (*Press release*, 18 July 2019) 2-3
<https://minefi.hosting.augure.com/Augure_Minefi/r/ContenuEnLigne/Download?id=7C00115F-99CD-4FC1-A520-1EF0126E1A7C&filename=G7%20Chair%27s%20summary.pdf> accessed 30 December 2020

⁵² Ibid. 2

⁵³ G7, 'Update from the Chair of the G7 working group on stablecoins' (*Press release*, 18 July 2019) 1
<https://www.bis.org/cpmi/bc_190718.pdf> accessed 30 December 2020

Moreover, G7 tasked a working group to write a report on global stablecoins and established the G7 working group on stablecoins which was chaired by Benoît Cœuré, Chair of the Committee on Payments and Market Infrastructures (CPMI). Their role was to analyze the challenges that stablecoin initiatives such as Libra would cause: “financial security, investor protection, prevention of money laundering and terrorism financing, data protection and financial and monetary sovereignty.”⁵⁴ The working group consists of senior officials from the G7 central banks and international standard setting bodies, including the International Monetary Fund, the Bank for International Settlements and the Financial Stability Board. Also, the Secretariat of the CPMI provided support for the group⁵⁵.

According to their findings, the G7 task force concluded that global stablecoin initiatives may not be launched unless their legal and regulatory problems are solved: “The G7 believes that no stablecoin project should begin operation until the legal, regulatory and oversight challenges and risks are adequately addressed.” “As already expressed during the meeting of G7 Finance Ministers and Central Bank’s Governors in Chantilly in July, France and Germany consider that the Libra project, as set out in Facebook’s blueprint, fails to convince that those risks will be properly addressed.”⁵⁶

Furthermore, they made clear that Libra project would not only be subject to all of the existing financial regulations but also be required to “meet the highest standards of financial regulation”⁵⁷. They expressed their view that if they start their businesses without meeting the highest standards of financial regulations, they could potentially have negative effect on the

⁵⁴ The Government of France and Germany, ‘Joint Statement on Libra’ (*Press release*, 13 September 2019) <https://www.gouvernement.fr/sites/default/files/locale/piece-jointe/2019/09/1417_-_joint_statement_on_libra_final.pdf> accessed 30 December 2020

⁵⁵ G7, ‘Update from the Chair of the G7 working group on stablecoins’ (*Press release*, 18 July 2019) 2 <https://www.bis.org/cpmi/bc_190718.pdf> accessed 30 December 2020

⁵⁶ The Government of France and Germany, ‘Joint Statement on Libra’ (*Press release*, 13 September 2019) <https://www.gouvernement.fr/sites/default/files/locale/piece-jointe/2019/09/1417_-_joint_statement_on_libra_final.pdf> accessed 30 December 2020

⁵⁷ G7, ‘Update from the Chair of the G7 working group on stablecoins’ (*Press release*, 18 July 2019) 2 <https://www.bis.org/cpmi/bc_190718.pdf> accessed 30 December 2020

stability of the financial system or consumer protection⁵⁸. Also, they stressed their view that the Libra project may have substantial effect on and potentially upset sovereignty and the functioning of the international monetary system (even if they meet the standards set forth by current financial regulations.)⁵⁹.

In October 2019, G7 published “The Chair’s Statement on Stablecoins⁶⁰” in which the following issues were picked up as the main regulatory challenges Libra poses: legal uncertainty, sound governance, money laundering, terrorist financing and other forms of illicit finance, safety, efficiency and integrity of payment systems, operational and cyber resilience, market integrity, data privacy, protection, and portability, consumer and investor protection, tax compliance, effectiveness of monetary policies and financial stability, and fair competition.

In sum, as early as in mid-2019, this group of international leaders were not only discussing technical issues that Libra would have to overcome, but also the more profound impact Libra would have on stability of the global economy and international monetary system. As explained above, Libra’s value would be pegged to fiat currencies, but that doesn’t necessarily mean that the Libra Association will always have the same amount of fiat currencies in their reserve that can be supplied to Libra coin holders when/if they want to redeem their right to the fiat currencies their Libra is pegged to. The Libra reserve is planned to allocate 50% of the amount they hold in the reserve to US dollar assets, so those who purchase Libra coins with non-US dollar currencies, they would be exposed to exchange rate risk⁶¹. When the users’ confidence is lost, they might flock to the Libra reserve to exchange their Libra to fiat currencies,

⁵⁸ G7, ‘Chair’s Summary: G7 Finance Ministers and Central Bank Governors’ Meeting. G7 Finance Ministers and Central Bank Governors’ meeting in Chantilly’ (*Press release*, 18 July 2019) 2-3
<https://minefi.hosting.augure.com/Augure_Minefi/r/ContenuEnLigne/Download?id=7C00115F-99CD-4FC1-A520-1EF0126E1A7C&filename=G7%20Chair%27s%20summary.pdf> accessed 30 December 2020

⁵⁹ Ibid. 2-3

⁶⁰ G7, ‘Chair’s Statement on Stablecoins’ (*Press release*, 17 October 2019) 1-2
<https://www.mof.go.jp/english/international_policy/convention/g7/g7_20191017_01.pdf> accessed 30 December 2020

⁶¹ Kazuhiro Sudo, ‘Facebook’s Libra: design and potential shortcomings as a means of digital payment’ (10 September 2019) 3 <<https://www.nri.com/-/media/Corporate/en/Files/PDF/knowledge/publication/lakyara/2019/09/lakyaravol307.pdf?la=en&hash=000ECO02A9E3BFDC9E289A185374E5C2084B1E0F>> accessed 30 December 2020

just as in bank runs, and that could result in systematic risks. Therefore, if the reserve assets are managed and the redemption rights are set up poorly, there is greater chance that this stablecoin initiative can cause systematic risks. The proper and prudent management of the assets in the Libra reserve is not only important in light of consumer protection, but also crucial to protecting investors' confidence in the financial instrument, which is the building blocks of financial stability, without which systemic risks may surface.

3.2.3 G20:

G20 is a group of 20 major economies in the world. This group includes, not only developed economies but also major EMDEs, such as Russia, Brazil and Indonesia.

Right after Libra's announcement, the G20 published Osaka Leader's Declaration in June 2019, in which G20 leaders emphasized the need to monitor and further examine the problems that crypto-assets or virtual assets have or may cause in the following four areas: i) financial stability, ii) AML/CFT, iii) cyber security⁶². They also mentioned the need to further look into the implications of decentralized financial technologies, which includes global stablecoins⁶³.

In June 2019, the G20 mandated the FSB to examine regulatory issues raised by GSCs and to advise on multilateral responses to the issues, and stressed the importance of taking into account the perspective of EMDEs in this discussion.

3.2.4 FSB:

The Financial Stability Board (FSB) is a global financial standard setter that monitors and makes policy recommendations to states to ensure the stability of the global financial system. Its predecessor organization, the Financial Stability Forum (FSF), was set up by the G7 in 1999 as a means to manage the international monetary system. The FSB has been the main global financial regulatory body since it was established after the G20 London summit in April 2009 as a successor to the FSF. Its role is to promote global financial stability by coordinating national

⁶² G20, 'Osaka Leaders' Declaration' (*Press release*, 28 June 2019) 4
<https://www.mofa.go.jp/policy/economy/g20_summit/osaka19/en/documents/final_g20_osaka_leaders_declaration.html> accessed 30 December 2020

⁶³ Ibid. 4

financial authorities and international standard-setting bodies to develop strong regulatory, supervisory and other financial sector policies. Representative from major economies in the world gather to carefully craft global financial policies which are then implemented by jurisdictions and national authorities.

As illustrated below, the risks that Libra pose to global financial stability is the main concern that has been discussed at the FSB. Most importantly, the FSB repeatedly points out the magnitude of the impact of GSCs (i.e., Libra) would have to the wellness of the global economy because of their potential to become systemically important within and across jurisdictions.

In their publication⁶⁴, they discuss the risks that big tech firms' initiatives in financial services realm pose to financial stability. "Big tech firms' activities may also pose risks to financial stability... These include financial risks that stem from leverage, maturity transformation and liquidity mismatches, as well as operational risks including those that might arise from potential shortcomings in governance, risk and process controls."⁶⁵

In June 2019, G20 Leaders, in the Osaka Declaration, stated that although "crypto-assets do not pose a threat to global financial stability at this point, they are monitoring developments and remain vigilant to existing and emerging risks."⁶⁶

In October 2019, the FSB Chairman wrote a letter to G20 finance ministers and central banks' governors in October 2019. In that letter, he stated that the main risk associated with global stablecoin, was "the risk it would pose to financial stability because of its potential to

⁶⁴ FSB, 'Big tech in finance: Market developments and potential financial stability implications' (9 December 2019) 1 <<https://www.fsb.org/2019/12/bigtech-in-finance-market-developments-and-potential-financial-stability-implications/>> accessed 30 December 2020

⁶⁵ FSB, 'Regulatory Issues of Stablecoins' (18 October 2019) 3 <<https://www.fsb.org/wp-content/uploads/P181019.pdf>> accessed 30 December 2020

⁶⁶ G20, 'Osaka Leaders' Declaration' (*Press release*, 28 June 2019) 4 <https://www.mofa.go.jp/policy/economy/g20_summit/osaka19/en/documents/final_g20_osaka_leaders_declaration.html> accessed 30 December 2020

become systemically important, including through the substitution of domestic currencies.⁶⁷ He explained that the challenges GSCs would pose include challenges for financial stability, consumer and investor protection, data privacy and protection, financial integrity including AML/CFT and know-your-customer compliance, mitigation of tax evasion, fair competition and anti-trust policy, market integrity, sound and efficient governance, cyber security and operational risks, and an appropriate legal basis.

The letter only touched on global stablecoins briefly and in a vague manner, and there is no direct mentioning of Libra in this letter; however, it is clear that this statement was written about the Libra for the following reasons. This statement was written after the first FSB Plenary meeting after Facebook announced its launch of global stablecoin, and it has been understood by the media and experts that by global stablecoin, the Chairman was specifically referring to Libra. It is rare for the FSB to make specific reference to a specific company's initiative in its publications, but the FSB Chairman wrote a letter to the G20 Finance Ministers and Central Banks' Governors, specifically about the Libra initiative⁶⁸. That shows how concerned they were about the risks that this initiative could contain.

Moreover, in October 2019, the FSB published a report in which they discussed the risks that GSCs or Libra could pose to financial stability⁶⁹. In this report, the FSB points out Libra calls for a reevaluation of the effect of crypto-assets on the global economy. Unlike previous crypto assets with limited global reach, Libra could pose a material risk to financial stability and can cause systematic risk. The reason they listed as to why Libra is different from previously launched crypto assets in this regard are as follows⁷⁰.

⁶⁷ FSB Chair, 'To G20 Finance Ministers and Central Bank Governors' (*Press release*, 13 October 2019) 3-4 <<https://www.fsb.org/wp-content/uploads/P131019.pdf>> accessed 30 December 2020

⁶⁸ Ibid. 3-4

⁶⁹ FSB, 'Regulatory issues of stablecoins' (18 December 2019) 3 <<https://www.fsb.org/wp-content/uploads/P181019.pdf>> accessed 30 December 2020

⁷⁰ Ibid. 3-4

Unlike other crypto-assets, Libra has the potential for widespread adoption as a payment instrument, at the same level as or at a higher level than sovereign currencies of major economies. Such widespread adoption of Libra is likely for the following three reasons.

First, Libra initiative is led by the biggest social media company, Facebook. Therefore, Facebook would likely integrate Libra into its telecommunications platform, and Libra would likely be linked to the gigantic network that Facebook already has which would enable Libra to achieve a global footprint quickly⁷¹.

Secondly, Libra's value would be stable, unlike its crypto-asset predecessors because it would be linked to a currency or a basket of currencies (i.e., Libra coins would be collateralized by the Libra reserve, denominated in fiat currencies.)⁷². Regular crypto assets (i.e., non-stablecoin crypto assets, such as Bitcoins) suffer from severe price fluctuation which make them unfit to be used as regular payment instruments, so they have been used primarily as high-risk investments or means to pay for shadowy transactions⁷³.

Thirdly, due to the structure of blockchain technologies, it had been impossible for crypto-asset services to be provided at scale. Yet, Libra would likely overcome this problem by an innovative idea to process much of its transactions on Facebook's subsidiary, Calibra's wallet server instead of processing every transaction on the blockchain itself⁷⁴.

With a big user base, coupled with the low volatility in its value and scalability achieved by the abovementioned structure, Libra would likely be used quite widely and globally as a payment instrument. For the reasons above, Libra would be the first of crypto assets to have the potential to be used widely as a means of payment. A popularly utilized payment instrument would

⁷¹ Ibid. 3

⁷² Ibid. 4

⁷³ Ibid. 3

⁷⁴ Kazuhiro Sudo, 'Facebook's Libra: design and potential shortcomings as a means of digital payment.' (*NRI*, 10 September 2019) 3 <<https://www.nri.com/-/media/Corporate/en/Files/PDF/knowledge/publication/lakyara/2019/09/lakyaravol307.pdf?la=en&hash=000ECO02A9E3BFDC9E289A185374E5C2084B1E0F>> accessed 30 December 2020

have systemic importance, which means that if they become unstable or if confidence in their stability is lost, it would become regional or even global systemic risks. In short, as a large-scale payment instrument that could replace some of the current payment instrument (fiat currencies), Libra has the power to pose financial stability risks.

Moreover, Libra could have “the potential for extensive and impactful linkages to the existing financial system.⁷⁵” “Linkages between Libra and other big tech firm’s financial initiatives and traditional financial system “can increase the complexity of the financial system and provide new channels for the propagation of risks ⁷⁶.” For example, depending on what reserve assets are held in, there could be close linkage to the currency-based financial system. Also, financial institutions serving as stablecoin custodians, resellers or market makers would provide linkage between Libra’s system and the global financial system. Large usage of Libra could affect or even replace some of bank businesses.

Libra is seen with much skepticism by regulators and potential users, and the “concerns about market manipulation and lack of market integrity, anti-competitive behavior, lack of adequate data protection, concerns about money laundering, terrorism financing and other illicit financing activities” regarding Libra could cause people to lose confidence in Libra and broader financial system which “could have financial stability implications.⁷⁷”

In sum, i) because Libra would have the potential to replace some of fiat money payment transactions at large scale, ii) because of Libra’s linkage to the existing financial system, and iii) due to the various risks factors that Libra holds, such as AML/CFT and leak of private data, that could cause loss of user confidence once those risks surface, Libra is prone to causing systematic

⁷⁵ FSB, ‘Regulatory issues of stablecoins’ (18 December 2019) 2 <<https://www.fsb.org/wp-content/uploads/P181019.pdf> > accessed 30 December 2020

⁷⁶ FSB, ‘Big tech in finance: Market development and potential financial stability implications’ (9 December 2019) 24 <<https://www.fsb.org/2019/12/bigtech-in-finance-market-developments-and-potential-financial-stability-implications/>> accessed 30 December 2020

⁷⁷ FSB, ‘Regulatory issues of stablecoins’ (18 December 2019) 2 <<https://www.fsb.org/wp-content/uploads/P181019.pdf> > accessed 30 December 2020

risks. Moreover, the sound management of the Libra reserve assets is key to ensuring that Libra won't undermine financial stability.

On April 14th, 2020, the FSB published a set of consultative recommendations to address the “regulatory, supervisory and oversight challenges raised by” Libra and the like.⁷⁸ The main purpose of this paper was to lay out where the current regulatory regimes are weak in addressing the risks and problems that global stablecoins cause, to analyze the implications of global stablecoins’ substitution to fiat monies to financial stability and to map out a way forward for regulators across the globe to address those issue.

The FSB’s finding was that current regulatory and supervisory frameworks in developed countries are capable of addressing only some of the risks that global stablecoins pose if they become widely used in the future, and the impact of it might be larger in EMDEs and the effectiveness of the regulatory/supervisory regimes there may be weaker and less comprehensive. In particular, they are wary of the following impact that global stablecoins may have⁷⁹. First is the impact of value fluctuations if global stablecoins are used as common store of value. Secondly, the impact of operational disruption could be significant. Thirdly, exposures of financial institutions to those stablecoin initiatives would make them vulnerable to the credit and operational risks global stablecoins would pose. Most importantly, as mentioned above, confidence in the financial system is the basis for sound global financial system. Global stablecoins may trigger systematic loss of people’s confidence in financial system, or “magnify confidence effects.”⁸⁰ In particular, they are afraid that the mechanisms to stabilize the values this way and to provide redemption rights to the coin holders are prone to causing liquidity issues and credit risks⁸¹.

In October 2020, the FSB published another report on GSCs (i.e., Libra), called “Regulation, Supervision and Oversight of ‘Global Stablecoin’ Arrangements.”⁸²

⁷⁸ FSB, ‘Addressing the regulatory, supervisory and oversight challenges raised by ‘global stablecoin’ arrangements’ (*Consultative document*, 14 April 2020) <<https://www.fsb.org/wp-content/uploads/P140420-1.pdf>> accessed 30 December 2020

⁷⁹ Ibid. 14-15

⁸⁰ Ibid. 12-13

⁸¹ Ibid. 11-14

⁸² FSB, ‘Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements: Final Report and High-Level Recommendations’ (13 October 2020) <<https://www.fsb.org/wp-content/uploads/P131020-3.pdf>> accessed 30 December 2020

The highlight of this paper was that they pointed out that the current regulatory, supervisory and oversight regime may not be sufficient to cover the new and big risks that global stablecoins such as Libra would pose. The reasons are as follows.

Unlike traditional financial tools, Libra and the like are not confined to a specific sector of financial services industry: the issues that they raise “span across banking, payments, and securities/investment regulatory regimes.”⁸³

Libra’s “stabilization mechanisms and redemption arrangements could pose market, liquidity, and credit risks” of new kind and at new level.

3.2.5 FATF:

The Financial Action Task Force (FATF) is a global overseer of money laundering and terrorist financing and the financing of the proliferation of weapons of mass destruction. It is a standard-setting body on preventing and combating these criminal activities. The FATF standards it sets are implemented in the countries and regions that are its signatories through national legislative and regulatory reforms. The FATF Standards place specific anti-money laundering and countering the financing of terrorism (AML/CFT) obligations on intermediaries between individuals and the financial system, such as financial institutions⁸⁴.

FATF has been aware of the rising risks of virtual assets, including stablecoins for quite some time. The FATF first assessed the potential AML/CTF risks posed by virtual assets in 2014 and has since been closely monitoring the evolving risks in this space through regular surveys issued to members of the FATF Global Networks. They made the virtual asset-related AML/CTF measures a priority as early as June 2015, as they noted “the rapid development, increasing functionality, growing adoption, and global, cross-border nature of virtual assets therefore makes the urgent action by countries to mitigate the ML/TF risks presented by virtual asset activities and virtual asset service providers a key priority of the FATF.”⁸⁵

⁸³ Ibid. 5

⁸⁴ FATF, ‘Who we are’ <<https://www.fatf-gafi.org/about/whoweare/>> accessed 30 December 2020

⁸⁵ FATF, ‘FATF Guidance for a Risk-Based Approach to Virtual Currencies’ (*Public report*, June 2015) 6

Regarding virtual assets, and their providers, FATF recommends regulators of each state to adopt the following measures on them: measures that follow the risk-based approach, which means that for the risks nations and other actors identify, they take appropriate mitigation measures that are appropriate for the level of risk; supervisory and monitoring measures them for AML/CFT purposes; measures for licensing or registration of virtual asset service providers; preventive measures, such as customer due diligence, recordkeeping, and suspicious transaction reporting⁸⁶.

They finalized the FATF Standards on AML and CFT measures on virtual assets in June 2019 to require virtual asset service providers to implement more preventive measures, just on the eve of the announcement of Libra⁸⁷.

Given the important role the FATF had been playing in AML.CFT regulations on cryptocurrencies, it was not surprising that just in three months after Libra's announcement, the G20 tasked the FATF to consider the AML/CFT issues relating to global stablecoins i.e., Libra in October 2019⁸⁸.

One of the most obvious issues of Libra from financial regulatory standpoint is its incapability or incompetence to abide by anti-money laundering/counter terrorist finance measures and other measures on financial crimes.

In their report to the G20 FMCBGs, the FATF decided that there are two types of stablecoins: one is centralized arrangements in which one entity governs the arrangement, and the other is decentralized arrangements, in which there may not be such central entity, and assess risks for each of them. Libra would take the centralized form (at least at the outset), with the Libra

<<http://www.fatf-gafi.org/publications/fatfgeneral/documents/guidance-rba-virtual-currencies.html>> accessed 30 December 2020

⁸⁶ FATF, 'Virtual Assets and Virtual Asset Service Providers' (June 2019) 6 <<https://www.fatf-gafi.org/media/fatf/documents/recommendations/RBA-VA-VASPs.pdf>> accessed 30 December 2020

⁸⁷ FATF, 'FATF Report to the G20 Finance Ministers and Central Bank Governors on So-called Stablecoins' 10 (June 2020) <<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Virtual-Assets-FATF-Report-G20-So-Called-Stablecoins.pdf>> accessed 30 December 2020

⁸⁸ Ibid. 2

Association and Calibra as the governing bodies⁸⁹. In this report, FATF makes clear that such central bodies would have to fulfil AML/CFT obligations under the revised FATF Standards⁹⁰.

In the report, the FATF shared their view that the FATF Standards have worked well with the existing stablecoins, and amendments are not needed at this point in time, while recognizing that “this is a rapidly evolving area that must be closely monitored.”⁹¹ They don’t seem to see the emergence of Libra as a game changer in virtual-asset related AML/CFT rule-making process, at least based on their findings thus far, and seem to plan to apply the same principles to new stablecoins. They do, however, note that ML/TF risks of stablecoins with potential for mass-adoption and increased anonymity (i.e., Libra) need to be analyzed before they are launched. They also called to the attention that the big risks that stablecoins located in jurisdictions with weak or no AML/CFT frameworks contain⁹².

They referred to stablecoins that are sponsored by large companies that would leverage their capital and customer base so they would quickly reach widespread global adoption, “stablecoins with potential for mass-adoption,” and deemed them to be more vulnerable to AML/CTF risks. According to their assessment, anonymity, layering of illicit activities, their global reach, and the potential for mass-adoption are the reasons why stablecoins with potential for mass adoption, such as Libra, are particularly prone to AM/CF risks. Moreover, they are particularly vulnerable to AML/CFT risks as they can build their stablecoins in such a way to

⁸⁹ Libra Association, ‘An Introduction to Libra’ (*Press release*, 23 July 2019) 8-9 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

⁹⁰ FATF, ‘FATF Report to the G20 Finance Ministers and Central Bank Governors on So-called Stablecoins’ (*Public report*, June 2020) 2 <<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Virtual-Assets-FATF-Report-G20-So-Called-Stablecoins.pdf>> accessed 30 December 2020

⁹¹ Ibid. 3

⁹² Ibid. 4

“allow anonymous peer-to-peer transactions via unhosted wallets,” making them vulnerable to money laundering and terrorist finance⁹³.

International standard setting for ANL/CFT risk management has been one of FATF’s priorities during the 2019-20 Chinese FATF Presidency, and the FATF worked intently on issues surrounding AML/CFT risks in virtual assets ecosystem and produced legally binding international standards for virtual assets and virtual asset service providers in June 2019⁹⁴. They also noted that GSCs which is a subset of virtual assets, may have particular implications for AML/CFT risks that are not found in other virtual assets, and they are actively monitoring them and examining “their characteristics and risks⁹⁵.

One of Libra’s mission is to provide financial services to the currently unbanked⁹⁶. While identity verification is the most important regulatory requirement that financial regulators have implemented to counter money-laundering and terrorist financing, a huge sum of the unbanked people are unbanked because they have no proper ID’s, which makes identity verification nearly impossible. Also, it is unclear what impact Libra would have on economic sanctions on self-governing states, entities or individuals levied by countries. Nor is it clear how the Libra Association will handle other financial crimes such as fraud, market abuse, and insider dealings.

Despite the unique challenges that Libra may pose to the AML/CTF regulatory regime, all in all, the FATF’s stance toward Libra is that Libra can be effectively regulated under the current AML/CFT regimes with some adjustment.

⁹³ FATF, ‘FATF Report to the G20 Finance Ministers and Central Bank Governors on So-called Stablecoins’ (*Public report*, June 2020) 2 <<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Virtual-Assets-FATF-Report-G20-So-Called-Stablecoins.pdf>> accessed 30 December 2020

⁹⁴ FATF, ‘Chinese FATF Presidency priorities and recent FATF work on virtual assets’ (*Public report*, October 2019) 1 <https://www.mof.go.jp/english/international_policy/convention/g20/huzoku191018_02.pdf> accessed 30 December 2020

⁹⁵ Ibid. 1

⁹⁶ Libra Association, ‘An Introduction to Libra’ (*Press release*, 23 July 2019) 1-2 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

3.2.6 BIS:

The Bank for International Settlements (BIS) is an international financial institution whose goal is to promote global monetary and financial stability through the coordination of global central banks and their monetary policy efforts⁹⁷. The BIS has wrestled with the issues pertaining to Libra through its CMPI group.

The Head of the BIS Innovation Hub, and a former president of the CPMI, Benoît Cœuré, coordinated the G7 working group on stablecoins. In the publication by CMPI, Cœuré and his BIS colleagues expressed their concerns about the difficulty of regulating Libra and other cryptocurrency endeavors under current financial regulatory regime⁹⁸.

Cryptocurrencies are different from other asset classes in that they are not issued by anyone who could be regulated, they are borderless, and they can function in isolation from existing financial system. This raises the basic question of whether they can be regulated properly. First reason for this difficulty is as follows. Whereas in theory, they can be accessed directly, financial institutions and currency exchange platforms are not readily accessible to regulators and supervisors. Secondly, markets are still segmented across jurisdictions. Case in point is the Kimchi effect: in Korea, Bitcoins are 40% higher in value in Korea. Underlying strict Foreign exchange regulation makes it difficult to trade cryptocurrencies across borders⁹⁹.

Coeur went on to point out, they are concerned about the policy issues that Libra raises, including AML/CFT related risks, consumer and data protection, cyber security, fair competition, and tax compliance. Moreover, Coeur points out that due to the international nature of Libra, conflict-of-laws related issues may arise.

According to Coeur, some of these problems can be taken care of within the current regulatory and supervisory frameworks while Libra would likely cause problems that are beyond the regulatory and supervisory capacity of the existing framework. He is of the view that Libra

⁹⁷ Adam Hayes, 'Bank for International Settlements (BIS)' (*Investopedia*, 18 March 2020) <<https://www.investopedia.com/terms/b/bis.asp>> accessed 30 December 2020

⁹⁸ CPMI, 'Investigating the Impact of Global Stablecoins' (*Public report*, October 2019) 5-16 <<https://www.bis.org/cpmi/publ/d187.pdf>> accessed 30 December 2020

⁹⁹ Raphael Auer and Stijn Claessens, 'Regulating cryptocurrencies: assessing market reactions' (*BIS Quarterly Review*, September 2018) 62 <https://www.bis.org/publ/qtrpdf/r_qt1809f.pdf> accessed 30 December 2020

poses a set of known and yet-to-be-identified risks that require “significant work and further engagement with the public and authorities” to create proper frameworks and checklists to analyze the risks they pose¹⁰⁰. “Depending on the jurisdiction, the risks that have been identified so far could be addressed by existing regulatory and supervisory regimes, with the fundamental approach being that regulatory answers should be internationally consistent and the principle of "same business, same risks, same rules" should be rigorously applied. Some aspects may require novel approaches, however. In the European Union, for example, it is the role of the European Commission, together with Member States, the ECB and relevant authorities, to review whether the current framework is fit for purpose. Significant work and further engagement with the public and authorities will be required before we can expect any potential global "stablecoin" arrangements to be approved by the relevant authorities.¹⁰¹”

3.2.7 IOSCO:

IOSCO is the leading international policy forum for securities regulators. It is the main international standard setting body for securities regulation. More than 95% of the world's securities markets’ regulators are its members¹⁰². The Board of IOSCO has been alarmed about the risks that the Libra initiative would pose to securities market and have allocated significant amount of their resources to the analysis of such global stablecoin initiatives.

In October 2019, the IOSCO met and discussed the risks and benefits arising from stablecoin initiatives with a potential global reach (‘global stablecoins’) and how securities market regulation may apply to such initiatives¹⁰³. Considering the timing and content of this meeting and the fact that Libra was the most famous, if not the only known, stablecoin initiative

¹⁰⁰ Benoit Coeur, ‘Introductory remarks to the Committee on the Digital Agenda of the Deutscher Bundestag’ (*BIS Speeches*, 25 September 2020) < <https://www.bis.org/cpmi/speeches/sp190925.htm> > accessed 30 December 2020

¹⁰¹ Ibid.

¹⁰² IOSCO, ‘About IOSCO’ (*IOSCO Webpage*) < https://www.iosco.org/about/?subsection=about_iosco > accessed 30 December 2020

¹⁰³ IOSCO, ‘Statement on IOSCO Study of Emerging Global Stablecoin Proposals’ (IOSCO statement, 4 November 2019) 1 < <https://www.iosco.org/news/pdf/IOSCONEWS550.pdf> > accessed 30 December 2020

with a potential global reach, it is safe to assume that this meeting was held to discuss the legal and regulatory implications of the Libra initiative.

Prior to this meeting, the IOSCO FinTech Network produced an assessment about how IOSCO Principles and Standards may apply to GSCs, concluding that a case-by-case approach is needed to establish whether IOSCO principles apply to stablecoin initiatives. Moreover, in May 2020, the Board of the IOSCO published a report that analyzes how its existing regulatory Principles and Standards could apply to the Libra and the like¹⁰⁴. The report found that GSCs (such as Libra) may fall within securities market regulatory frameworks that include the IOSCO Policy Recommendations for Money Market Funds, the IOSCO Principles for ETFs, the Final Report on Crypto-Asset Trading Platforms, the CPMI-IOSCO Principles for Financial Market Infrastructures (PFMI), and other IOSCO work on “market-fragmentation, cyber resilience and client asset,” depending on the specific structure of the initiative¹⁰⁵.

3.2.8 OECD:

The Organization for Economic Co-operation and Development (OECD) is an international organization in which governments work together to promote better policies to solve solutions together¹⁰⁶.

In September 2019, the OECD hosted an event called, Global Blockchain Policy Forum, and one of the sessions was dedicated entirely for the discussion about Libra with the Libra Association¹⁰⁷.

They explained “A potential proliferation in the use of tokenization could have unintended effects on trading, liquidity, , and custodianship.” Also, they stressed “regulatory and

¹⁰⁴IOSCO, ‘Global Stablecoin Initiatives’ (Public Report, March 2020) 2, 4-8
<<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD650.pdf>> accessed 30 December 2020

¹⁰⁵ IOSCO, ‘IOSCO report examines how existing regulatory principles could apply to stablecoins’ (*Media Release*, 23 March 2020) 1-2 <<https://www.iosco.org/news/pdf/IOSCONEWS558.pdf>> accessed 30 December 2020

¹⁰⁶ OECD, ‘Who we are’ (*OECD Website*) <<https://www.oecd.org/general/Key-information-about-the-OECD.pdf>> accessed 30 December 2020

¹⁰⁷ OECD, ‘The Policy Environment for Blockchain Innovation and Adoption: 2019 OECD Global Blockchain Policy Forum Summary Report’ (OECD Blockchain Policy Series 2019) 6, 11 <<https://www.oecd.org/finance/2019-OECD-Global-Blockchain-Policy-Forum-Summary-Report.pdf>> accessed 30 December 2020

legal ambiguity could create uncertainties and risks for participants and the markets, and hence needs appropriate policy responses, including on issues of financial consumer protection.¹⁰⁸”

3.3 Conclusion

As a result of such clear messages articulated by these major international financial regulatory bodies, it became clear that Libra does not stand a chance in being accepted by the global financial regulators’ community. The set of the criticisms on Libra by global regulators seem all well-founded and reasonable on their own; however, in comparison with how states and international communities have historically treated other new technology initiatives in the past, the cold treatment they gave to Libra seems pretty harsh. Most importantly, they not only discussed the possibility that Libra would not be able to comply with existing regulatory requirements, but also expounded on the potential threats Libra could pose to the global financial system and the need to create new laws and regulatory frameworks to combat those threats.

Does this difference in the treatment signal a change in governments and international community’s attitudes toward big tech driven new world order?

4 Analysis: the legitimacy of a priori restraint on Libra to enter markets

4.1 Overview:

Since Thomas Hobbes’s Leviathan, governments have been given the legitimacy to take control of certain aspects of our societies through legislation and regulatory and supervisory powers. To what extent governments should regulate is a question that has been a subject of political debates and the answer to it has fluctuated over time.

It may not be a coincidence that it was after the Reagan era’s private sector reforms in the 1980s that some of the biggest IT titans, such as Apple, Amazon and Google began to flourish. They benefitted greatly from the free-market capitalism and minimal state intervention. Despite the risks and threats those new technology businesses posed to our societies, governments have predominantly taken laissez-faire approach to the intricate IT and data-driven new business models that brought about the paradigm shifts to major industries, such as retail sales (Amazon),

¹⁰⁸ Ibid. 17

telecommunications and broadcast medias (Facebook, Netflix, YouTube), tourism (Airbnb), as well as creating a whole new industry (Google's search engine).

At their infant stage, these businesses seemed to provide harmless and risk-free services. Today, we are aware that these platforms have reached the state of ubiquity which has given them the power to set the new norm/new order and to change the dynamic of the existing industries. Moreover, some of those platforms have become hubs for data abuse, privacy divulgation, and fake news/hate crimes. Yet, governments have been slow to take actions and seem to have been hesitant to curtail the freedoms that those big tech businesses have enjoyed in order to grow them to a point, they have swept away users all over the world.

None of those disruptive platform services preceding Libra faced this level of regulatory scrutiny as Libra. The combined regulatory backlash Facebook's Libra faced was arguably one of the harshest that any attempt to launch a new innovative service has faced in decades. International standard setting bodies, which represent most major economies, collectively opposed the launch of Libra and demanded that certain conditions that they have laid out and will laid out be met in order for a global stablecoins such as Libra to be launched. As of December 2020, it is still unclear what those remaining conditions are going to be, and whether it would even be possible for global stablecoins to meet the criteria to be set forth by the international and domestic policy setters in regard to global stablecoins.

Along with the anti-trust measures U.S. government has taken on Google and Facebook etc., does this signal a transition into a regulatory climate that is harsher on major tech companies that had enjoyed the freedom to disrupt and then build new world order as they liked up until this point?

The chain of events following Libra's announcement in June 2019 epitomizes the departure from the laissez-faire attitude of regulators and legislators with regards to provision of new products and services in financial services industry that take advantage of the latest technological advancements, and may be construed as a sign that in the coming years, regulators will be putting serious limits on how those technology platforms can operate as they know more about the impact of those platforms and the harms they can do to our societies. It marks an important milestone particularly for the fact that all participating states, including the U.S., have come to an agreement about regulating a big tech driven initiative with disruptive effect. In comparison with the EU, for example, the U.S. had been less strict in regulations on big-tech

companies. Are they starting to realize the market solution approach is not the right approach to handle the major tech driven paradigm shifts and “hyperconnectivity” they have created that continue to change the world order drastically?

Despite the issues that previous big tech initiatives have caused and how they caused drastic paradigm shifts in democracies, very few people would probably argue that we are better off today without platforms such as Google’s search engines, social media services, or online payment services.

In this segment of this paper, I would like to assess what the suppression of this unique and impactful global initiative may mean, not only to the Libra advocates, but to the potential users of their service and others, and then examine if there are grounds to legitimize the exceptionally harsh treatment of Libra by them.

4.2 The benefits Libra could bring to the society and the global economy:

4.2.1 Libra’s mission

Technological advancements and innovative ideas have been the engine to drive the societies forward and to alter our lives for the better. Innovative disruptions are essential to raising societies’ growth potentials¹⁰⁹.

As a vast majority of global problems that we, as a humankind, are wrestling with today are either financial problems, or related to financial issues, innovative solutions in financial services industry are much called for. For example, as the world faced the COVID-19 pandemic today, what is almost certain to follow soon is an economic crisis and many people won’t have the access to finance their lives or businesses. Given the limitation of human and other resources, despite how the central government and global financial regulatory body have been preparing for this kind of situation, their efforts to mitigate the economic impact of the COVID-19 are not going to be omnipresent to cover every type of finance-related issues that can actually be solved if given enough attention. There are lots of entrepreneurial efforts to combat such problems, and they are sometimes better suited to provide tailor-made solutions to the new kinds of financial issues and risks that the government can only address from macroeconomic

¹⁰⁹ Hiroshi Nakaso, ‘FinTech-Its Impacts on Finance, Economies and central banking. FinTech and the future of money. Bank of Japan’ (*Bank of Japan Public report*, 18 November 2016) 1-2
<https://www.boj.or.jp/en/announcements/press/koen_2016/data/ko161118a.pdf> accessed 30 December 2020

standpoint. For example, a consortium of FinTech companies have recently urged the Congress to designate them as small-business lenders as part of the COVID-19 stimulus package¹¹⁰. Those Fintech companies claim that they are much faster and more flexible in lending decisions with the use of technologies that provide specific solutions to specific individuals' financial situations. Lawmakers and financial regulators need to ensure the "startup companies" that might have the power to solve devastating financial problems be given the power to do so, while refraining from approving initiatives that could potential be harmful, which is no easy feat as it is not easy to predict the impact of early-stage finance-related initiatives which could be neither fish nor fowl at the moment.

As stated in its mission statement, Libra is supposed to provide an innovative solution to some of the most profound weaknesses of today's global financial system¹¹¹.

The two main positive changes that Libra is supposed to bring about are as follows: i) a cheaper and faster payment network for both domestic and cross-border transactions and ii) broadening of access to essential financial services, such as lending, and lowering costs for receiving financial services. According to the Libra Association, it is "eager to pursue its mission of building a better payment network, broadening access to essential financial services, and lowering costs for billions of people who need it the most."¹¹²

According to the Libra Association, Libra can provide an easy, stable, secure, scalable, fast, and mobile access to financial products and services to everybody with an entry-level smartphone and data connectivity. There are 1.7 billion adults around the globe who do not have access to a bank account. Of those individuals, about 1 billion people have mobile phone, so they can access Facebook's platform even though they are denied an access to banks for one reason or another.

¹¹⁰ Donna Fuscaldo, 'Lenders as Part of the Coronavirus Stimulus Package' (*Forbes*, 23 March 2020) <<https://www.forbes.com/sites/donnafuscaldo/2020/03/23/fintechs-urge-congress-to-designate-them-as-smb-lenders-as-part-of-the-coronavirus-stimulus-package/#646ab1f670c8>> accessed 30 December 2020

¹¹¹ Libra Association, 'An Introduction to Libra' (*Press release*, 23 July 2019) 1 <https://sls.gmu.edu/pfrr/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

¹¹² 'Libra cryptocurrency soldiers on despite key departures' (*Swissinfo*, 15 October 2019) <https://www.swissinfo.ch/eng/regulatory-pressure_libra-cryptocurrency-soldiers-on-despite-key-departures/45299100> accessed 30 December 2020

By using blockchain technology, they make remittances of money costless. Remittances from their families abroad are essential source of income for millions of families in developing countries and emerging economies, so free remittances services are extremely beneficial to them.

It would promote financial inclusion and support the currently unbanked, particularly in developing countries. Facebook promises Libra to be instantaneous and almost free. That would provide the indigent to have the means to send and receive money via online. It provides an alternative to citizens of countries with highly volatile currencies, such as Venezuela. Facebook boasted that Libra would be stable because it is pegged to a basket of major currencies, unlike other cryptocurrencies, such as Bitcoin, whose value is extremely volatile. If a U.S. company such as Facebook doesn't create the DeFi ecosystem first, countries such as China will create such ecosystem first and then upset the financial system.

4.2.2 Regulators' recognition of Libra's mission

Regulators from across the globe do recognize the merits of the emergence of this type of financial service, such as Libra. They do recognize that the problems that the Libra project may provide a solution for are serious. Many of them recognize that the idea to use scalable blockchain technologies and mobile phones to provide payment services would help solve some of the biggest problems of the current payment systems.

For example, in an FSB Chair's letter to G20 Finance Ministers and Central Bank Governors, the FSB Chair duly noted that Global Stablecoins could offer an effective tool for cross-border payments and remittances. Moreover, in a report titled, "Regulatory Issues on Stablecoins," the FSB pointed out that global stablecoins such as Libra, can improve the financial system by decreasing transaction costs in retail payments, particularly in cross-border remittances or broadening access to financial services by allowing them to utilize "widespread end-user technology (e.g., smartphones)" to engage in transactions¹¹³. In their report on global stablecoins, published in October 2020, they mentioned the potential of stablecoins to "enhance

¹¹³ FSB, 'Regulatory Issues of Stablecoins' (*Public report*, 13 October 2020) 2 <<https://www.fsb.org/wp-content/uploads/P181019.pdf>> accessed 30 December 2020

the efficiency of the provision of financial services...particularly if they are adopted at a significant scale,” and “to promote financial inclusion.”¹¹⁴

Moreover, the G7 report acknowledged that crypto assets could potentially provide a faster and cheaper way to move money and make payments¹¹⁵. G7 finance ministers and central bank acknowledged that “innovation in the financial sector can bring substantial benefits” and saw the merits of Libra project and the like in improving cross-border payment systems by making it less costly for consumers but agreed that such innovation can also entail risks¹¹⁶. Following the G7 meeting in Chantilly, the Chair of the G7 finance ministers and central governors’ meeting published an update, noting that “access to payment services needs to improve in many regions, and cross-border payments ought to be faster and cheaper,” recognizing the potential of the new technologies to address “these shortcomings and deliver greater benefits to users.”¹¹⁷

Whether Libra is to be approved by regulators or not, the Libra projects reminds the global regulators about the importance to continue “ongoing public and private efforts to upgrade existing payment systems.”¹¹⁸ In October 2019, the G7 finance ministers and central governor’s meeting’s chair announced their view that they “welcome” developments in payment services that could bring faster, cheaper, more convenient and reliable cross-border payments. They acknowledge that despite the development in domestic payment systems, “there remain inefficiencies, and cross-border payments in particular can still be slow, expensive and opaque, particularly for retail payments such as remittances, which can therefore hamper financial

¹¹⁴ FSB, ‘Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements’ (*Final Report and High-Level Recommendations*, 18 October 2020) 1 <<https://www.fsb.org/wp-content/uploads/P131020-3.pdf>> accessed 13 October 2020

¹¹⁵ Szu Ping Chan, ‘Facebook’s digital currency dealt another blow’ (*BBC*, 14 October 2019) <<https://www.bbc.com/news/business-50037223>> accessed 30 December 2020

¹¹⁶ G7, ‘Chair’s Summary: G7 Finance Ministers and Central Bank Governors’ Meeting. G7 Finance Ministers and Central Bank Governors’ meeting in Chantilly’ (*Press release*, 18 July 2019) 2-3 <https://minefi.hosting.augure.com/Augure_Minefi/r/ContenuEnLigne/Download?id=7C00115F-99CD-4FC1-A520-1EF0126E1A7C&filename=G7%20Chair%27s%20summary.pdf> accessed 30 December 2020

¹¹⁷ G7, ‘Update from the Chair of the G7 working group on stablecoins’ (*Press release*, 18 July 2019) 1 <https://www.bis.org/cpmi/bc_190718.pdf> accessed 30 December 2020

¹¹⁸ *Ibid.* 1

inclusion,” and concludes that “responsible innovations in payment services can address some of these shortcomings.¹¹⁹”

The FSB has also recognized the potential of stablecoins to “bring efficiencies to payments (including cross-border payments), and to promote financial inclusion.¹²⁰” Also, the BIS added to the argument with an insight about the following two problems of the global payments system: “access and cross-border retail payments,” and the potential of Libra to solve them¹²¹. FATF is another one of the global standard-setting body that recognizes the merits of having global stablecoins: they have stated that “stablecoins have the potential to spur financial innovation and efficiency and improve financial inclusion.¹²²”

As such, most of these global policy-making bodies recognize the major challenges that the current global financial system faces: 1) non-pervasiveness of access to payment system and other financial system and 2) the inefficiencies of the current cross-border retail payment system, and that Libra may be able to provide solutions for them.

4.2.3 Alternative/different solutions for the problems, Libra was advertised to resolve:

On the other hand, global leaders are not in agreement with who should take charge when it comes to solving these two main problems with the new combination of blockchain technology and digital currencies. Some of them think Libra could be positive move toward better global financial system. Some of them have expressed their support for central bank digital currencies (CBDCs) initiatives and suggested that they would be a cure to the problems that Libra is supposed to solve.

¹¹⁹ G7, ‘Investigating the Impact of Global Stablecoins’ (*G7 Working Group on Stablecoins*, October 2019) 4 <<https://www.bis.org/cpmi/publ/d187.pdf>> accessed 30 December 2020

¹²⁰ FSB, ‘Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements’ (Final Report and High-Level Recommendations, 13 October 2020) 1 < <https://www.fsb.org/wp-content/uploads/P131020-3.pdf> > accessed 30 December 2020

¹²¹ G7, ‘Chair’s Statement on Stablecoins’ (*Press release*, 17 October 2019) 1 <https://minefi.hosting.augure.com/Augure_Minefi/r/ContenuEnLigne/Download?id=7C00115F-99CD-4FC1-A520-1EF0126E1A7C&filename=G7%20Chair%27s%20summary.pdf> accessed 30 December 2020

¹²² FATF, ‘FATF Report to the G20 Finance Ministers and Central Bank Governors on So-called Stablecoins’ (*Public report*, June 2020) 2 <<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Virtual-Assets-FATF-Report-G20-So-Called-Stablecoins.pdf>> accessed 30 December 2020

For example, the Commissioner of the Bank of England, Mark Carney expressed support for some kind of synthetic hegemonic currencies (SHC) could reduce reliance on the US dollar and would “dampen the domineering influence of the US dollar on global trade.” In theory, the SHC, like Libra, would be anchored by a basket of fiat currencies and government bonds, and said that Libra could be such SHC¹²³.

French Finance Minister, Bruno Le Maire, on the other hand, took a stance against Libra and showed support for a public digital currency issued by central banks that would “guarantee the total security of transactions, their speed, simplicity and free” nature that would solve the problems of traditional payments systems’ by “reducing turnaround times, transition times, and the costs of cross-border financial transactions.”¹²⁴

A former Commissioner of the US CFTC, Sharon Bowen, made a remark about CBDCs in the US and how they needed to speed up on the discussion about it: “We are falling a little bit behind when you look at what other countries have done.”¹²⁵

Also, US head of blockchain at the World Economic Forum spoke in the same line. “If CBDCs such as a digital dollar, was built using blockchain technology, it might be used among government-created online accounts and “might change the deposit-based commercial banking system,” neither supporting nor disapproving Libra¹²⁶.

When we turn our eyes to international organizations’ positions on this, they are mostly supportive of CBDCs.

¹²³ Mathew De Silva, ‘Why does the Bank of England want a global digital currency?’ (*Quartz*, August 2019) <<https://qz.com/1695707/facebooks-libra-inspires-a-proposal-for-a-global-reserve-currency/>> accessed 30 December 2020

¹²⁴ Harriet Agnew, ‘France says it will not support Libra’s development in Europe’ *Financial Times* (London, 12 September 2019) <https://www.ft.com/content/6d414606-d549-11e9-a0bd-ab8ec6435630>

¹²⁵ Billy Bambrough, ‘The U.S. Falling Behind on Digital Dollar’ (*Forbes*, July 2020) <<https://www.forbes.com/sites/billybambrough/2020/07/22/the-us-is-falling-behind-on-digital-dollar/#21a2c30b20e9>> accessed 30 December 2020

¹²⁶ Ibid.

The OECD has said that they should work with Central Banks to address cross-border payments to facilitate an efficient, low-cost and reliable international payment system which allows different currencies to circulate freely¹²⁷.

G7 chair has noted in “Chair’s Statement on Stablecoins,” that they “welcome ongoing cooperative work by central banks to assess central bank digital currencies,” G7 leaders are also supportive of CBDCs¹²⁸.

The Chair of CPMI, Benoit Coeur, who also is a member of the Executive Board of the ECB, has stated “Global ‘stablecoin’ initiatives are the natural result of rapid technological progress, globalization and shifting consumer preferences. The demand for fast, reliable and cheap cross-border payments is bound to grow further in coming years. Policymakers and central banks should respond to these challenges,” insinuating that the policymakers and central banks should be the main actors to take on those challenges as early as in September 2019¹²⁹. In fact, the EU was the first among the major economies, such as the U.S., EU, Japan, the U.K. and China, to propose a regulatory system for “stablecoins, such as the Facebook-backed Libra initiative.”¹³⁰

4.2.3 Trust as the basis for financial system:

Financial inclusion is a difficult goal to attain, and it is unrealistic to think that Libra would provide a drastically more inclusive platform than the current banking systems.

Financial system is built on a sound system of trust/credit assessment. Without such system, financial system could simply not function. As explained above, currency would not be

¹²⁷ OECD, ‘The Policy Environment for Blockchain Innovation and Adoption’ (*OECD Global Blockchain Policy Forum Summary Report*, September 2019) 10 <<https://www.oecd.org/finance/2019-OECD-Global-Blockchain-Policy-Forum-Summary-Report.pdf>> accessed 30 December 2020

¹²⁸ G7, ‘Chair’s Statement on Stablecoins’ (*Press release*, 17 October 2019) 1 <<https://www.gouvernement.fr/en/chair-s-statement-on-stablecoins>> accessed 30 December 2020

¹²⁹ Benoit Coeur, ‘Introductory remarks to the Committee on the Digital Agenda of the Deutscher Bundestag’ (*BIS CPMI Speech*, 25 September 2019) <<https://www.bis.org/cpmi/speeches/sp190925.htm>> accessed 30 December 2020

¹³⁰ Jim Brunsten, “EU pushes for greater market supervision with focus on crypto assets.” *Financial Times* (London, 24 September 2020) <https://www.ft.com/content/6d414606-d549-11e9-a0bd-ab8ec6435630>

valuable without the trust/belief people have in the system and the government that backs up the system. The new financial system that Facebook is trying to create with Libra needs to be built on a system of trust/credit as well.

They are likely going to use algorithmic technologies to decide who is trustworthy enough to enter their financial system, just in the way they have done with their social network services. Under the traditional banking system, this assessment of credit/trust is what they spend the most money and human resources on. Banks spend a lot of resources to assess to whom they should lend money and their credit scores. If a platform business such as Libra that uses algorithmic technologies to replace democratic and accountable decision-making process with algorithmic decision-making system would be problematic in the following ways.

First of all, algorithm discriminates and makes mistakes. Despite the popular image of algorithm being neutral and purely mathematical, recent findings show that decisions made with algorithm is just as discriminatory than decisions made by humans if not more¹³¹. Algorithm does not have conscientious or human decency so their decision-making process is great at making decisions as is but are less concerned about what should be. Curtailing the human involvement in the decision-making process could result in ruthless and less forward-looking financial system. Apple co-founder, Steve Wozniak has spoken up about his experience with the lending decisions made by algorithm which treated him and his wife differently despite the fact that they share all bank accounts and financial activities together and are judged as equals by traditional lending decision makers. He seems to believe that his and his wife's experience is one of the cases that attest to the fact that algorithmic decisions are often unfair and less concerned about equality and impartiality that the society has come to embrace as the norm in decision making process. He argues, "these sorts of unfair nesses bother me and go against the principle of truth. We don't have transparency on how these companies set these things up and operate." He adds "'algorithms obviously have flaws.'" and "a huge number of people would say, 'We love our technology, but we are no longer in control.' I think that's the case." He argues "our

¹³¹ Shahien Nasiripour, Natarajan, Sridhar Natarajan, 'Apple Co-Founder Says Goldman's Apple Card Algorithm Discriminates' (*Bloomberg*, 11 November 2019) <https://www.bloomberg.com/news/articles/2019-11-10/apple-co-founder-says-goldman-s-apple-card-algo-discriminates?utm_source=line&utm_content=bloomberg&utm_campaign=article&utm_medium=news&sref=DmYxpl7f> accessed 30 December 2020

government isn't strong enough on the issues of regulation. Consumers can only be represented by the government because the big corporations only represent themselves" about the flaws with algorithm¹³². Judging by these cases, it is simply not true that algorithm and related technologies promote leveling the playing field among users by removing human errors and focusing only on data, which had been the preconceived notion when algorithmic lending was first introduced.

Secondly, algorithm itself is not held accountable for its decisions. When decisions are made, the decision-makers take the responsibility for the decisions and their outcomes. With the implementation of algorithmic decision-making process, who should take the responsibility for the discrimination, mistakes and the other negative flaws becomes blurry.

Third point is that algorithmic decisions are akin to a black box, and the potential effect of it on human behavior is unimaginable once it is tied to their financial freedom as well. The so called "AI black box explanation problem" has been a subject of popular discussion in the past few years, and yet there has not been a solution to be provided¹³³. Moreover, what algorithm does is that it classifies you into different categories of people based on the data you provide to make an assessment about you. Unlike traditional means to assess your credit and trustworthiness for which you can choose to make the effort to improve or to let it sink, you have less control over the decisions that they will make about you and your credit. Consequently, you would have to improve the credit/trustworthiness of the group of people you belong to instead of improving yourself and holding yourself accountable for your actions. It quite naturally follows that people would have less autonomy and control over their lives.

It also follows that the alternative system that Libra would provide is unlikely to become less selective and less discriminatory; therefore, the idea that Libra would create a more financially inclusive world is a myth. This new system is going to create a new group of people who have access to traditional banks and yet do not have access to this new, more convenient, more widespread and better financial system.

¹³² Ibid.

¹³³ Yavar Bathaee, 'The Artificial Intelligence Black Box and the Failure of Intent and Causation' (Harvard Journal of Law & Technology Volume 31, Number 2 Spring 2018) <<https://jolt.law.harvard.edu/assets/articlePDFs/v31/The-Artificial-Intelligence-Black-Box-and-the-Failure-of-Intent-and-Causation-Yavar-Bathaee.pdf>> accessed 30 December 2020

4.3. The reasons why Libra was disapproved by global regulators and policy makers

4.3.1 Concerns about tech companies entering financial services

Global financial services standard-setting bodies have been wary of the risks and uncertainties pertaining to big tech firms entering financial services industry. In particular, they are concerned about the risks they would pose to financial stability¹³⁴.

4.3.2 Uniqueness of financial services industry

Financial services industry, including payment and settlement industry, have traditionally been a heavily regulated market. The government and other public authorities such as the central banks or securities exchange have the authority to decide who can enter the market and who can no longer operate in the market¹³⁵.

As pointed out in a research paper published by Japan's main financial regulatory body, "Banks have a unique standing in the economy, and the structure of their balance sheets has led them to be given greater protection than other industries. While the failure of an individual bank is not in itself particularly different from a corporate failure, the high possibility that it may precipitate a general systemic failure is often cited as the reason why banks are treated differently."¹³⁶ In the context of analysis of why banks have faced little scrutiny from competition authority, they cite two main reasons for why banks need to be treated differently. First, indistinguishability of their services and lack of interchangeableness make it inappropriate to apply free market economy to the banking industry. Banking services are indistinguishable, and consumers/depositors cannot distinguish between banks at high risk from those that are worthy of the reputation and trust of conservatively operating banks. It is difficult to change one's main bank as it would cost her/him her/his credit score as banking system is a system

¹³⁴ FSB, 'Big tech in finance: Market development and potential financial stability implications' (9 December 2019) 1 <<https://www.fsb.org/2019/12/bigtech-in-finance-market-developments-and-potential-financial-stability-implications/>> accessed 30 December 2020

¹³⁵ 'Regulatory (Regulated, Controlled) Market' (*Capital.com*) <<https://capital.com/regulatory-controlled-market-definition>> accessed 30 December 2020

¹³⁶ Mamiko Yokoi-Arai, Takeshi Kawana, 'Competition Policy in the Banking Sector of Asia' (*Financial Research and Training Center Discussion Paper Series*, November 2007) <<https://www.fsa.go.jp/frtc/seika/discussion/2007/20071204-1.pdf>> accessed 30 December 2020

based on trust and credibility. Second, banks are susceptible to contagion of bank-runs. One weak bank can cause bank-runs in all the other banks. Third, there is major information asymmetry between banks and consumers which call for prudential regulations, allowing only a handful of highly trusted entities to be authorized to provide the services.

The arguments by the abovementioned international bodies seemed to be based on the idea that financial industry is not a free sphere, unlike some of the other industries, such as communications industry in which Facebook and Google operate. Money transmitting service providers, such as Facebook Pay and PayPal have managed to evade the level of scrutiny that banks and other financial services firms that are under close regulatory oversight by making clear that the only purpose of their service is to transfer money, akin to telecommunication services whose purpose is to transfer information, distancing themselves from credit-creating financial services. Financial system stands on a delicate balance of stability-ensuring and customer-protecting measures and innovation-promoting policies. They all point to the fragility of the system, and how the financial system is not something that can function on its own without the work of various regulators and other stakeholders. It stands on a delicate balance of various factors and throughout history, financial regulators have created systems that would ensure the system to overcome various challenges posed by various new and existing risks.

Yet the “regulated nature of financial market” alone does not explain the regulatory backlash against Libra. Financial regulators have been predominantly in favor of fintech initiatives and have been welcoming of innovations in financial services industry. For example, financial regulators of major economies as well as G20 Leaders have been generally supportive of Fintech initiatives. For example, in June 2019, the FSB has stressed the potential of big tech firms’ entrance into financial services industry to promote financial inclusion in the chapter, “Big data and financial inclusion,” in a paper, titled “Big tech in finance: opportunities and risks”¹³⁷. The tone in the paper is much more optimistic towards big tech firms’ role in financial services industry, compared to post-Libra papers that discuss the same topic.

Moreover, many states have provided incentives and/or support to promote fintech innovation. (e.g. regulatory sandbox, tax benefits, grants, Fintech support center etc.).

¹³⁷ BIS, ‘Big tech in finance: opportunities and risks’ (*BIS Annual Economic Report*, June 2019) 2 <<https://www.bis.org/speeches/sp190630b.htm>> accessed 30 December 2020

Even in comparison with other fintech initiatives, Libra was by far the world's most scrutinized fintech effort due to its potential to threaten to change and possibly dominate the landscape of banking and upset the financial stability.

4.3.2 Big tech and data:

The danger of the acquisition of financial data by the biggest social media company that has been storing people's data about their personal life for over a decade is the core issue that regulators have discussed in the recent years. For example, a BIS paper analyzes how big tech firms utilize data "as input to offer a range of services that exploit natural network effects, generating further user activity. Increased user activity then completes the circle, as it generates yet more data. We dub this the "data-network-activities" loop.¹³⁸

Some central banks and financial regulators are "concerned that Libra could ... erode privacy" and to open up gates to manipulating big data¹³⁹.

Needless to say, the right to privacy and the right to secrecy are some of the most important human rights. They are "precondition for the honest and free flow of ideas and information and the development of a mature international political system" and it is "central to the vitality of democratic and international governance."¹⁴⁰ In the realm of financial services, privacy is especially important because it pertains to the daily actions of entities and individuals and overlap with other domains of personal privacy. How and what one spends her/his money on is quite revealing of one's economic status, personal preferences, values, and habits. As currencies have long been anonymous, most of us spend our money on the premise that we would not be scrutinized for or be held accountable for the things/services we buy. Customers should have the right to keep private what they buy as long as they are legal. Moreover,

¹³⁸ Ibid. 1

¹³⁹ Christian Kraemer and Michael Nienaber, 'Big European states call for cryptocurrency curbs to protect consumers' (*Reuters Technology News*, 11 September 2020) <<https://www.reuters.com/article/eu-economy-cryptoassets/update-4-big-european-states-call-for-cryptocurrency-curbs-to-protect-consumers-idUSL8N2G8258>> accessed 30 December 2020

¹⁴⁰ Shawn Powers, 'Where did the principle of secrecy in correspondence go?' (*The Guardians*, 12 August 2015) <<https://www.theguardian.com/technology/2015/aug/12/where-did-the-principle-of-secrecy-in-correspondence-go>> accessed 30 December 2020

divulgence of financial information makes certain people targets for thefts and/or fraud. Even worse, sensitive financial information can be used for illicit activities or cause individuals to become complicit in such acts¹⁴¹.

These fundamental rights to privacy have been largely undermined by the growingly ubiquitous digital communication. The technologies that GAFA has created and deployed have managed to allow them to enter into the most private spheres of people's lives and to collect the data on such private parts of their lives without being ostensible about the fact that their data is being collected and can be potentially used against them. Once such information is combined with financial information, the potential for manipulation and control becomes almost infinite. Accumulation of both information about people's personal lives as well as their financial data gives them the power to create a kind of an Orwellian society where the storyline of the Brave New World could be the reality. Big tech companies, including Facebook, have crafted various new business models that utilize big data. There could be countless ways for entities to monetize data and some of those ways can be quite damaging to the data subjects. When asked whether Facebook was going to share the personal information of Libra users, Mr. David Marcus denied it at the Senate hearing. But given the track record of Facebook's mishandling of personal information, there seems to be no grounds to take his word for it. Courts and policy makers are beginning to pay close attention to data-driven nature of big-tech businesses and the danger they ensue. It is slowly starting to be recognize that in today's big-tech centric world, data has become a currency¹⁴².

Moreover, some of the main reasons they list as the problems with Libra are the problems they see in how Facebook, the company that would operate Libra, lacks the ability to handle data carefully and with integrity.

¹⁴¹ Kyle Torpey, 'Why Financial Privacy is about more than Using Bitcoin to Buy Drugs on the Internet' (*Bitcoin Magazine*, 18 January 2017) <<https://bitcoinmagazine.com/articles/why-financial-privacy-about-more-using-bitcoin-buy-drugs-internet>> accessed 30 December 2020

¹⁴² Jane Baratt, 'Data as Currency: What value are you getting?' (*Wharton Business Daily*, August 2019) <<https://knowledge.wharton.upenn.edu/article/barrett-data-as-currency/>> accessed 30 December 2020

By mentioning the types of risks that Facebook has proven to be inapt to handle properly, the FSB Chair seems to be indirectly pointing out the danger of allowing Facebook to create the global stablecoin, precisely because of its proven record of inability to handle those risks. For example, in the letter, he mentions, “market integrity; sound and efficient governance; cyber security and operational risks; and an appropriate legal basis.”¹⁴³

For example, Facebook has a history of failing to ensure privacy for users, including the Cambridge Analytica incident, their failure to abide by the GDPR, the Brexit campaign and the 2016 U.S. presidential election. In the Cambridge Analytica case, a political consulting firm, Cambridge Analytica, an affiliate of Facebook, gained an access to over 5 billion Facebook users’ personal information that has influence over their voting behaviors. For this incident, Facebook has paid 500 million-dollar fine to the FTC. To top it off, Facebook had to obey the terms of settlement with the FTC for deceiving their users and failing to disclose their user data. Just in the past couple years, news medias have reported that Facebook had been storing user passwords unsafely since 2012, made an unknowing teenager download spywares, nearly 50000000 accounts had been hacked, there were problems with their software that allowed third parties to access more than 6800000 users’ photos. These incidents where the lack of proper handling system of personal information and security vulnerabilities in the past few years have shown that Facebook’s indifference for data privacy, and their shady business of collecting user data for target-advertisement to make profits, which is said to be used in the Brexit campaign as well as the U.S. presidential campaign in 2016. This blatant disregard and unfair use of data is dangerous and unacceptable in political and communications industries as well and it arguably deems Facebook unfit to handle a business that deals with sensitive information.

As a professor at the University of Chicago Law pointed out, “Libra will almost exactly replicate all the problems generated by Facebook’s social network...the technological innovation that is supposed to liberate us from government ends up subjugating us to a handful of corporations.”¹⁴⁴ The key insight underlying Libra is that the transfer of money from person to

¹⁴³ FSB Chair, ‘To G20 Finance Ministers and Central Bank Governors’ (FSB, 13 October 2019) 3 <<https://www.fsb.org/wp-content/uploads/P131019.pdf>> accessed 30 December 2020

¹⁴⁴ Eric Posner, ‘The Trouble Starts if Facebook’s New Currency Succeeds’ (*The Atlantic*, 25 June 2019) <<https://www.theatlantic.com/ideas/archive/2019/06/dont-trust-libra-facebooks-new-cryptocurrency/592450/>> accessed 30 December 2020

person is similar to the transfer of information. “Moving money around globally,” Facebook declares in the white paper laying out the company’s vision for its new cryptocurrency, “should be as easy and cost-effective as—and even more safe and secure than—sending a text message or sharing a photo.” Money is information: When I send money to you, I’m telling the financial system that wealth holdings assigned to me should now be recorded as assigned to you. Financial networks are information networks, just as social networks are. And yet while the internet has revolutionized social networks, financial networks have not caught up. They remain hard to use and expensive, especially for international transactions—whereas, once you own the hardware and obtain an internet connection, social communications are essentially free. In Facebook’s vision, the financial network will be modeled on the social network, and eventually the two networks will be merged into a single network, through which we will seamlessly convey to one another money as well as cat photos and political diatribes¹⁴⁵.

The distrust the medias and academics have towards this company that stems from its past/present behaviors might have been one of the most important factors that led to the negative comments by the abovementioned international standard setting bodies towards this Libra initiative: much of the criticism of Libra centers on whether the company is trustworthy, given its history with the privacy incidents, and also the illegitimate takeovers, hate speech, misinformation, the nefarious role it played in the elections.

Moreover, Facebook’s business model depends heavily on the revenues it generates from advertisement for large brand names. How they use the big data they have obtained and AI technologies to generate profit is largely unspecified. This lack of transparency adds to the suspicion that Facebook might misuse its power once it has access to its users’ financial information as well.

4.3.3 Anti-trust/monopoly issues:

¹⁴⁵ Ibid.

Especially in relation to the data that they hold, big-tech companies' anti-trust behaviors and monopoly of markets pose big threats to our society. Therefore, they have been facing more scrutiny by financial regulators, anti-trust regulators, and courts of law in the past few years.

For example, the FSB mentioned that one of the biggest regulatory challenges of global stablecoins is about "fair competition and anti-trust policy." To put this in context and to understand why a financial regulator is concerned with anti-trust policy, which is rarely a topic of discussion in financial services industry, it is essential to analyze Facebook's past behaviors that are questionable from anti-trust law perspectives.

Facebook is among the tech companies that has been known to have grown by acquiring rival firms and firms that could potentially become their rivals in the future. For example, Facebook acquired Instagram, a popular photo-based social media site which was its greatest competitor in 2012. Facebook went on to buy another one of its rivals, WhatsApp in 2014. Those acquisitions have helped reinforce the dominance by Facebook of the social-networking world and other industries in which Facebook is the frontrunner. Similarly, Google bought YouTube and Motorola Mobility, many other entities that could have become its competitor. Microsoft's acquisition of LinkedIn in 2016 for 26 billion dollars was another one of those high-profile case.

Antitrust law is designed to prevent companies from acquiring their rivals to achieve market dominance, but the current US antitrust law regimes have not restricted such ostensibly anticompetitive behaviors of Facebook and other tech companies. They use a standard for assessing mergers that effectively allow tech companies to merge without the antitrust law constraints. For the past 30 years, the Federal Trade Commission (FTC)'s assessment of mergers as focused on whether consumer prices would rise following the mergers. Tech companies' business model that does not charge users and generates profits through advertisement which pays them for the time and attention of their users, has benefitted from this assessment method that the FTC has used. Assessing the impact of mergers by measuring the effect of the mergers on the consumer prices does not make much sense. Yet they continued to tech companies' anti-trust behaviors with this method, ensuing the impactful and anticompetitive mergers to go unchecked. It might have been a part of the U.S. government's protectionist strategy to overlook the anti-competitive mergers and acquisitions by these mega-IT conglomerates so they can leverage the power to compete and dominate in the global market. It's probably no accident or coincidence

that Europe, where none of the companies has made it to the 8 biggest new technology company list (Alphabet, Amazon, Apple, Facebook, Microsoft, Ali Baba, Tencent, and Samsung), has been notably stringent on “cracking down” on big tech companies for privacy law breaches, for failing to limit “online harms.”¹⁴⁶

It seems odd that anti-trust regulators have been slow at regulating those behaviors considering the magnitude of the anticompetitive bearing of acquisitions of rival firms by large tech firms. It is conceivable that the government was willing to allow those anticompetitive behaviors in order to strengthen U.S. tech firms’ competitiveness against foreign tech firms, such as those of Chinese firms, even if it would undermine fair competition within the country. As the heightened competition for the tech hegemony among countries, states have the incentive to allow their domestic tech companies to engage in activities that would normally be restricted under ordinary circumstances. Mergers of big tech companies help them achieve a lot of benefits and efficiencies. China and the U.S. are two frontrunners of new technology businesses in a sense that their domestic companies dominate the world of the Internet all around the globe. There are many indications that tell us that both countries would compromise on their values of fairness to allow their domestic companies to take an upper hand in the bilateral race where the winner is likely to take all. If that is the case, it would not be surprising if Facebook expects to receive the same kind of special regulatory treatment for its newest innovation, so long as it remains the frontrunner for the industry it has been in all types of IT initiatives. In fact, Mr. Mark Zuckerberg made this argument when he stood before the U.S. Congress in October 2019 to convince the lawmakers to approve of this new project, 4 months after its announcement. He told them that “Libra is essential to projecting American financial leadership around the world,” and that “any delay risks losing that leadership to China.”¹⁴⁷ This is not an isolated incident, and the CEO of this social media company has often invoked China as a rival to American technology supremacy, which could be

¹⁴⁶ Kyle Torpey, ‘Why Financial Privacy is about more than Using Bitcoin to Buy Drugs on the Internet’ (*Bitcoin Magazine*, 18 January 2017) <<https://bitcoinmagazine.com/articles/why-financial-privacy-about-more-using-bitcoin-buy-drugs-internet>> accessed 30 December 2020

¹⁴⁷ Shannon Bond, ‘Mark Zuckerberg Offers A Choice: The Facebook Way or The China Way’ (*NPR*, October 2019) <<https://www.npr.org/2019/10/23/772075523/mark-zuckerberg-offers-a-choice-the-facebook-way-or-the-china-way>> accessed 30 December 2020

construed as a sign that Facebook assumes that its rivalry with the Chinese counterparts appeals strongly to the law makers even when there are privacy issues and other legitimate concerns.

In the past few years, however, there have been active discussions among regulators/policy makers about whether these tech companies' acquisitions should be reviewed more frequently and whether different methods should be used to assess the impact of mergers by tech companies. In fact, the FTC has recently issued Special Orders to require major tech firms to provide information about prior acquisitions to analyze those mergers' anticompetitive features. Yet, anti-trust regulators' actions on mergers among tech companies have been ostensibly slow, conservative, and ineffective to prevent unjustifiable monopolies, given the impact that the market dominance of those companies have.

Regardless of whether these anti-competitive merger activities are going to be regulated by anti-trust regulators in the future, it is clear to anyone's eyes that Facebook, along with Google, Amazon, and few tech titans, has gained dominance and even monopoly in some IT businesses, which gives them the power that they could easily abuse. Without equal competitors in sight that challenge them, Facebook has been free to pile on many advertisements for users, boost advertising rates, and obtain "consent" to invade people's privacy without the risk of losing them to a rival company.

Against this backdrop, the new cryptocurrency would unleash even greater power that Facebook could utilize to usurp dominance, not only in social media industry but across various industries, and there seems to be no guarantees that we should believe that Facebook won't abuse that power and dominance.

Financial regulators have shown strong concerns to the anti-trust concerns regarding rise and dominance of tech companies in financial services field from anti-trust standpoint.

4.2.4 The effect Libra could have on global financial stability

As explained above, international policy setting bodies, such as FSB, have been especially wary of Libra's impact on global financial stability. There are many risk factors within the Libra business model, but one of the risk factors to the stability of global finance is as follows.

According to JP Morgan, the biggest bank in the U.S., Libra would likely pose threats to market stability for the following reasons¹⁴⁸.

Libra has the potential of growing rapidly and becoming a high-turnover real-time gross settlement (RTGS) network like Fedwire and TARGET2. Libra has the potential of becoming a predominant exchange tool to be used in P2P transactions, and to replace the existing RTGS systems and large volume payment systems (LVP), such as Fedwire in the US and TARGET2 in Europe. Such RTGS systems are “the backbone of global transfers and global payments volume”.

Yet Libra, by its construction, lacks adequate short-term liquidity facilities, such as an access to overdraft or other short-term credit, to safely support the transactions. The Libra Association’s operational model to pay for the operational and network maintenance costs with the income the Libra Reserve creates through investment, using the collateral, may not be viable. The Association’s stance was that the “interest on the reserve assets will be used to cover the costs of the system¹⁴⁹,” but according to this team of financial services expert, that may not be the case. The investment decisions would be made by the Libra Association, in a way similar to emerging economies’ governments manage their FX reserve. With some of the major economies’ central banks’ negative interest policies in place, it would be particularly tough to run the Libra Reserve without facing deficits. Once they face deficits, they would have to impose transaction costs on the users which would act like “an escalating tax” on consumers and businesses as the economy worsens and deficits increase, which in effect could be a cause to prolong recessions.

As a result, if Libra is to replace those systems, our payment system would be under high risk of facing gridlock and burdens users with rising costs, especially in the times of stress which could lead the global economy to a recession or even worse depression.

¹⁴⁸ J.P. Morgan, ‘Blockchain, digital currency and cryptocurrency: Moving into the mainstream?’ (J.P. Morgan Perspectives, 21 February 2020)
<https://markets.jpmorgan.com/research/open/url/t59R6MoBP2TukWA_itSQBbfUlco1CmYnoNL3dA6WVSm82drJuOYLvdZlqDyuXyp-L4OrVEFw_eAu4UgzicsInqAwjcbKIQHIpFGEjPF2Rt5PKUItFmEKGQaC3DeLBoW7?action=print> accessed 30 December 2020

¹⁴⁹ Libra Association, ‘An Introduction to Libra’ (Press release, 23 July 2019) 7 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

It could have the impact of “disintermediating the commercial banking system,¹⁵⁰” which would in effect disrupt credit creation. Credit creation is integral for economic growth; therefore, this impact Libra may have on commercial banking system cannot be overlooked. Libra’s effect on commercial banks and credit creation infrastructure cannot be overlooked.

In sum, liquidity shortfalls are realistic problems that Libra could face, and given its potential size, it could have the power to topple the global financial stability.

4.3.7 Monetary sovereignty of states

One of the biggest concerns that regulators/policy makers have raised about Libra is its power to undermine or nullify monetary policies. Monetary sovereignty is the power of the state to exercise exclusive legal control over its currency or the power to issue or retire currency¹⁵¹. With monetary sovereignty comes the power to control monetary and financial policies.

Global financial regulators are concerned that Libra would put the monetary sovereignty of governments at risk by claiming the power to issue currencies that are just as popular as legal tender and could potentially undermine the states’ power to impose effective monetary and financial policies as people would have alternative means for payments and a source of liquidity and will no longer be or be less affected by monetary or financial policies by states. Especially during financial crisis, central banks and financial regulatory agencies’ role to suppress the contagion of the financial crisis and to help the economy recover from the crisis is extremely important. But with a non-government controlled, powerful currency, which provides people with an alternative financial system to resort to, the measures they can take become limited.

At the meeting in Chantilly, France, G7 finance ministers and central banks agreed that Libra and the like “may affect monetary sovereignty and the functioning of the international

¹⁵⁰ Michael B. Greenwald, ‘Breaking the buck: What demise means for central banks’ (Atlantic Council, 10 October 2019) <<https://www.atlanticcouncil.org/blogs/new-atlanticist/breaking-the-buck-what-libras-demise-means-for-central-banks/>> accessed 30 December 2020

¹⁵¹ Francois Gianviti, ‘Current Legal Aspects of Monetary Sovereignty’ (IMF, 2006) 4 <<https://www.imf.org/external/pubs/nft/2006/cdmf/ch1law.pdf>> accessed 30 December 2020

monetary system.¹⁵²” In G7 Chair’s Statement on Stablecoins, he explained that Libra and the like “could also have implications for the international monetary system more generally, including currency substitution, and could therefore pose challenges to monetary sovereignty.¹⁵³” Similarly, IMF, in a report they published on July 15th, 2019, titled “FINTECH NOTES: The rise of digital money” expressed concerns that powerful stablecoins would lessen the demand for fiat currencies and that would make monetary policies ineffective¹⁵⁴. Benoit Coeur of BIS Innovation Hub also pointed out that “if ‘stablecoins’ become widely used, they could also give rise to issues related to monetary policy transmission... Where a ‘stablecoin acts as a substitute for fiat currency, there may be the risk of the monetary sovereignty of countries being infringed. Furthermore, the transmission of monetary policy could be affected if ‘stablecoin’-denominated credit or overdraft extensions are provided.¹⁵⁵”

Also, Mark Carney of the Bank of England points out that Libra could be a threat to monetary policy in the current international monetary and financial system¹⁵⁶. Moreover, EU member states, including Germany and France, seemed to place a huge importance to protecting monetary sovereignty from Libra right from the outset. They were quick to recognize that allowing stablecoins of this scale whose values are not tied to a fiat currency would cause them to become an independent currency, and currencies that are actually used by enough people would risk

¹⁵² G7, ‘Chair’s Summary: G7 Finance Ministers and Central Bank Governors’ Meeting. G7 Finance Ministers and Central Bank Governors’ meeting in Chantilly’ (*Press release*, 18 July 2019) 3 <https://minefi.hosting.augure.com/Augure_Minefi/r/ContenuEnLigne/Download?id=7C00115F-99CD-4FC1-A520-1EF0126E1A7C&filename=G7%20Chair%27s%20summary.pdf> accessed 30 December 2020

¹⁵³ G7, ‘Chair’s Statement on Stablecoins’ (*Press release*, 17 October 2019) 1 <<https://www.gouvernement.fr/en/chair-s-statement-on-stablecoins>> accessed 30 December 2020

¹⁵⁴ Tobias Adrian and Tommaso Mancini-Griffoli, ‘FINTECH NOTES: The rise of digital money’ (*IMF*, July 2019) <<https://www.imf.org/en/Publications/fintech-notes/Issues/2019/07/12/The-Rise-of-Digital-Money-47097>> accessed 30 December 2020

¹⁵⁵ Benoit Coeur, ‘Introductory Remarks to the Committee on the Digital Agenda of the Deutscher Bundestag’ (*BIS CPMI Speech*, 25 September 2019) <<https://www.bis.org/cpmi/speeches/sp190925.htm>> accessed 30 December 2020

¹⁵⁶ Mark Carney, ‘The Growing Challenges for Monetary Policy in the current International Monetary and Financial System’ (*The Bank of England*, 27 August 2019) 15 <<https://www.bis.org/review/r190827b.htm>> accessed 30 December 2020

monetary sovereignty of the EU and member states. French Finance Minister Bruno Le Maire further reconfirmed the line of thinking by saying that “The central bank, I mean the ECB, is the only one to be allowed to issue a currency. And this point, it’s something that cannot be jeopardized or weakened by any kind of project including the so-called Libra project.”¹⁵⁷

Other major European countries, including Germany, France, Italy, Spain and the Netherlands, have requested the European Commission to take stringent action on stablecoins and the like, and one of the major reasons for that was their concern that Libra could destabilize states’ sovereignty in monetary policy.¹⁵⁸ They expressed clearly their stance was that only states should have the power to create currency and to handle monetary policy. They “want all stablecoins to be promised at a ratio of 1:1 with fiat currency, with reserve asset denominated in the euro or other currencies of EU member states and deposited in an EU-approved institution.”¹⁵⁹

The reasons why they fear that Libra would topple the monetary sovereignty of states are as follows. Libra is not merely a payment service, but a new powerful currency that would actually be used as means of payment (unlike value-fluctuating crypto-assets, such as Bitcoins that are used mainly for speculative purposes.¹⁶⁰).

Regarding the first point, Libra is a new currency that draws its intrinsic value from itself, just as fiat currencies do. Most of existing prevalent digital currencies have pledged value at 1-to-1 ratio with fiat currencies, and they are required to have certain percentage of the fiat currencies in their reserve; therefore, they are just representation of the fiat currencies that they are pledged to represent. People use those digital currencies because they trust the value of the fiat currencies that they represent, not because they place trust in the inherent value of the digital currencies

¹⁵⁷ Christian Kraemer and Michael Nienaber, ‘Big European states call for cryptocurrency curbs to protect consumers’ (*Reuters Technology News*, 11 September 2020) <<https://www.reuters.com/article/eu-economy-cryptoassets/update-4-big-european-states-call-for-cryptocurrency-curbs-to-protect-consumers-idUSL8N2G8258>> accessed 30 December 2020

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

themselves. Thus, those digital currencies are merely a means to transfer money and not “currency”. They are not alternatives to fiat currencies; therefore, financial policies

On the other hand, under the original plan, Libra’s value is not proportionate to any fiat currency, and people would buy and sell Libra for the intrinsic value of Libra itself, which does not necessarily equate the basket of assets that back up Libra’s value. According to the official announcement by the Libra Association, Libra’s worth was going to be supported by a reserve of real assets, such as bank deposits of fiat money and short-term government securities¹⁶¹. They would function as collaterals to bank loans. Those assets held in the Libra Reserve to back up the value of and build trust in the value of Libra,¹⁶² but Libra’s value derives not only from the assets that back them up, but also the trust people have in Libra itself and the entities that run this currency system, including Facebook. Consequently, even when those assets’ value declines, Libra’s value could possibly remain intact, which follows that some of the monetary policy tools states typically use would be less effective as people could freely move their assets to Libra and vice versa, and financial systems would be weaker to economic stress because central banks and investment banks would have little control over the flow of money and assets.

A New York Times article described it, Libra is “the potential foundation for a new financial system that would not be directed by Wall Street or central banks.¹⁶³” The actors, such as commercial banks and investment banks, in current financial system are supervised and controlled by the self-regulations of Wall Street, while central banks regulate and supervise them and become their lender of last resort once they experience financial difficulty or are considered near collapse. If Libra is launched, there would likely become a new financial system on its own, outside of those regulations, supervisions and support by the incumbent rule-setters of the financial

¹⁶¹ The Libra Association, ‘An Introduction to Libra’ (*Press release*, June 2019) 7 <https://sls.gmu.edu/pfrrt/wp-content/uploads/sites/54/2020/02/LibraWhitePaper_en_US-Rev0723.pdf> accessed 30 December 2020

¹⁶² Ibid. 7

¹⁶³ Erin Griffith and Nathaniel Popper, ‘Facebook’s Libra Cryptocurrency Faces Exodus of Partners’ *New York Times* (New York, 11 October 2019) <https://www.nytimes.com/2019/10/11/technology/facebook-libra-partners.html>

world, the Wall Street and Central banks, the implications of the emergence of such financial system without those traditional check systems are uncertain.

Consequently, Libra would allow Facebook to take power away from central banks and approving Libra in its original form would have entailed creation of a new financial system that makes monetary, regulatory, and supervisory policies ineffective and is out of reach from the regulators.

The Libra Association countered these arguments by the regulatory/policy making communities in the second white paper as follows¹⁶⁴.

It is unlikely that the Libra network reaches the level of scale in a country to a point where it has such effect on monetary sovereignty and monetary policy, due to the foreign exchange controls and other restrictions that Libra coin holders would likely face.

The Libra network is merely a complement to a global payment network and not replacement of domestic currencies.

“The stabilization of currencies and value preservation are key efforts that are properly within the exclusive remit of the public sector.” Therefore, the Libra Association increases the number of single currencies stablecoins.

However, none of these proposed solutions to the problem would actually diminish the concerns that the global regulators have raised. The reasons are as follows:

Considering the gigantic user-base of Facebook and the convenience the Libra network provides, it is very likely that Libra would reach that level of scale.

Particularly in countries with weak currencies, the Libra would have a high chance of becoming the currency that people use and store. Moreover, given the potential size of the Libra network, it would even be plausible that Libra becomes more frequently used than US dollars.

¹⁶⁴ Ibid.

It is hard to see how increasing the number of single currencies stablecoins would mitigate Libra's interference with the stabilization of currencies and value preservation.

Moreover, the Libra Association claims that they would have their own monetary policies to prevent liquidity crisis. But regulators are not convinced that their strategy would work.

For example, in a report, IOSCO discusses a hypothetical case of stablecoin initiatives which is almost identical to the Libra initiative, and stresses that the measures that the Association would implement to avoid being unable to convert all Libra coins to the original currencies are not comprehensive. They note, those measures are "not a full set of monetary policy tools"¹⁶⁵.

4.2.8 Consumer protection concerns

In comparison with bank depositors, the protection provided to Libra coin holders are limited. Banks are heavily regulated in part because they are part of deposit insurance systems and their consumers receive compensations in lieu of the money they had placed in the banks that have become insolvent. If the Libra Association does not become a bank or a member of a deposit insurance system, Libra tokens (which would be the equivalent of account receivables in banks) would become worthless and their holders (=consumers/investors) would not be protected in such case scenario. Consumer protection is one of the most important principles of financial regulations and the lack of protection in potential liquidity crisis is unlikely to be tolerated by the financial regulators around the globe. Moreover, due to such vulnerability of Libra consumers, bank runs are natural reactions of the consumers when there are slightest risks of bankruptcy of the Libra Association, which could, in turn, cause systemic risks.

G7 leaders have emphasized the importance of the robust and sound legal basis to ensure sufficient protection to all purchasers of Libra and other stakeholders. The important features of the contractual relationship between the issuers and other operators of Libra and Libra coin purchasers and other stakeholders should be explicitly defined, and should be clearly

¹⁶⁵ IOSCO, 'Global Stablecoin Initiatives' (March 2020) 4

<<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD650.pdf>> accessed 30 December 2020

communicated to the purchasers, particularly about the risks involved in purchasing them¹⁶⁶. Moreover, the proper and prudent management of the assets in the Libra Reserve and its consistency with the contractual obligations to and reasonable expectations of the Libra holders is crucial in light of consumer protection¹⁶⁷.

4.3.9 Others

Some of the other unique elements of the Libra initiative that would legitimize international regulatory bodies' strong opposition to them are as follows.

- Weakness in Libra's governance model

Effective governance and risk management frameworks is core to preventing all risks associated with new financial services initiatives, such as Libra, and is crucial to ensuring operational and cyber resilience. Regulators point out that the decentralized nature of GSC initiatives (such as Libra) can generate governance issues¹⁶⁸.

Mr. Marc Zuckerberg and Mr. David Marcus both stress that Libra will be handled properly by the Libra Association which is based in Switzerland. Mr. Zuckerberg has often been criticized as the media tyrant, as he holds the majority shares of Facebook, the social media giant with over 20 billion user base. Mr. Zuckerberg and Mr. Marcus claim that Facebook holds only a portion of the Libra Association shares, and their governing power is limited to the number of shares they hold. However, there are speculations that the other members are "friends of Mr. Zuckerberg," and that they lack independent voice or power to vote and are yes men to Facebook and Mr. Zuckerberg. Given the power and wealth of Facebook, questions are raised about who has the actual power to make important business decisions for the Libra Association. It may arguably be an entity that Facebook hides behind when, in actuality, it controls it fully.

¹⁶⁶ G7, 'Update from the Chair of the G7 working group on stablecoins' (*Press release*, 18 July 2019) 2 <https://www.bis.org/cpmi/bc_190718.pdf> accessed 30 December 2020

¹⁶⁷ Ibid. 2

¹⁶⁸ FSB, 'Regulatory issues of stablecoins' (18 December 2019) 2-3 <<https://www.fsb.org/wp-content/uploads/P181019.pdf>> accessed 30 December 2020

Moreover, the Libra Association assures the public that its governance would be augmented by independent auditors oversee the directors. They have announced “the administration of the Reserve will be transparent to the public. The Reserve will be audited on a regular basis by independent auditors. The results of those audits will be made publicly available to demonstrate that all Libra Coins in circulation are fully backed by matching assets comprising the Reserve. The Association will publish on its website on a daily basis the then-current composition of the Reserve and the then-current market value of the assets.¹⁶⁹” However, given the asymmetric power balance between Facebook and other members of the Libra Association and any entities that would become independent auditors, it is doubtful that they can effectively intervene with the governance of the Libra Association.

Proper governance system is essential, particularly for privacy, security and consumer protection. Yet, regulators are not convinced that the Libra Association is well-equipped to this enormously impactful initiative.

- Cyber security concerns and technological weakness of Libra

Global financial regulators have raised concerns about the cyber securities issues Libra users may be exposed to.

The blockchain technology Libra uses to operate is an embryonic technology that is “untested in a real-world environment and on the scale required to run a global payments system.¹⁷⁰” For example, the G7 Chantilly meeting’s Chair was among the global leaders to point out the nascent and untested nature of this global level project as one of the major risk factors¹⁷¹.

¹⁶⁹ Diem Association, ‘Economics and the Libra Reserve’ (*White Paper*, April 2020) 3 <https://wp.diem.com/en-US/wp-content/uploads/sites/23/2020/12/EconomicsAndTheReserve_DD_April2020.pdf> accessed 30 December 2020

¹⁷⁰ Benoit Coeure, ‘Introductory remarks to the Committee on the Digital Agenda of the Deutscher Bundestag’ (*BIS CPMI Speech*, 25 September 2019) <<https://www.bis.org/cpmi/speeches/sp190925.htm>> accessed 30 December 2020

¹⁷¹ G7, ‘Update from the Chair of the G7 working group on stablecoins’ (*Press release*, 18 July 2019) 2 1 <https://www.bis.org/cpmi/bc_190718.pdf> accessed 30 December 2020

The security of the Libra Blockchain is still work in progress and is far from reaching the state of perfection, as exemplified by the fact that a big problem with the new programming language, called Move that is used for the Libra Blockchain was detected by a third party in September 2019¹⁷². The Libra Association partnered with a bounty platform HackerOne which provides a rewards program for security experts to examine the software that is used in the Libra Blockchain to discover problems with them¹⁷³. In other words, the Libra Association themselves recognize that they need the help of security researchers outside of their network to spot vulnerabilities to creative and unconventional cyber-attacks. It seems highly doubtful that everybody who has found the weak points of their software will report that to the Libra Association for the bounty of \$10,000 in rewards. Therefore, even with these efforts to detect them, security vulnerabilities remain.

Moreover, the system was going to be run by Facebook, which is a social media company that has no prior experience in operating financial infrastructure of this magnitude and complexity and is notorious for its poor and careless management of user data since the Cambridge Analytica data scandal. Each financial institution and financial industries across the globe have constantly been accumulating wisdoms to monitor the risks and to prevent technological blotches. Financial institutions have traditionally taken the job to prevent technological issues very seriously. Only with the premise that they are capable of being in full control of the technologies they use to provide the services; they are supposed to be granted the licenses to provide financial services. Yet, with the rise of Fintech, as states compete to attract the most cutting-edge Fintech initiatives to be based in their states, new entrants that are not equipped to prevent technological mishaps have been allowed to join the financial industry, seemingly in the confusion of the moment. In the past few years, there has been growing number of impactful technological incidents that shook the financial industry and most of them

¹⁷² William Foxley, 'Vulnerability Fixed in Facebook Contract Language for Libra Cryptocurrency' (*Coindesk*, September 2019) <https://uk.sports.yahoo.com/news/vulnerability-fixed-facebook-contract-language-180005756.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlmNvbS8&guce_referrer_sig=AQAAAJ4Dd7jhVjvwoQmNywO_zVy93kyLdnxwqjd32clkwd028_tObP4SXmWNhNKsgZCX3ykXsfZqQbtEEgWXE7cdzDFru7j2jYl7ANi7Tb1-x9GX5yue45mM1sUBh6TkvhH5lsUjBX5slt8Y6Te2aEYbS9J9ByiVpjPSkIOcaa31GofA> accessed 30 December 2020

¹⁷³ Michael Engle, 'Libra Bug Bounty open to all' (*The Libra Association Website*, August 2019) <<https://libra.org/en-US/blog/libra-bug-bounty/>> accessed 30 December 2020

were caused by these new entrants into the industry, Mt Gox's Bitcoin hack and the crash of Coinbase's platform to name a few. The fact these sizable incidents involving new crypto-coin related services have happened mostly (if not all) with "new entrants," rather than traditional financial institutions that provide similar services, such as JP Morgan's JPM Coins¹⁷⁴ and Wells Fargo's Wells Fargo Digital Cash¹⁷⁵ is a testament to the different levels of proneness to the new and traditional financial service providers have to technological risks, whether that is the result of less careful attitudes of some of the new entrants or the lack of their experience in risk management at the level expected for financial institutions.

The capacity to ensure that accidents wouldn't occur and to ensure that risks are identified and handled is not just a desirable quality, but an absolute prerequisite to enter financial services industry, especially when the potential impact of the business is huge (cf. Too Big to Fail). Given the sensitivity of financial information they carry, financial institutions have a kind of special liability to ensure that the system is built in such a way that the risks could be properly be brought to the attention of the team to be sufficiently addressed, and when risks do emerge, they are responsible to identify them early and take care of them, instead of waiting for the risks to come to the attention of regulators. The regulatory risk assessment rules and guidelines that financial regulators lay out is only the bare minimum of the expected efforts by financial service providers to manage risks against cyber-attacks and other security threats.

4.3.9 Summary of the Regulatory Backlash against Libra

The global regulatory communities' reaction toward Libra was unique in the following sense.

Their opposition to Libra was strong and unequivocal in nature, alerting the public of its dangers and the changes it would bring to the global society. Unlike the neutral stances policy makers and courts have taken in the past towards the unknown new technologies and the impact

¹⁷⁴ Michelle Price, 'JPMorgan's Dimon says Facebook's Libra currency will never happen' (*Reuters*, 19 October 2019) <<https://www.reuters.com/article/uk-jp-morgan-dimon-libra/jpmorgans-dimon-says-facebooks-libra-currency-will-never-happen-idUSKBN1WX2DA>> accessed December 30th

¹⁷⁵ Hale Kori, 'Wells Fargo Co-Signs Cryptocurrencies with New Digital Cash Product' (*Forbes*, 25 September 2019) <<https://www.forbes.com/sites/korihale/2019/09/25/wells-fargo-co-signs-cryptocurrencies-with-new-digital-cash-product/#686bb4a8363f>> accessed 30 December 2020

they may have, they were assertive in their disapproval of an innovative endeavor that may or may not cause the type of issues that would warrant “prior restraint” on innovation.

Their opposition effectively functioned as prior restraint on the launch of the initiative: they took a stance that the change of this size that they would bring to the financial system.

Their actions were very prompt: they acted before they were able to obtain a full picture of what would ensue the launch of this new universal currency.

The evaluation (and disapproval) of this initiative was made by each of the international regulatory bodies in such a systematic and structured manner. Each of the regulatory bodies analyzed the same disapproving conclusions from each of their own standpoint and in line with their roles and missions.

The regulators went beyond the cosmetic issues that the Libra is likely to cause that are easier to pin down, but they showed us clear signs that they are eying the fundamental changes this initiative is likely to cause to our financial system and to bring to our attention those issues that are still in the dark to encourage more engagement in public discussions and to call for democratic decisions on what we want our financial system to look like.

5. Conclusion:

Unlike when other globally-impactful-and-paradigm-shifting platforms, global regulatory communicated acted swiftly to evaluate the potential risks of the Libra initiative. They did not shy away from making predictions about the negative impact this initiative could potentially bring about and they disapproved it even before the service was launched and the actual outcome was yet to be known.

Since its announcement in June 2019, Libra received disproportionate attention of global regulators and policy makers for a service at a planning stage, far from the actual launch (before Libra became Diem.). Almost all of the international and domestic financial and monetary regulators have reacted to the idea of global stablecoin initiatives by a data driven mass-technology company in basically coherent manners with the similar views with some variations. Through those announcements, global financial regulatory bodies have made very clear that global stablecoins will be under strict scrutiny as a type of financial services, despite the fact that they will be provided by a group of companies that don't fit into mold of traditional financial

service providers. They made clear that traditional financial laws and regulations are applicable to various functionality and parts of the Libra initiative while insinuating need for new regulations for new dimensions it has and risks it imposes that traditional financial regulations wouldn't suffice. Much of their discussions were not about how Libra could comply with existing legal framework but about fundamental risks that need to be addressed and call for the policy discussions and further engagement by both the general public and authorities to create a regulatory framework that could properly address the risks that Libra would pose to our society. This time or in case of Libra, they did not choose the laissez-faire approach to a deeply impactful initiative. Their stance was very clear: "A state of nature" must be avoided in areas that impact global financial stability.

As the Chair of the CPMI, Mr. Coeur wrote, while some of the "risks that have been identified so far could be addressed by exiting regulatory and supervisory regimes, ...Some aspects may require novel approaches, however significant work and further engagement with the public and authorities will be required before we can expect any potential global 'stablecoin' arrangements to be approved by the relevant authorities."¹⁷⁶ This statement captures the essence of the stance global financial regulators and policy makers took: proactive stance towards the need to begin policy discussions about questions that Libra project raises, and also to recognize that whether to and to what degree the global community should accept the changes that Libra will bring to the shape of the basic financial infrastructure is a policy question that needs to be analyzed, discussed, and decided on a global level and democratically.

The risks that Libra would pose to our society and the changes that the likes of Libra would bring to our global financial system are profound, complex, and enormously impactful on our lives. Since those risks and changes would stem from some of the most fundamental qualities of Libra, making cosmetic changes on the Libra's business model is not going to solve the problems. Those fundamental qualities include i) its potential global outreach, ii) the fact that (although it would be pegged to fiat currencies and government bonds,) it is an independent currency, created by a private entity, and iii) the fact that it is a financial services initiative by big-tech companies, including Facebook.

¹⁷⁶ Benoit Coeure, 'Introductory remarks to the Committee on the Digital Agenda of the Deutscher Bundestag' (*BIS CPMI Speech*, 25 September 2019) <<https://www.bis.org/cpmi/speeches/sp190925.htm>> accessed 30 December 2020

As Mr. Ryozo Himino, the Commissioner of the Japanese Financial Services Agency, points out even if Libra project fails, similarly disruptive endeavors will successfully enter the market at some point. He argues that we should think of Libra as “an alarm clock” that forces us to engage in the policy and regulatory discussions on Libra and similar initiatives¹⁷⁷.

Regulators are striving to understand and assess the challenges that new technology-backed and data driven initiatives in financial industry to “safeguard an orderly modernization of the financial industry.”¹⁷⁸ But as the changes and risks that Libra would bring to the world are ones that call for philosophical discussions and have the power to cause paradigm shifts to our most basic infrastructure, the global financial system, it is important that we all take part in the discussion. It is important for all of us to understand that we are at an important juncture to decide what path we want to take and to choose under what kind of financial system that we want to live in.

The Libra initiative faced unprecedented level of opposition among data-driven initiatives that big tech firms have led. That is partly due to each of the unique problematic features of this initiative and the level of impact it could have to the society that our global regulators were quick to realize. Yet, that alone does not explain how systematically and effectively the regulatory community’s assembled negative reaction essentially put an end of to a spectacular currency-creating endeavor that could have completely altered the global financial system. Unlike the slow and hesitant reaction by policy makers and governments in their reaction to the society altering, democracy deteriorating innovations, this time, the global regulatory community was very quick to react to them. The conceivable reasons for this difference are as follows.

First, financial services industry is traditionally a highly regulated industry. There is little reservation to over-step when it comes to financial services regulations due to the nature of this industry from legal and regulatory standpoint.

The second point is related to the 1st point. For financial services industry, there exists a robust network of global regulators. In comparison with financial regulatory authorities,

¹⁷⁷ Ryozo Himino, ‘Libra as an alarm clock’ (*JFSA*, 6 September 2019) <<https://www.fsa.go.jp/common/conference/danwa/201909/20190909.pdf>> accessed 30 December 2020

¹⁷⁸ Fernando Restoy, ‘Regulating fintech: what is going on, and where are the challenges?’ (*BIS*, 17 October 2019) 2 <<https://www.bis.org/speeches/sp191017a.htm>> accessed 30 December 2020

telecommunications regulatory authorities, such as Communications Commission, are smaller in size and their supervisory functions are quite limited. When social media firms, such as Facebook, gained their power, their activities did not face the type of scrutiny that financial services firms of the same size in impact and revenue would face by regulatory authorities. This is because communications authorities did not deem it their responsibilities to regulate and control the activities that pertain to communications activities in an overarching manner. Communications and speech are fundamental freedom, protected by the Constitutions, and ironically regulators' reservations to control and regulate media and telecommunications firms have enabled the monopolization of communications networks, such as Google and Facebook that monopolizes data to have the kind of control over every aspect of our societies, include speech. Those big tech initiatives seem to have benefitted quite a bit from the gap of regulatory network. They created business modes that do not fall in the scope of any of the existing regulatory frameworks back then. Whereas financial regulators are in agreement that it is their responsibility to discuss, analyze and call for democratic discussions on what would impact the future of our financial system. They were ready when Libra was first announced to begin discussions on such globally impactful stablecoins. They were able to react quickly because they have robust international network and forum to monitor and tackle any potential of risks and issues that may topple our financial system. Their analysis goes much beyond the technical and cosmetic ones and they are true experts who keep an eye on all sorts of risks in deep and fundamental manners. The international financial regulatory community had been discussing data and how it big-tech firms that leverage on big data could impact the financial system long before Libra was announced, and it was a topic that had been given much attention and resources by them.

Whether this regulators/policy makers' proactive stance towards new initiatives by big tech would remain a trend limited to financial services industry or whether it is a wake-up call to the other industries' policy discussions is still unknown.

Nevertheless, the financial regulatory bodies and policy makers' reaction to Libra signifies a clear opposition to laissez-faire approach to the changes in frameworks that big tech's complex business models would bring to our social infrastructures, without first being able to assess the changes and impact and discussing whether to accept them in democratic manner. Their stubborn opposition and strong messages send us all an important message that we need to

pay attention to the paradigm shifts that he nice sounding, convenient services that big tech firms introduce to us bring to our society and “we” need to be part of the policy discussions about the paradigm shifts.

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