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FDIC Acting Chair Talks Prudential Regulation of Crypto-Assets

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Last week, Martin Gruenberg, Acting Chair of the Federal Deposit Insurance Corporation ("FDIC"), gave remarks at the Brookings Institution on the Prudential Regulation of Crypto-Assets.

In the speech, Acting Chair Gruenberg focused on three broad topics: (1) an overview of banking innovation and crypto assets, generally; (2) approach to prudential regulation of banks' crypto-asset related activities; and (3) potential benefits, risks and policy questions related to stablecoins.

Mr. Gruenberg spoke of the important role that innovation has played in banking. He noted numerous innovations that were beneficial and met a need, such as credit cards, mobile payments, remote check deposit, online bill pay, direct deposit, and automated teller machines. However, he "sounded several notes of caution with regard to the development of crypto assets." He said that these positive innovations were designed to operate "in a manner that is safe and sound for banks and that provides important consumer protections." He then noted five elements that "banks and other stakeholders should consider when assessing new innovations." Those five elements are (1) accessibility, (2) convenience, (3) efficiency, (4) safety and soundness, and (5) consumer protection.

Mr. Gruenberg went on to note that, "[f]rom the perspective of a banking regulator, before banks engage in crypto-asset related activities, it is important to ensure that: (a) the specific activity is permissible under applicable law and regulation; (b) the activity can be engaged in a safe and sound manner; (c) the bank has put in place appropriate measures and controls to identify and manage the novel risks associated with those activities; and (d) the bank can ensure compliance with all relevant laws, including those related to anti-money laundering/countering the financing of terrorism, and consumer protection." He noted that ensuring those things is why the FDIC issued its crypto Financial Institutions Letter in April that we discussed at the time.

On stablecoins, and particularly on payment stablecoins, Acting Chair Gruenberg noted that “there may be merit in continuing to examine the potential benefits associated with payment stablecoins.” However, he noted there are significant safety and soundness risks. He pointed to three important features that could be implemented to make stablecoins safer:

1. Subject to prudential regulation;
2. Backed dollar-for-dollar by high-quality, short-dated U.S. Treasuries; and
3. Transacted on permissioned ledger systems with robust governance and compliance mechanisms.

In his remarks, he focused extensively on the importance of the disclosure and consumer protection issues that need to be addressed, emphasizing that any payment stablecoin system work in a complementary way with the upcoming FedNow service and any CBDC issued by the Fed if that were to occur.

As noted above, Acting Chair Gruenberg brought a cautious tone to the discussion, but not an outright hostile one. While he didn’t necessarily call for legislation in this space, he did pose the question, noting “[w]e must consider the extent to which legislation would be necessary to provide a cohesive framework to prudentially regulate a payment stablecoin system from ‘end-to-end’ and to ensure that consumers are appropriately protected in the process.”