

EXAMINING FACEBOOK'S PROPOSED DIGITAL CURRENCY AND DATA PRIVACY CONSIDERATIONS

HEARING

BEFORE THE

COMMITTEE ON

BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING FACEBOOK, INC.'S PLANNED CURRENCY LIBRA, ITS GOV-
ERNING LIBRA ASSOCIATION, AND THE CALIBRA DIGITAL WALLET,
INCLUDING THE STRUCTURE AND MANAGEMENT OF LIBRA AND ITS
UNDERLYING FINANCIAL INFRASTRUCTURE AND THE PARTNERS AND
GOVERNANCE OF LIBRA ASSOCIATION.

JULY 16, 2019

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EXAMINING FACEBOOK'S PROPOSED DIGITAL CURRENCY AND DATA PRIVACY CONSIDER- ATIONS

TUESDAY, JULY 16, 2019

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:01 a.m., in room SH-216, Hart Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. This hearing will come to order.

Today we will receive testimony from David Marcus, head of Calibra at Facebook.

On May 9, Senator Brown and I sent a letter to Facebook shortly after it was reported that the company was recruiting financial institutions and online merchants to help launch a cryptocurrency-based payments system using its social network.

Our letter asked Facebook for more information about how the system would work, its access to and use of consumer financial information, and Facebook's access to and use of information on individuals or groups of individuals in credit, insurance, employment, or housing. I appreciate Facebook's response last week.

Shortly after the letter was sent, Facebook formally announced its intention to launch the payments system Libra and issued a white paper providing some information about the project.

Since then, U.S. and global regulators have taken notice, including the Federal Reserve, U.K.'s Financial Conduct Authority, Financial Stability Board, G7, and others.

Last week during the Federal Reserve's semiannual Monetary Policy Report to Congress, Chairman Powell raised concerns about the cryptocurrency's potential for inciting money-laundering and financial instability problems and also expressed concern over customers' privacy.

Yesterday, Secretary Mnuchin stated the Treasury Department has "very serious concerns that Libra could be misused by money launderers and terrorist financiers."

The Bank of England Governor Mark Carney said, "Libra, if it achieves its ambitions, would be systemically important. As such it would have to meet the highest standards of prudential regulation and consumer protection. It must address issues ranging from

anti-money laundering to data protection to operational resilience.”

Concerns include, but are in no way limited, to how the payment system will work, how it will be managed, and how Libra, the Libra Association, Calibra, and Facebook will all interact; what consumer protections will apply, and potential implications for consumers with respect to financial loss from fraud or the project’s failure; how individuals’ data will be protected, and how individuals’ privacy will be preserved; how the Libra ecosystem interacts with the Bank Secrecy Act and other existing anti-money-laundering regulations; and ways that Libra could threaten financial stability and the steps that could be taken preemptively to mitigate those risks.

Despite the uncertainties, Facebook’s stated goals for the payments systems are commendable.

According to the World Bank, 1.7 billion adults remain unbanked, but two-thirds of them own a mobile phone or otherwise have access to the Internet.

If done right, Facebook’s efforts to leverage existing and evolving technology and make innovative improvements to traditional and nontraditional payments systems could deliver material benefits, such as expanding access to the financial system for the underbanked and providing cheaper and faster payments.

Still, Libra is based on a relatively new and continually evolving technology in which it is not entirely clear how existing laws and regulations apply.

I am particularly interested in its implications for the protection and privacy of individuals’ data.

Facebook has massive reach and influence within society with over 2 billion active monthly users and access to vast amounts of personal information, including that which is received directly from users and information that can be derived from their behavior, both on and off Facebook.

Libra and Calibra will only expand this reach by increasing commerce on Facebook, Inc., platforms.

This raises several questions.

The Banking Committee has held hearings on data privacy, including as it pertains to the European Union’s General Data Protection Regulation, data brokers, and the Fair Credit Reporting Act.

Given the significant amount of user information already held by the largest social media platforms and the prospect of gaining even more financial information, Congress needs to give individuals real control over their data.

Europe has already done this by imposing obligations on companies and establishing rights for individuals with respect to their data.

We need to establish similar obligations for data collectors, brokers, and users and implement an enforcement system to ensure the collection process is not abused and that data is adequately protected.

Individuals are the rightful owners of their data. They should be granted a certain set of privacy rights and the ability to protect

those rights through informed consent, including full disclosure of the data that is being gathered and how it is being used.

Regulations should be clear and understandable for both collectors and consumers and should not punish those who opt out of collection practices.

Individuals should also have the ability to review their data, correct inaccuracies, and have ample opportunity to opt out of it being shared or sold for marketing and other purposes.

Chairman Powell also said last week that, “The privacy rules that we apply to banks, we have no authority to apply to Facebook or to Libra.” He added that we may even need to create a new regulator to address such issues.

As we determine the next steps, what is clear is the importance that financial innovation happen here in America. In this way, the Libra announcement has heightened the need for policymakers and regulators to establish clear rules of the road.

During this hearing, I look forward to hearing more about Facebook’s project, steps it plans to take and has taken with regulators to ensure compliance with all laws and regulations, and how it intends to ensure individuals’ privacy is maintained and information is protected.

Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman.

Facebook is dangerous. Now, Facebook might not intend to be dangerous, but surely they do not respect the power of the technologies they are playing with. Like a toddler who has gotten his hands on a box of matches, Facebook has burned down the house over and over and called every arson a “learning experience.”

Facebook has two competing missions: make the world more open and connected, and make a lot of money. And as Facebook attempts to serve both these missions, they wreak havoc on the rest of us.

Look at its version of disrupting the newspaper industry. Facebook has made it easier to share what you are reading with friends. But at the same time, Facebook has redirected most of the media industry’s profits away from actual journalists and into its own coffers. They have done it without the benefit of re-creating the local news desk, without conducting the hard-nosed journalism that keeps politicians in business and honest, and without meeting even the most basic journalistic standards.

This kind of “creative disruption” that does not actually create anything is just disruption.

Or look at the impact Facebook’s profit motive has had on the way it connects people. Facebook and other tech companies will tell you the Internet just holds up a mirror to society and reflects what we already are.

But that is not true.

To be profitable, Facebook has juiced its algorithm to hold up a magnifying glass to society rather than a mirror—kind of like the way I learned in Boy Scouts to use a magnifying glass to burn a hole in a piece of wood—concentrating our focus on the most divisive issues, pushing the most controversial opinions to the top of

our news feeds. Usually those are posts that play on people's fears and worst impulses, but they may not be based on any sort of fact.

Facebook does all it can to manipulate its billions of users so it can direct our eyes toward their ads and turn an even bigger profit.

This is no exaggeration. In fact, Facebook tested whether it could manipulate our emotions. The corporation ran a psychological experiment on more than half-a-million users to see if it could manipulate our moods. Turns out it can.

And that emotional manipulation has led to horrifying results.

I do not have to tell you what amplifying our divisions has done to discourse in our country—not just between political parties. I would bet half the people in this room at least have had to block an old high school classmate or even a family member on Facebook.

Or look around the world, more troubling. A U.N. report detailed how Facebook was used to spread propaganda in Myanmar that led to genocide. In the first month of violence, more than 600 members of the Rohingya people were killed; more than 700,000 refugees had to flee the country.

I do not think for a minute that Facebook created hate, but we know that their competing missions of connecting people and turning a profit created an algorithm and a business model that intensified it.

It is hard to remember a world without Facebook. It is hard to remember a time before we had to tell our kids “be careful what you do on the Internet, because it will not go away.”

Today we expect everyone to know that what happens online has consequences offline. It is just common sense.

That is why it is so hard for us to understand why Facebook—the company that ushered in this revolution—does not seem to comprehend that its actions have real-world consequences. They do not seem to understand why their intention to run their own currency out of a Swiss bank account, the topic of today's hearing, has been met with such fierce opposition.

Facebook's CEO Mark Zuckerberg has said that Facebook might be more like a Government than it is a company. But no one elected Mark Zuckerberg.

And what kind of dystopian Government wants to turn families and friends against each other rather than bring people together? Well, maybe I should not answer that.

Facebook has demonstrated, through scandal after scandal, that it does not deserve our trust. It should be treated like the profit-seeking corporation it is, just like any other company.

Mr. Zuckerberg and his executives have proven over and over that they do not understand governing or accountability.

They are not running a Government. They are running a for-profit laboratory. No Facebook executives, to my knowledge, have been harmed by Facebook's experiments. But look what has happened everywhere that Facebook has run its social experiment on us.

Their motto has been, “Move fast and break things”. They certainly have.

They moved fast and broke our political discourse; they moved fast and broke journalism; they moved fast and helped incite a

genocide; and they have moved fast and they are helping to undermine our democracy.

Now Facebook asks people to trust them with their hard-earned paychecks. It takes a breathtaking amount of arrogance—a breathtaking amount of arrogance—to look at that track record and think, “You know what we really ought to do next? You know what we ought to do next? Let us run our own bank and our own for-profit version of the Federal Reserve and let us do it for the whole world.”

I understand that, given the financial crisis and given the massive inequality and unfairness to workers in our country and given the fact that so many in this body have forgotten what happened 10 years ago, it is tempting to think anyone could do a better job than the Wall Street megabanks.

But the last thing we need is to concentrate even more power in huge corporations.

Look at Facebook’s record. We would be crazy to give them a chance to experiment with people’s bank accounts, to use powerful tools they do not understand, like monetary policy, to jeopardize hardworking Americans’ ability to provide for their families.

This is a recipe for more corporate power over markets and consumers, and fewer and fewer protections for my constituents.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you, Senator Brown.

We will now proceed with your testimony, Mr. Marcus.

You may proceed.

**STATEMENT OF DAVID A. MARCUS, HEAD OF CALIBRA,
FACEBOOK**

Mr. MARCUS. Thank you, Chairman.

Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today. My name is David Marcus, and I am the head of Calibra at Facebook. For most of my life, I have been an entrepreneur building products aimed at improving people’s lives. For many years, my focus has been financial services. I became PayPal’s president after it acquired my last startup, and I moved to Facebook about 5 years ago to run Messenger and more recently to lead our blockchain efforts.

In my written testimony, I describe the mechanics of Libra. Today I want to explain why I am optimistic about what Libra can offer the world.

But before I get there, I want to make clear that we recognize we are only at the beginning of this journey. Federal Reserve Chairman Powell has said publicly that the process for launching Libra needs to be patient and thorough rather than a sprint to implementation. Secretary Mnuchin reinforced those views at his press conference yesterday. We strongly agree with both of them. We will take the time to get this right.

We expect the review of Libra to be among the most extensive ever. We are fully committed to working with regulators here and around the world, and let me be clear and unambiguous. Facebook will not offer the Libra digital currency until we have fully addressed regulators’ concerns and received appropriate approvals.

I would like to start by sharing the vision for Libra. Libra is intended to address an important problem. Imagine a daughter who wants to send money home to her mom in another country. Of the \$200 she sends, \$14 on average will be lost because of fees. It can also take several days or even a week for the mother to receive the money, a delay that can prove disastrous in an emergency, not to mention lines may be long, and collection points may be in high-crime areas.

But it does not have to be that way. Wouldn't it be easier and safer if people could securely and inexpensively receive money transfers through their smartphones just like they do for so many other things today? That is what Libra is about: developing a safe, secure, and low-cost way for people to efficiently move money around the world.

To realize Libra's promise, Facebook and 27 other organizations have founded the independent Libra Association. These include companies in the payments, technology, telecommunications, blockchain, and venture capital industries, as well as nonprofits like Women's World Banking, who are here today, along with staff from the Libra Association.

The Libra Association will govern the Libra blockchain network and administer the Libra Reserve. It will establish the rules of the road and will prioritize privacy and consumer protection, and it will implement safeguards that require service providers in the Libra network to fight money laundering, terrorism financing, and other financial crime. We expect these safeguards will at least meet, if not exceed, existing standards and improve the integrity of the global financial system.

When fully formed, we expect the Libra Association to include 100 diverse members. Facebook will only have one vote and will not be in a position to control the association. Nor will Facebook or the Libra Association position themselves to compete with sovereign currencies or interfere with monetary policy. In fact, the Libra Association will work with the Federal Reserve and other central banks to minimize the risk of any competition with their currencies or interference with their monetary policies. These areas are properly the province of central banks.

Finally, I would like to turn to Facebook's role in establishing and realizing the potential of Libra. To facilitate Libra's use, Facebook has established a subsidiary, known as "Calibra", that will offer one of many digital wallets on the Libra network. Using the Calibra wallet, consumers will be able to save, spend, and send Libra right from their smartphone. If this is successful, Facebook will benefit from more commerce across the family of apps.

Calibra will be affordable and accessible and will also be safe and secure, with strong safeguards to protect users' accounts and information. We expect the Calibra wallet will be governed by rules administered or enforced by FinCEN, OFAC, and the FTC. It will also be regulated by State financial regulators. Calibra is committed to protecting the privacy of its customers. The Calibra wallet will not share individual customer data with the Libra Association or with Facebook, except for limited circumstances such as preventing fraud or criminal activity and complying with the law.

I am excited about the potential that Libra and Calibra hold, and I am proud to have initiated this effort here in the United States. I believe that if America does not lead innovation in digital currency and payments area, others will. If our country fails to act, we could soon see a digital currency controlled by others whose values are dramatically different from ours. I believe that Libra can drive positive change for many people and can provide an opportunity for leadership consistent with our shared values.

I look forward to answering your questions, Mr. Chairman.

Chairman CRAPO. Thank you very much, Mr. Marcus.

I am going to start out with the question that—you anticipated my question, actually, at the beginning of your statement, with regard to jurisdiction, frankly, and the regulatory rules of the road. It seems to me that digital technology innovations like this may be inevitable and could be beneficial. I also believe that the United States should lead in developing what the rules of the road should be. You have already indicated your awareness of Secretary Mnuchin's remarks yesterday, a statement that Chairman Powell gave in responses to this Committee when he was before us just a week or so ago, and other concerns that have been raised by Federal regulators.

By setting up Libra in Geneva, Switzerland, it makes me wonder whether the rules of the road and supervisory oversight will be focused more on the Swiss Financial Market Supervisory Authority. However, in your testimony you state, as you have again stated today, that "Facebook will not offer Libra digital currency until we have fully addressed the regulatory concerns and received appropriate approvals."

My first question is: Do you agree with me that the United States should lead in establishing the rules of the road and the legal oversight of Libra and similar digital currency initiatives?

Mr. MARCUS. Chairman, thank you for your question. Yes, absolutely, I agree that the U.S. should lead, and I want to reaffirm that we chose Switzerland not to evade any responsibilities or oversight but, rather, because it is a well-established international place with headquarters for WHO, WTO, even the BIS, Bank of International Settlements. And despite the fact that the Libra Association will be headquartered in Switzerland, it will still register with FinCEN and, as a result, will have oversight from U.S. regulators. But I completely agree with you, Chairman, that the U.S. should lead.

Chairman CRAPO. I appreciate that, and you have already indicated that you see that in the United States you will need to deal with FinCEN, OFAC, SEC, and some State regulators. I have been thinking about this question. The United States approaches the regulation of data and data privacy in a sectoral way. We have multiple regulators over different pieces of economic activity and other types of social activity. Europe does this differently, for example, through its GDPR, where it is a broad-based rule across sectors.

If you look at just FSOC in the financial world, we have got the Treasury, the Federal Reserve, the SEC, the FDIC, the OCC, CFPB, the NCUA, the CFTC, the FHFA. And I guess my question to you is: Have you analyzed and determined in our sectoral ap-

proach to regulation which of all of these regulators would have a piece of creating the rules of the road if the United States stays on this sectoral approach?

Mr. MARCUS. Chairman, this is not for me to say, but all I can say today is that we are committed to working until we satisfy all the concerns and meet the regulatory bar before we proceed. In the U.S. there are a number of regulators that we are engaged with, and we are also engaged with the G7 working group that includes finance ministries and central banks that are looking into Libra, and we are working collaboratively with them as well.

Chairman CRAPO. Well, thank you. And it seems to me—I understand that you cannot tell us which agencies really are going to take a claim to some piece of what is happening with the establishment of Libra. But you have committed that you will comply with the regulatory requirements of all U.S. regulators.

Mr. MARCUS. Yes, Chairman.

Chairman CRAPO. Let me go quickly to one more question. I have got a lot of them. I will have to submit some of those to you after the hearing. You recently told the Banking Committee that Facebook, Inc., collects data from transactions that occur on platform and use it for advertising and personalization. Briefly, would you please describe the personal data collection from on-platform transactions? And what I am talking about is will this type of information be collected for on-platform transactions that use the Calibra wallet? For example, when a user buys a product on Facebook through Calibra, will Facebook, Inc., allow other digital wallets to be used within its family or products? And if you could, just explain how that will work.

Mr. MARCUS. Chairman, one thing is really important, and I want to state this very clearly. We will have with the Calibra wallet to compete with a number of other wallets that will operate on top of the Libra network, and the Libra network will be interoperable, meaning that wallets can send money from one wallet to another wallet, which is not possible with the current system. And as a result, to earn people's trust, we will have to have the highest standards when it comes to privacy, and the way we have built Calibra is that no financial data or account data that is actually collected in Calibra to offer the service will actually be shared with Facebook, and the way that we have built this is to separate social and financial data because we have heard loud and clear from people they do not want those two types of data streams connected. So this is the way the system is designed.

Now, for transactions that would happen on any of our family of apps, the same way that any merchants completing a transaction, we will offer many options, including, of course, the option for people to pay with credit, debit cards, and other wallets, as well as with their Calibra wallet.

Chairman CRAPO. All right. Thank you.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

I would point out in response to Chairman Crapo's questions, you are the only one with—we talk about competition, but you are the only one with a reach of 2 billion people, so that is important to remember.

Facebook has a long track record of abusing users' trust. You know that, Mr. Marcus. Until recently, you headed Facebook's messaging team as they were allowing—you were allowing other companies like Netflix and Spotify and the Royal Bank of Canada access and read Facebook users' private messages. So be clear about what went on at Facebook. Facebook told us they were keeping our data safe when they were really allowing other companies to sift through private messages. You had to shut down those programs after a huge backlash.

Over and over, Facebook has said, "Just trust us," and every time Americans trust you, they seem to get burned. Facebook told the FEC in 2012 that it would stop abusing our data, and then last week got a \$5 billion, with a "B"—five-thousand million—fine for violating that agreement. As we know, you have even run psychological experiments on users.

So sitting here today, Mr. Marcus, after all the times Facebook has abused the public's trust—and you know that—do you really think people should trust Facebook with their hard-earned money? Yes or no.

Mr. MARCUS. Senator, you heard it directly from Mark—and I will reiterate this—that trust is primordial—

Senator BROWN. I did not hear it directly from Mark. I am hearing it from you.

Mr. MARCUS. Trust is primordial, and we have made mistakes in the past, and we have been working and are continuing to work really hard to get better, and we have invested in a number of programs, notably on privacy, election integrity, and a number of other issues. But I want to answer your question directly for Libra. The reason we designed Libra in such a way that Facebook will only be one among 100 different members of the Libra Association and will have no special privilege means that you will not have to trust Facebook. We understand—

Senator BROWN. Well, Mr. Marcus, you know better than that. You know that only Facebook has access to 2 billion people, and to say that you are just one of many is simply not true. After people's data and private messages have been stolen and sold, after you have let Russian bots try to throw the 2016 election—with no contrition, I might add—after you have abetted genocide in foreign countries, you really think people should trust you with their bank accounts and our economy? I just think that is delusional.

Let me ask a related question. If you think hardworking families should trust Facebook's monopoly money, I would like to see how much you and your company trust it. You get a paycheck in dollars, I assume. I assume you get some pretty good compensation in Facebook stock, too. Will you pledge today in this Committee that you and your team who are working on this project will accept 100 percent of your salary and other compensation in this Facebook currency?

Mr. MARCUS. Senator, Libra is not designed to compete with bank accounts or compete with those things—

Senator BROWN. That is not the question. The question is: Will you accept all of your compensation in this new currency that you want us to trust you so much?

Mr. MARCUS. Senator, Libra is not meant to compete with bank accounts. We will, for instance, not pay interest. It is like cash, like digital cash.

Senator BROWN. That is really avoiding the question. Do you trust your currency so much that you and your team are willing to see 100 percent of your compensation be paid to you in that currency? Which it could be if you decided it could.

Mr. MARCUS. Senator, if your question is whether I would trust all of my assets in Libra, the answer is yes, I would, because—

Senator BROWN. No, my question was—

Mr. MARCUS. —and my pay.

Senator BROWN. —do you trust this enough to make your compensation paid fully in your currency?

Mr. MARCUS. Senator, I would because it is backed one for one with a reserve—

Senator BROWN. You could have said yes at the beginning of the question then.

Mr. MARCUS. Senator, with respect, I wanted to clarify that we are not trying to compete with bank deposits or—

Senator BROWN. Let me finish with the last question. You said you are open to Facebook about your company creating—you have said that you are open to feedback about your company creating a new currency. I have told you I think this is a bad idea. The Republican Chairman of this Committee has raised concerns. The Democratic Chair Maxine Waters in the House has demanded you give up on this project. The Chairman of the Federal Reserve sat in front of this Committee at the Humphrey-Hawkins hearing last week and voiced numerous and serious concerns. Even the President of the United States has told Facebook to back down. That is not to mention the many international leaders who have raised serious, serious alarm.

My question is this: Is there anything, Mr. Marcus, that elected leaders and economic experts can say that will convince you and Facebook that it should not launch this currency?

Mr. MARCUS. Senator, we agree with all of the concerns, very legitimate concerns that were raised by Chairman Powell, Secretary Mnuchin, and many others. And this is why we released our white paper so much ahead of any public launch, because we wanted to ensure that we take the time to get this right, and getting this right means addressing these concerns in full and ensuring that there is proper regulatory oversight for this project. And we are fully committed to doing what it takes to get there.

Senator BROWN. But, Mr. Marcus, with all due respect, if all of us who have seen the collective amnesia of this Congress in terms of what happened 10 years ago, in my Zip code in Cleveland, 44105, where there were more foreclosures than any Zip code in the United States a decade ago, if all of us find this to be a bad idea, think you should not do this launch, are you still going to do it?

Mr. MARCUS. Senator, what I heard from Chairman Powell, from Secretary Mnuchin, and many others is that there were serious, legitimate concerns that arose from Libra, and I will commit again to do what it takes to address these concerns; and if those concerns

are not addressed and if the regulatory oversight is not appropriate, then, you know, we will not launch until it is.

Senator BROWN. That speaks a lot, Mr. Chairman, to their accountability and their trustworthiness. Thank you.

Chairman CRAPO. Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman. Thank you, Mr. Marcus, for joining us.

Let me just say it strikes me as wildly premature for us to come to the conclusion that we have to act now to prevent what could be a very constructive innovation in financial services. I think there are tremendous potential benefits in blockchain technology and cryptocurrencies. I can imagine, I think it is clear they could help us lower payment transaction costs. They could facilitate access to capital. They provide pseudonymity. They could provide levels of security that other forms of currency have not. Limited pick-up as a medium of exchange might be explained partly by the volatility of these cryptocurrencies, and here we have what strikes me as an interesting iteration maybe, including a mechanism to provide a diminished volatility, which is backing it with a basket of currencies.

So I just think we should be exploring this and considering the benefits as well as the risks and take a prudent approach. But to announce in advance that we have to strangle this baby in the crib I think is wildly premature.

Let me ask a question, Mr. Marcus, about the ultimate motive of this. It seems to many of us that if this were to unfold as you have described and Calibra and Libra were adopted widely, there would be very, very valuable data about payments. In your testimony, my understanding is you have said that it is your intention—this is for Calibra—never to share that data without consent. So is it the business model, is it the plan to at some point in the foreseeable future seek the consent of the participants so that you would be able to commercialize that data somehow?

Mr. MARCUS. Senator, no, this is not the intention at all. The plan, as far as Facebook is concerned, to monetize Calibra and this initiative is actually to enable the 90 million small businesses that are currently on the Facebook platform and the many users that are on the platform as well to engage in more commerce together; and if they engage in more commerce, there will be more advertising spend from those small businesses. That would be a first indirect effect of having Calibra and the Libra network be successful, and then over time, what we hope is that through the Calibra wallet we can offer more services in partnerships with existing banks and financial services companies to drive new revenue streams for the company.

Senator TOOMEY. So the intent is never to even seek the consent of the consumer with regard to that payment data, consent to commercialize?

Mr. MARCUS. Senator, I cannot think of any reason right now for us to do this.

Senator TOOMEY. My understanding is that the basket of currencies invested in very liquid, high-quality assets that is used as to provide the intrinsic value of this currency, there would be presumably income from that. We have got a lot of negative interest

rates around the world, but let us assume that we have got more positive interest rates than negative. That generates a revenue stream, and I think from your testimony the intent is to use that to cover some various costs.

But at some point that could become very, very substantial, and I saw a reference to paying out dividends to the founders, the original investors. But this is also described as a not-for-profit. So it strikes me as odd for a not-for-profit to generate what could be huge income and then distribute it to the investors. That sounds like a for-profit.

And so one possibility is you could pay dividends in Libra to reflect the value of the income from the underlying assets, but could you explain how paying potentially unlimited dividends to the investor is not a for-profit operation?

Mr. MARCUS. Yes, Senator. Thank you for your question.

First, I want to address the fact that Libra does not pay interest because Libra is like cash and is mainly going to be used as a payment instrument. And as far as the interest and the not-for-profit question goes, the way that this is structured is that it will have some income that is actually targeted toward paying the operating costs of the association and potentially returning some return to all of the organizations that will invest in the ecosystem to make it happen. But the plan is not for this income to be, you know, unlimited and to be, you know, all of the income going back to investors. Obviously, we will need to find a way over time to create new pools of incentive that go back to people in businesses using the Libra network, and this is part of the conversation we are notably having on how to manage the reserve and the returns and how to have appropriate oversight on the reserve with this working group that the G7 organized with central banks, finance ministries, and the FSB. And I believe that the reserve will require very specific oversight and a regulatory framework in order to ensure proper management.

Senator TOOMEY. Thank you, Mr. Chairman.

Chairwoman Waters. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman and Ranking Member Brown. Thank you for being here today, David. I appreciate you being in front of the Committee.

I have some concerns, a number of concerns, one of them being consumer security. In cryptocurrencies like bitcoin, transactions are final. That means if somebody gets hacked, if somebody steals bitcoin, there is not much I can do about it. On the other hand, if somebody steals funds from a bank account or makes fraudulent charges on a credit card, the consumer for the most part almost always is held whole by the institution. How will Libra handle theft?

Senator TESTER. Senator, I can speak for the Calibra wallet, and the Calibra wallet will offer consumer protection against fraud and account recovery the same way that the leading wallets today out there and financial services companies provide customer protection.

Senator TESTER. OK. So in a situation where a fraudulent charge has been made with my account, you are saying that Calibra will make the consumer whole, correct?

Mr. MARCUS. That is correct, Senator.

Senator TESTER. Is that immediate? Will that be immediate? And will it be without question? So what I am asking is: I pull out my driver's license and my credit card falls on the ground, that is really my fault. But when they take that credit card to Cleveland, Ohio, and buy hoverboards with it, the bank always makes it fine. OK? The question is—and it is immediate. Will it be immediate in your case?

Mr. MARCUS. Senator, we will do our best to resolve those types of issues and claims as fast as possible, and we are investing heavily in 24/7 live customer support when it comes to the Calibra wallet to ensure that we can resolve those issues for our customers.

Senator TESTER. I think it is critical that that is resolved before it goes live. So when I deposit money into a bank, I am very confident that I can withdraw it from that bank. OK? My grandfather was not, by the way, and that is why even on these homesteads that are around, every once in a while you will find a glass jar full of money, because they did not trust the banks. It was only when we got deposit insurance that the banks had the kind of faith.

What kind of faith do we have in Libra?

Mr. MARCUS. Thank you for your question, Senator. Libra is actually going to be backed by a reserve, one for one, so it is not ever going to be a fractional reserve.

Senator TESTER. OK.

Mr. MARCUS. And as a result, it is designed to be stable and retain its value.

Senator TESTER. I got that. So in 2008, as the Ranking Member pointed out, there was a run on the banks. There were some big companies that went belly up, including 157 banks, Lehman Brothers, WAMU, Bear Stearns, and others. Nobody anticipated there would be a run like there was. Nobody.

How can you assure us—and, by the way, I still felt confident that my money was safe in my bank. How can you make those assurances? How can you do it when we are talking about a for-profit entity—whether it is called nonprofit or not, it is a for-profit entity. You are not doing this just for the fun of it. How can we be assured that our money is going to be there?

Mr. MARCUS. Senator, when it comes to Libra, because the reserve is actually one for one and not fractional, the issue we have had and the events that you highlighted were because some of these institutions did not have the appropriate reserves.

Senator TESTER. OK.

Mr. MARCUS. And we also want the appropriate regulatory oversight to ensure that anyone will have the ability to understand how big the reserve is and how many Libra coins, if you will, are in circulation at any given point in time to rest assured that the value they hold is backed at any given point in time with the same amount in the reserve.

Senator TESTER. So when we met last week—and thanks for coming in. By the way, the reserve question has to be answered, and it has to be something, by the way, that is not up to you guys to determine what that reserve is, because when times get tough, stuff happens, OK? And so there has to be that kind of reliability there for that; otherwise, we are in no different situation as we were in in the 1930s, because you are a big outfit.

There have been a lot of comments about Facebook today that was brought up about some of this stuff that has happened on Facebook that has not been meritorious—and I am being generous—and it is true. And it has to do with bad actors because, quite frankly, there are people on Facebook that are doing stuff all the time that have a different agenda than right and good and mom and dad and apple pie and Chevrolet. OK? How are you going to prevent bad actors from using the application? And the past performance with Facebook has been not that aggressive. Let the money come in, we will worry about it later. And it has had some pretty negative impacts on a lot of stuff worldwide. Tell me how you are going to prevent bad actors from using this. And then I will shut up.

Mr. MARCUS. Senator, when anyone will open a Calibra account—because you will need to open a separate account. You cannot actually just use your Facebook account to open a Calibra wallet. You will have to authenticate and upload your Government-issued ID. As a result, we will have real identity on top of the Calibra wallet, and we will have systems and a dedicated team to prevent fraudulent activity and, of course, to meet our requirements of anti-money-laundering and counterterrorism funding monitoring.

Senator TESTER. It is a huge issue, and I think it would benefit this effort if Facebook did a better job right now doing exactly what you said. Thank you for being here.

Chairman CRAPO. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. Mr. Marcus, thank you for being here.

First off, I would like to associate myself with some of the comments of Senator Toomey. I think it is a good idea for us to explore this because, quite honestly, cryptocurrency now is still kind of a wild, wild West that is not very well regulated, and there are a number of examples that I am aware of where consumers have lost everything with their engagement with some of the better-known cryptocurrencies out there.

I am trying to understand the distinction. You are going to have a transaction processing platform that I think several people have agreed to enter a consortium. I assume that that is with the intent of using the underlying platform. You are not creating something that is at the expense of credit card companies or other wallet platforms on the Internet. Is it a facilitator for those and take all comers, assuming that they are trusted payment platforms?

Mr. MARCUS. Yes, Senator, and I want to stress that both Visa and Mastercard are taking this journey with us, as well as PayPal and Mercado Pago and Coinbase and a number of other wallets. But I want to also stress that you do not have to become a member to accept Libra as a form of payment or to build services on top of the Libra network.

Senator TILLIS. Well, that is what I was trying to get at. There is a distinction between a currency, which would be a Libra, and the underlying infrastructure you are providing to facilitate payments. Is that correct?

Mr. MARCUS. That is correct, Senator.

Senator TILLIS. Now I want to get to something that I think you all have to—first off, what kind of capital investment are you all projecting? If you are hoping to launch it next year, I assume you have got a pretty exhaustive implementation plan in place. What kind of capital investment are you all looking at to put in the underlying infrastructure?

Mr. MARCUS. Senator, I think that is one of the reasons why Facebook is an appropriate sponsor as well. We have the resources to innovate, and we are ready to put those resources to build valuable tools for people, and that is what we are going to do here. We have not determined exactly how much we are going to invest, and this is a process that—

Senator TILLIS. So the consortium would be a part of the investment?

Mr. MARCUS. Yes, every member, Senator, will have an opportunity to invest and participate in funding the network.

Senator TILLIS. I think something that would be very helpful for this Committee and maybe other Members is to get really a briefing on the entire stack here. I think you have said repeatedly you are not a bank. You are not going to hold deposits. You cannot have a run in a traditional sense. I understand what you are doing with the reserve, I guess, for transactions and process. I think it would be very helpful for the Committee Members and staff to understand that, so a briefing of that type would be—what I have been able to study on the Internet is fairly limited in terms of really understanding the stack, and then understanding what parts of the stack probably should be subject to some sort of regulatory oversight.

I do want to express a concern. We had a Committee hearing on Judiciary, I think it was just last week, talking about how social media platforms have been hijacked by transnational criminal organizations, by pedophiles, by sexual predators. I do not think that you ever implemented—or no social media platform, I hope, was implemented for that purpose. But people are smart and devious, and they hijack it. I hope that is not part of your implementation and you are looking at all the ways that your payment platform, like all the other ones, could be potentially exploited for criminal activity. That is another reason why I think a briefing on the fuller architecture, the implementation timeline, maybe your own suggestion of where regulatory oversight would be pretty important to making sure you are going to create a trusted platform. We need to get that kind of information to the Committee and to the Members who are interested in digging in.

I believe that if—the United States can either follow some other jurisdiction on pursuing this, or we can lead, and I believe in the same way that we have the gold standard for the banking system in the United States, we have an opportunity to set an international standard that will ultimately provide greater consumer protections for a lot of the other upstart equivalent—not exactly equivalent architecturally to what you are planning on doing. So I think it is worth you all doing this. I do have concerns about privacy, about potential exploitation of the platform, but I believe the United States, our regulatory environment, and a consortium that is well funded is more likely to produce a gold standard, something

that does drive down the cost of transactions, actually providing better value for people who have the least amount of money to pay the transaction fees that they are paying today. So I look forward to seeing this develop.

Thank you.

Mr. MARCUS. Thank you, Senator.

Chairman CRAPO. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman. Good to see you, Mr. Marcus.

I am all for financial innovation and better payment methods. I am intrigued by blockchain and distributive ledger technology, but I share a lot of the concerns that my colleagues do up here, particularly with an enterprise as large as yours, 2 billion users.

If we look back during the antitrust investigation of Microsoft during the 1990s, the Justice Department found that a key strategy that Microsoft used, which was internally dubbed “embrace, extend, extinguish,” just that the strategy was to go out and find new technology and then either copy it or buy it up—I call it “catch and kill.” It has been a methodology that Facebook has used extraordinarily effectively, buying up or copying other emerging technologies that might be disruptive to your dominance.

Now we move into blockchain, which, again, has the ability to be extraordinarily disruptive. Why shouldn’t we view Facebook’s efforts here with Libra and Calibra simply as another manifestation of the catch-and-kill approach?

Mr. MARCUS. Senator, I am glad you asked that question, because the way that we have developed the technology, the early technology for Libra, is that we have invested, we put our best engineering talent in building the code base, the technology for the Libra network. And then what we did is we open-sourced it, and as a result, it does not belong to us anymore. It is now belonging to the community, and they will help build the code, and we will relinquish our control over both the code base and the network through the process.

Senator WARNER. Let me follow up then because—will you commit that Facebook will not develop preferential incentives that unfairly tie Calibra, which is going to be your money-making venture, to other Facebook products as a way from prohibiting Libra users to use wallets other than Calibra?

Mr. MARCUS. Senator, I would even go further, which is that not only have we started the technology and shared it in open source, but the network is actually completely—

Senator WARNER. No, that is not the question. The question is incentives within your existing products. You did not answer Chairman Crapo’s question, where he said with your dominance how do you make sure that your already existing global platforms like WhatsApp and Messenger will actually support third-party wallets. Will you at least clarify your answer to Chairman Crapo’s question and say Facebook will make sure that WhatsApp and Messenger will support third-party wallets?

Mr. MARCUS. Senator—

Senator WARNER. Yes or no.

Mr. MARCUS. Senator, I want to clarify because there is a new—

Senator WARNER. Not clarification. This is a fair—you did not answer Chairman Crapo. Please answer my question.

Mr. MARCUS. Senator, the network is interoperable, meaning that people who are using the Libra network from within WhatsApp will be able to send and receive from other wallets—

Senator WARNER. The other—

Mr. MARCUS. —not Calibra wallets.

Senator WARNER. So if a user wishes to use—a Facebook user wishes to use a wallet other than Calibra, will you make it easy to allow export of their keys, their financial data, and other Calibra data—if somebody started as a Calibra wallet user and would decide I do not want Calibra anymore, I want to go to Nuco, will you make it easy for them to move their keys, their data, their financial information all over to that other third party?

Mr. MARCUS. Absolutely, Senator.

Senator WARNER. So right there you have agreed on data portability and potential interoperability in terms of the use of these wallets. So my hope will be you will have that same approach when I lay out my legislation for data portability and interoperability on existing platform use. So I hope your commitment on Calibra will extend to your current applications as well. Can I get a commitment there as well?

Mr. MARCUS. I cannot commit for other parts of the company, but—

Senator WARNER. I appreciate that you have been willing to work with us, but it would be really great if you would go ahead and make that same commitment on Facebook basic products, because if we want to bring in competition, you have got to have that data portability and interoperability. But at least on Calibra, you are on the record as making sure that you will put no barriers in place to moving from one wallet to another.

Mr. MARCUS. Senator, we believe that this is actually primordial for the Libra network, that consumers have the ability to move from wallet to wallet to ensure that there are good, competitive dynamics that work in favor of consumers. We really believe that.

Senator WARNER. And so, again, I will come back again to Chairman Crapo's question about your globally dominant products already in terms of WhatsApp and Messenger. They will support third-party wallets other than Calibra.

Mr. MARCUS. Senator, I want to clarify, which is—

Senator WARNER. Every time you start with, "I want to clarify," it gives me a great level of pause. Chairman Crapo has asked the question. I have asked the question. It seems to me pretty simple. WhatsApp and Messenger, globally dominant products, will they support third-party wallets or will they have incentives that will push people to simply using the Facebook product Calibra?

Mr. MARCUS. So this is why I want to clarify, Senator, if I may, because it is a nuanced answer. If your question is whether we will embed other wallets inside of WhatsApp and Messenger, the answer is no. If you are asking whether other wallets will have full interoperability, meaning that you do not have to use the Calibra wallet inside of Messenger and WhatsApp to be able to send or receive money to people who are using the Calibra wallet inside of Messenger and WhatsApp, the answer is yes.

Senator WARNER. Embedding is different than putting preferential treatment and preferential areas—I did not get to the questions around third-party developers having some concerns about getting access. But, again, Mr. Chairman, I think some of your questions that you have asked is one of the reasons we are going to need to take a great deal of time to work this through. Thank you, Mr. Marcus.

Chairman CRAPO. Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman. Mr. Marcus, thanks very much for appearing here before us today.

Before I begin my questions, I just want to take a moment to commend the South Dakota Division of Banking for their forward thinking and willingness to allow for innovation in the digital currency space. Another founding member of the Libra Association, Anchorage, just received permission from the Division of Banking to become a South Dakota-chartered trust company. Thanks to the business-friendly climate in my State, Anchorage, which is a Silicon Valley cryptovault company, has chosen to open its second headquarters in Sioux Falls, South Dakota. The significance of this extends far beyond the borders of South Dakota. Our Division of Banking should serve as a model for how Governments can study and learn about digital currencies while at the same time allowing pioneering companies like Anchorage to innovate and try out new products and services. So, once again, congratulations to Anchorage and welcome to South Dakota.

I am curious. I have had an opportunity on several different occasions to travel to Africa and to watch what is going on within Africa and the challenges they have there with very small amounts of value within their own currencies, and yet on a day-to-day basis there are literally millions of people there that look to buy very small, incremental items on a day-to-day basis. They do not have any type of a product out there today really that works well that is internationally based.

Can you talk a little bit about what you see in other countries, the direction they are going and what the opportunities are for this type of a platform to allow a very simple and inexpensive way to transact for values received or currencies or products, commodities, and exchange without a high cost of doing so? Just a thought in that regard. I have not really heard that discussed yet today.

Mr. MARCUS. I appreciate your question, Senator. The way that anyone in the world will have the ability to use Libra using the wallet of their choice will be to install a small app on a \$40 Android device with a basic data plan, and from that point on have the ability to move from the cash economy to the digital economy and benefit from having the ability to transact not only domestically but internationally at very low or no cost and benefit from services that will be built on the Libra network by other companies as well. And as a result, we really hope—and this is our ambition—that we can lower the barriers for access to modern financial services and massively lower costs for the people who need it the most, and in the process potentially also lower access to capital because if suddenly you have a global platform that enables free or low-cost money movement, then access to capital should be cheaper and the barriers will be lower as well.

Senator ROUNDS. See, I think you are going to have a lot of competition. I think there are going to be a lot of different organizations that understand that this is the wave of the future. And I think the questions have been fair with regard to the different applications that are out there and how they would fit on your platform and be allowed, and I think that is going to be an item of discussion for some time to come.

But with it also comes kind of the regulatory layout that you work within. You have chosen to set this up in Switzerland. What did Switzerland offer that the United States did not? And what is it about our regulatory framework that puts us perhaps at a disadvantage?

Mr. MARCUS. Senator, the choice of Switzerland, again, is not to evade any responsibility or regulatory oversight. It was really because we believe that a global digitally native currency that will be used by people all around the world would benefit from being headquartered in an international place that is also the home of many respected international organizations, and that was where we came from.

The reality, though, is if you look at the current composition of the Libra Association members, those are mostly American companies. Calibra is an American subsidiary of a large American company. It will be licensed and operate in the U.S. And I think that the beneficiaries in terms of companies of the Libra network will likely be American companies under the American jurisdiction and with proper regulatory oversight in the U.S.

Senator ROUNDS. I think the proposal that you have has huge potential, and I think the challenges for the transaction of the exchange for services and so forth today still has lots of obstacles to be overcome, including that of security and privacy. But, nonetheless, we are going to look forward to observing and participating in this because I really do think it is the wave of the future, and as Senator Tillis said, we are either going to be responding to it, or we can be actively involved in learning from it.

Thank you.

Chairman CRAPO. Senator Cortez Masto.

Senator CORTEZ MASTO. Mr. Marcus, thank you very much. We appreciate you being here and answering the questions. This is obviously very, very innovative for all of us, and it is exciting, but I do have a couple of questions to see if you have thought through some of the concerns I think many of us also have.

One of them for me in particular, something I dealt with as Attorney General of the State of Nevada, is the issue of money laundering. I know there is clear regulatory oversight that we have right now to address the issue of money laundering. That comes in so many forms, but one of them is terrorist financing that supports—the money laundering supports in terrorist financing.

So my question to you is: How will the Libra Association itself be ensuring that it is guarding against any type of money-laundering activity? Have you thought about that?

Mr. MARCUS. Yes, Senator, and this is something that I care about deeply personally, and the way we are thinking about protecting the integrity of the network from money laundering, criminal activity, terrorism funding is by not only moving a lot of cash

transactions into the digital world—you know, cash transactions is where most crimes currently happen, and we believe that if a lot of transactions move to digital, it will be better. And the way that we are applying AML programs is that, as far as the Calibra wallet is concerned, we will have strong identity, because for every new Calibra account opened, you will have to upload a Government-issued ID and authenticate. And as a result, we will have AML programs on the Calibra wallet.

As far as the Libra network is concerned, we will have an AML program as well. And despite the fact that the Libra Association will be based in Switzerland, it will register with FinCEN and as a result will have to comply with AML and KYC practices.

Senator CORTEZ MASTO. I am glad you just brought up FinCEN because that was my next question. Would the association itself fall under the Bank Secrecy Act jurisdiction?

Mr. MARCUS. Senator, the association will not actually touch consumers. It will process—it will just organize—

Senator CORTEZ MASTO. So who is going to be subject to the Bank Secrecy Act and FinCEN then? I guess that is my question.

Mr. MARCUS. So the Calibra wallet and all of the wallets that are operating under their jurisdiction will, of course, comply with BSA, will perform KYC and have AML programs. And we are engaged with Treasury on this to make sure that the setup of the network is not only not going to take a step back in terms of the efficacy of the AML and CTR programs—CFT programs, but improve the efficacy because of the way that we are implementing and configuring the network.

Senator CORTEZ MASTO. So you are currently talking right now with FinCEN to get sign-off on how you address money-laundering issues?

Mr. MARCUS. We are, Senator.

Senator CORTEZ MASTO. OK. I appreciate you providing more transparency around that. And let me just say this is a new day and age when it comes to cash and carrying around a briefcase full of cash. Transnational criminals and terrorists do not do that anymore. And what you are creating right now is an opportunity for them to engage in continuing money laundering and criminal activity. So know that. That is one. To say that we are going to be complying with AML activities is one thing. I want to see the specifics of it, so I appreciate your willingness to talk with FinCEN and talk with us about how we address this issue.

Another one that has come up, as I sit on the Banking Committee here, and we have talked about it several times, is sanctions laws. The head of policy and communication for Libra was recently on a podcast and was asked how Libra would react if a Government like the United States required that the Libra Association blacklist certain addresses in order to comply with sanctions laws, as is typical in what we do here. The response was, I quote, “The association will not interact with any jurisdiction. It will instead leave that to the entities that provide an on and off ramp to Libra, the currency.”

Can you clarify that? How are we supposed to address this issue when it comes to blacklisting and sanctions laws?

Mr. MARCUS. Senator, this is a question that we are also engaged with the Treasury Department on, and the one thing that we have committed is that we will respect the Travel Rule and as a result perform the right checks, and including OFAC checks. And this is definitely true for the Calibra wallet.

I do not know in what context those comments were made, but I believe that it may be because the association itself is not running anything. It is just coordinating governance. But the actual service providers that are going to be regulated service providers will enforce Travel Rule, perform OFAC checks, and ensure that those who are subject will, of course, perform those functions.

Senator CORTEZ MASTO. Thank you. I notice my time is up. I have further questions. I will submit those for the record as well. Thank you.

Mr. MARCUS. Thank you, Senator.

Chairman CRAPO. Senator Kennedy.

Senator KENNEDY. Mr. Marcus, I am going to move kind of fast here today, so I apologize in advance if I interrupt you. We only have 5 minutes.

I want to first agree with a lot of the comments that Senator Toomey made. We need to encourage innovation. But I want to explore today the underpinnings of Libra.

Can we agree that a banker should be trustworthy?

Mr. MARCUS. Yes, Senator.

Senator KENNEDY. Can we agree that a banker should be honest?

Mr. MARCUS. Yes, Senator.

Senator KENNEDY. Can we agree that a banker should respect a customer's privacy?

Mr. MARCUS. Senator, yes, of course, but we are not going to engage in banking—

Senator KENNEDY. Can we agree that Facebook knew in the spring of 2016 that Russia was attempting through Facebook to disrupt the U.S. Presidential election?

Mr. MARCUS. Senator, with regards to those events, we definitely moved too slow, and we—

Senator KENNEDY. Isn't it true that your general counsel and your chief security officer knew in the spring of 2016? Isn't it true that Mr. Zuckerberg and your CFO, Ms. Sandberg, I believe, knew in December of 2016? Isn't it also true that you did not tell your board of directors—they did not tell the board of directors until 2017—until September 2017? Isn't that accurate?

Mr. MARCUS. Senator, we definitely moved too slow to recognize the activities that were happening on the platform, but since—

Senator KENNEDY. Excuse me for interrupting, but I have only got 5 minutes. In September 2017, when senior management told your board of directors, you also issued—Facebook also issued a statement. It said, yeah, the Russians have tried to disrupt the election through Facebook, but they only spent \$100,000, and they only ran 3,000 ads. That was a lie, wasn't it?

Mr. MARCUS. I am sorry, Senator?

Senator KENNEDY. That was a lie, wasn't it?

Mr. MARCUS. I do not believe it was, but—

Senator KENNEDY. Well, later Facebook admitted that actually the Russian ads had reached 126 million people, didn't they?

Mr. MARCUS. Senator, I believe that the people who answered that question at the time answered to the best of their knowledge at the time.

Senator KENNEDY. Right. When Mr. Zuckerberg was conducting his listening tour across the whole country, the first half, I think, of 2017, when he was feeding cows in Wisconsin and having dinner with refugees in Minneapolis, he knew about the Russian involvement, didn't he?

Mr. MARCUS. I do not know, Senator.

Senator KENNEDY. OK. He did not say anything, did he?

Mr. MARCUS. I do not remember the timeline, Senator.

Senator KENNEDY. OK. In the spring of 2017, spring and summer, our Intelligence Committee in the U.S. Senate started investigating the Russian attempts to disrupt the election through Facebook. Facebook issued a statement saying there were no such attempts. That was a lie, wasn't it?

Mr. MARCUS. Senator, I cannot—I do not remember the timeline, and I believe that people have always answered truthfully with the information they had at the time.

Senator KENNEDY. OK. In June of 2018—let me fast forward a little bit—we found out that Facebook was sharing user data with device makers, a whole bunch of them, 40 of them—Amazon, Microsoft, Samsung. Facebook did not disclose that to the user, did it?

Mr. MARCUS. Senator, my understanding—and, again, it was not my responsibility or my team—is that this was designed to enable those phone manufacturers to build integration within the Facebook product to serve those consumers using these devices.

Senator KENNEDY. OK. Your algorithms are such that if I watch a video on a topic, I am immediately shown videos on more extreme versions of that topic. We call that “stickiness.” Is that correct?

Mr. MARCUS. This is not the way that the Facebook platform operates today, Senator.

Senator KENNEDY. But it did for a long time, right?

Mr. MARCUS. Senator, Mark really led through the—

Senator KENNEDY. Well, can we agree on this, that Facebook has now become the major news source for many, many people, probably the major news source. Is that true?

Mr. MARCUS. I do not believe it is, Senator. I believe that more and more people are interacting with other people on the platform—

Senator KENNEDY. Well, 60 percent of your users say they get their news off Facebook as their primary source.

Isn't it true—I really want your opinion—that Facebook has chosen to advance a set of values in which truthful reporting has been displaced by flagrant displays of bullshit?

Mr. MARCUS. I do not know how to answer that question, Senator.

Senator KENNEDY. OK.

[Laughter.]

Senator KENNEDY. Well, here is my last question, and I agree again with Senator Toomey. I have great respect for Facebook. But Facebook now wants to control the money supply. What could possibly go wrong?

Mr. MARCUS. Senator, we will not control either Libra, the currency, or the association. And we agree that no company should control such a network or digital currency.

Senator KENNEDY. I would like a second round, if we could, Mr. Chairman.

Chairman CRAPO. If we have time, I will be glad to do that for Senators who so wish.

Senator SMITH.

Senator SMITH. Thank you very much. Welcome.

I have got a lot of questions about this. You will understand the level of skepticism that you see here, and I appreciate you being here to answer our questions.

I want to try to understand a little bit better this association. So the Libra Association expects to have, you think, about 100 founding members who together you say will be making decisions about investment strategy and regulatory compliance and social impact goals. Who is in charge?

Mr. MARCUS. Senator, the way that the governance of the association works is that you will have this council of 100 or more members that will make decisions and will elect a board that will be between 5 to 19 members, and that board will then, of course, elect a managing director, and the association will have a staff to perform the governance function that it is supposed to look after.

Senator SMITH. You know, in the U.S. Senate, we also have 100 members, but it is clear who is in charge. Mitch McConnell is in charge. And so I am trying to understand in this sort of—

Senator KENNEDY. I thought it was shared.

[Laughter.]

Senator SMITH. Chair Crapo is in charge of this Committee.

I am trying to understand. You describe sort of almost a consensus—will decisions be made on a consensus basis? I understand that there is some sort of a two-third majority, but help me understand how decisions get made.

Mr. MARCUS. Of course, Senator. The decisions are basically—the structure of the governance is one where there are certain things that should be really hard to change, and those are important things to the spirit of how the network is supposed to operate, the spirit in which the reserve is supposed to operate. And I believe that when it comes to the reserve, by the way, we will need appropriate regulatory oversight.

Senator SMITH. Would there be like a constitution or a body of rules that would be agreed to ahead of time that would guide the decision making?

Mr. MARCUS. Yes, Senator, and it will be made public.

Senator SMITH. And how do you parse out kind of minority rights versus majority rights on this board?

Mr. MARCUS. As it stands, the way that it is starting, every member, if we have 100 members, will have an equal voice at the council.

Senator SMITH. Well, what if there is a disagreement and there is—you know, is the minority then just automatically overwhelmed by the majority in this board?

Mr. MARCUS. It will depend on the type of decision. Not all decisions will need supermajority to reach a consensus, Senator.

Senator SMITH. So it seems to me possible in any board, in any group of humans, people develop coalitions, and it just seems to me that there is a big question about how, you know, every voice is going to be heard in this incredibly powerful association headquartered in Switzerland.

Is this board like a corporate board in the sense—what if there was a conflict of interest that developed?

Mr. MARCUS. We hope that we will avoid conflicts of interest, of course, Senator, but, again, we have a lot of work to do between now and the launch, and this is why we shared our white paper early on, to get all of the feedback and the input and ensure that we can address all the concerns, get proper regulatory oversight, and part of that is also going to be governance of the association.

Senator SMITH. Well, I think these are really, really important questions, because we are imagining this association headquartered in Switzerland that would have amazing power over the financial health of this country, over my constituents, and over—you know, so I think these questions of accountability are extremely important.

Let me switch topics a little bit. What is the long-term business opportunity for Facebook here?

Mr. MARCUS. Senator, two business opportunities. One is really the ability for the 90 million small businesses and the many users we have on the platform to transact with one another, so as a result, more commerce on the Facebook platform and our family of apps. And if there is more commerce, there will be more advertising revenue for Facebook. So that is one indirect effect of enabling—

Senator SMITH. More commercial activity on Facebook equals more money for Facebook, more money.

Mr. MARCUS. Yes, Senator. And the other part of it is if we earn people's trust with the Calibra wallet and they decide to use it over time, we can offer in partnerships with financial institutions and banks other services that will be new sources of revenue for the company.

Senator SMITH. So competing on wallet, you know, getting a bigger market share of wallets. But it seems to me—I know I am out of time, Mr. Chair, but it seems to me that what Facebook is really good at is figuring out how to monetize people's personal data, not only the data that Facebook gets directly but the ambient data that Facebook collects through all of the many, many millions of activities that we take every year. What Facebook is really good at is capitalizing literally on that data. And so I have to say I am not reassured by your statement that you cannot see any reason right now why there would not be data sharing between these platforms.

I have some additional questions for the record, Mr. Chair.

Thank you.

Chairman CRAPO. Thank you.

Senator McSally.

Senator MCSALLY. Thank you, Mr. Chairman.

Mr. Marcus, I do not trust Facebook, and it is because of the repeated violations of your users' privacy, repeated deceit, and I am not alone. As you know, in 2011 there was a consent decree with the Federal Trade Commission related to your privacy practices. So

that is where it started there with investigative bodies, but it has not ended. Even after that consent decree, Facebook is under investigation again, and FTC has approved a fine for about \$5 billion just recently because of your repeated violations of your users' information, for example, you know, without users' permission, sharing personal profile information with outside software developers, selling that off again; data breaches; allegations that you repeatedly change users' privacy settings without notice. The SEC, of course, is also investigating events surrounding the sale of personal information from Facebook. The New York State's Office of Attorney General has an investigation into unauthorized collection of 1.5 million Facebook users' email contact databases. On and on and on. There are allegations of bugs, oh, sorry, we did not mean to allow them to download photos, and it is one after another after another after another. So I do not trust you guys.

So instead of cleaning up your house, now you are launching into another business model with Calibra here, and you have got documents that talk about your privacy commitment for Calibra. So in that privacy commitment, you say that you will not be sharing account information or financial data with Facebook or any third party without customer consent. So how do we know that this is not going to change? And how do we know you are actually going to do that based on your track record of failing and violating and deceiving in the past?

Mr. MARCUS. It is a totally fair question, Senator, and I want to answer it in two parts.

The first is that, as you know, we have been working really, really hard on addressing the issues; some of them you have raised. We have invested incredible resources in election integrity and privacy. Mark has made it his top priority, and we will continue to do that until those issues are fully resolved and addressed to satisfaction.

On the Libra side, we have designed this network in such a way that Facebook does not and will not control it or the currency, and that there will be plenty of competition. And I want to take a moment to explain why there will be a lot of competition.

First, there is interoperability, so regardless of the wallet you choose, you will be able to pay across wallets, which is currently not possible.

Senator MCSALLY. I do not want to get into the technical stuff. I am talking about the trust issue. So you violated privacy in the past as a company. You continue to have issues. You continue to change even the privacy rules without informing users. Yet you are launching a new product, and you are claiming that their privacy is going to be protected. So how are users to know that that is also not going to change and they are not going to be violated? That is what I am getting at. The core issue here is trust.

Mr. MARCUS. And, Senator, the point is really that people can get all of the benefit from this network without using our wallet, and I know that we will have to earn people's trust for a very long period of time in order to get the benefit of them wanting to use the Calibra wallet instead of any of the other wallets they will have the choice of using.

Senator MCSALLY. So let me follow up also. I know Senator Toomey asked a question. Your privacy document says that Calibra

will be transparent, offering customer choices and controls using clear, simple language and easy-to-find privacy controls that detail what data is collected, used, shared, and for what purposes. You are telling me—and I think you said this already, but can you clarify?—the user will not be able to have consent as to their data being collected?

Mr. MARCUS. I am sorry. I do not understand the question, Senator.

Senator MCSALLY. OK. For Calibra, you specifically say in your privacy document that there will be easy-to-understand controls on what is being collected. So will the user have consent for their data being collected when they are using Calibra?

Mr. MARCUS. Yes, Senator.

Senator MCSALLY. So then do they have to consent in order to use Calibra?

Mr. MARCUS. Yes, Senator.

Senator MCSALLY. OK. So that is really no choice, right? So in order to use it, your data has to be collected. There is no option to opt out.

Mr. MARCUS. Senator, if you want to use the Calibra wallet, you will have to, for instance, authenticate and upload a Government-issued ID. And if consumers do not want us to collect that Government-issued ID, for instance, at the very first step, then, of course, they will not be able to use the service, because we will be compliant to KYC regulation.

Senator MCSALLY. So what is the business model of Calibra then? You mentioned the interface with Facebook just recently, that the more people who are using it, the more, you know, people will stay on Facebook. And then you can just continue to collect their personal information and target them with ads and sell off their information. Is that the business model of Calibra? Or how are they going to make money?

Mr. MARCUS. With respect, Senator, that is not what I said. But what I said is—

Senator MCSALLY. But that is actually what happens.

Mr. MARCUS. I will focus on the specific question you asked, Senator, which is that we have 90 million businesses, many of them that grow thanks to the Facebook advertising platform. They are able to reach new consumers. They are able to hire. And we believe that if they now have the ability to sell to more constituents across the Facebook platform and more people have access to the services and products of those 90 million businesses, then more commerce will happen on the Facebook platform.

Senator MCSALLY. A wonderful public good that you guys are committed to. I know I am way over time here, and that was extremely sarcastic. Thank you.

[Laughter.]

Chairman CRAPO. Senator Sinema.

Senator SINEMA. Thank you, Chairman Crapo, and thank you to our witness for being here today.

Mr. Marcus, Arizonans have heard a lot of promises from Facebook over the years about privacy. For example, Facebook promised, when it acquired WhatsApp, that it would not scrape our

message data to deliver targeted ads. But 2 years later, Facebook broke its promise and monetized our personal message data.

With real doubts about Facebook's commitment to privacy, Arizonans are rightfully skeptical about the proposed digital currency Libra. The goal of Libra is to reach the unbanked and underbanked, which is a noble goal. But it is important to remember that those who have not utilized a bank or credit card will be more susceptible to scammers and predatory practices.

Your head of product, Kevin Weil, told TechCrunch on June 18th that there are "no plans for the Libra Association to take a role in actively vetting" developers of wallets, exchanges, or other related apps. But failing to vet developers would expose Arizonans to scammers, which is unacceptable.

Do you stand by Kevin's statement?

Mr. MARCUS. Senator, first I want to correct something, which is that WhatsApp is fully encrypted, so even Facebook does not have access to messages on WhatsApp. But to answer your question, which is a very important one, I would say two things.

One is that while the Libra Association will not get in the way of developers developing things, we will need as an association to find the right approach to ensure that publishing services on the Libra network has controls. And the one thing I wanted to say as well is that financial literacy is really important, and that at the Libra Association there will be grant and investment made into financial literacy.

And as far as the Calibra wallet is concerned, not only will we have consumer protections that will protect your constituents if they ever have a fraud issue, but we will make sure that there is appropriate education in the product from the get-go.

Senator SINEMA. Well, that was very helpful information, but that response does not actually address my concern because Libra's goal is to reach a population that studies show are especially vulnerable to financial fraud and abuse. Without more vetting processes for these developers, Arizonans will be more likely to be scammed using Libra, which can jeopardize their hard-earned savings and financial security.

So while we are on the subject of scams, here is a hypothetical scenario for you. Let us say an unsavory app developer that is based on Pakistan utilizes an exchange that is based in Thailand to rip off an Arizonan who is using a wallet that was built in Spain. So they steal all of their Libra, and that, of course, is minted by an association based on Switzerland. So which law enforcement or governmental agency in which country does the Arizonan call to seek his or her legal and financial recourse in this situation?

Mr. MARCUS. That is an excellent question, Senator, and the answer to that is that your constituents will likely use an American, U.S.-based wallet provider that will have consumer protections and that will make your constituents whole if something bad happens to them.

Senator SINEMA. So in my scenario, this Arizonan was using a wallet that was built in Spain. Would they still have access to American recourse for legal and financial problems?

Mr. MARCUS. Senator, it will depend on the wallet consumer protection, the same way that today you have different consumer pro-

tections and services offered by different financial institutions and others. And I believe that it will be the role of the Libra Association to ensure that there is proper education so that consumers can make informed choices.

Senator SINEMA. I think the point here is that, despite having legal and technical background in this room, this is a difficult question to answer. You posited that they would likely be using an American wallet. But if they were using a wallet from another country, that complicates the answer. This is a real challenge, and Arizonans deserve answers on what rights they would have as consumers and how they would use them.

I also have some national security concerns. Despite granting anonymity, traditional cryptocurrencies are not the first choice of drug cartels, terrorists, and human traffickers because cryptocurrencies are not very easy to use. But Libra is not a cryptocurrency. It is a digital currency that promises both anonymity and ease of use, which raises concerns about its potential exploitation for illicit purposes. I am concerned that drug cartels and human traffickers, major problems, of course, in Arizona and border regions, may try and use Libra to finance their operations along our southern border. Your testimony says that you will comply with the rules set by the Office of Foreign Assets Control with respect to financial sanctions. But if a drug cartel or one of its sanctioned persons attempts to complete a transaction using Libra, would you comply with OFAC policy or would you allow the drug cartel transaction to be added to the ledger?

Mr. MARCUS. Senator, first of all, Libra is not anonymous, so we will have an AML program, and as far as the Calibra wallet is concerned, we will have full KYC and AML programs. As a result, those types of activities will be very difficult to conduct on this network, and you have my commitment that we will take the time before launch to ensure that the network and the proper measures are taken to avoid this network to be used for other purposes than it was designed for.

Senator SINEMA. Thank you.

Mr. Chair, my time has expired. This is just a proposal, but folks in my State are concerned, and we need better answers. So I look forward to working with you and the Committee on this. I yield back.

Chairman CRAPO. Thank you.

Senator Cotton.

Senator COTTON. Mr. Marcus, thank you for your appearance and your testimony. Your CEO in testimony before Congress referred to Silicon Valley as "an extremely left-wing place." That is why so many center-right voices have concerns about censorship on platforms like Facebook, but also Twitter and Google and so forth. I worry about the possibility that a digital wallet and digital currency like Libra could extend that into the payments system. There is reason to worry about because Democratic Members of this Committee have made it a habit of contacting major financial institutions and encouraging them not to do business with, say, gun manufacturers or with Government contractors who serve ICE or the Customs and Border Patrol.

What safeguards, if any, will Libra have to ensure that you treat on par people with views that may be disfavored in an extremely left-wing place like Silicon Valley?

Mr. MARCUS. I appreciate your question, Senator, and you are right that Silicon Valley tends to have a bias. But I want to reaffirm that Facebook is a technology company where ideas across the political spectrum are welcome and treated equally. And as far as the Calibra wallet is concerned, we wanted to ensure that people, as long as they have a legitimate use of the product, can do what they want with their money.

Of course, there are some restrictions and regulated products, but my commitment to you is we will be thoughtful in writing those policies, and we will be happy to follow up with you when we get closer to finalizing those policies.

Senator COTTON. That does not sound like much safeguard to me other than a commitment before you come under pressure from Democrats. Just wait until tomorrow until you go before the House Financial Services Committee. If you think the Democrats on this Committee have hounded banks, wait until you see what you are in for over there. I mean, how do we—so a federally licensed firearm dealer wants to sell firearms at a gun show, or maybe a neighbor wants to sell a shotgun to his neighbor, or a Christian baker wants to practice his faith when he bakes his cake, or someone wants to pay a subscription to, say, Breitbart instead of the *New York Times*, what confidence can people who have center-right views have that Libra is going to be available to them on an equal basis as those who want to shut down gun retailers or shut down oil pipelines or Government contractors who are working with Immigration and Customs Enforcement?

Mr. MARCUS. Senator, firearms, for instance, are a regulated product. They are already regulated and treated as such on the Facebook platform. And I know it is a complicated issue, and when it comes to writing this policy, again, I am committing that we will be very thoughtful.

I have to say that, as far as I am concerned personally, I believe that we should only get in the way in very exceptional cases, and by being thoughtful of getting in the way of people doing what they want with their money as long as it is lawful. But we also need to be thoughtful in how we write those policies.

Senator COTTON. Well, thank you for that commitment, and I do hope we have transparency, because I assure you, you will be getting letters from that side of the dais, to say nothing of the House Financial Services Committee Democrats, just like all the major banks on Wall Street have been getting those letters. And, for that matter, your own workforce is going to bring that kind of pressure to bear on you as well.

Let us shift gears in the time I have left. We have heard a lot of talk about money laundering this morning. It is a big problem. I share the concerns we have heard this morning. Money laundering is typically done by individuals engaged in criminal activities like drug trafficking, human trafficking, and so forth.

There is also the question of sanctions. One of the advantages of having the world's reserve currency is that we have the ability to impose extremely effective worldwide sanctions because most, al-

most all, transactions are dealt with in dollars worldwide. Could you talk a little bit about how Libra would have an impact on the United States dollar as reserve currency and, therefore, on the United States Government's ability to impose sanctions? This is different from money laundering about individuals. We are talking about sanctions on Nation States like, say, Iran that is developing its own cryptocurrency and cracking down on others specifically to try to avoid sanctions?

Mr. MARCUS. Senator, I am glad you brought this us because I believe that if we do not lead in this space, others will. And the same way that we will end up having two Internets and two different infrastructures, we will have two different financial systems and two different financial networks. And one will be out of reach of sanctions that are so effective in enforcing our foreign policy and preserving our national security. And this is why I believe that Libra is an alternative that consumers will have the ability to use with wallets that will de facto enforce the sanctions that are led by our national security apparatus and Treasury.

So I actually believe that if we stay put, we are going to be in a situation in 10, 15 years where we are really going to have half of the world that is going to operate on, by the way, a blockchain-based technology that will be out of reach from our national security apparatus.

Senator COTTON. All right. Thank you.

Chairman CRAPO. Senator Schatz.

Senator SCHATZ. Thank you, Mr. Chairman. Mr. Marcus, thank you for being here.

On cybersecurity, on foreign interference, on privacy, on extremism, on fake news, is it fair to say you are still working on solving those problems as a company?

Mr. MARCUS. Yes, Senator, we have a number of issues that we are hard at work solving.

Senator SCHATZ. So you are working on solving those problems. They are not fixed yet. Correct?

Mr. MARCUS. Some of them are, and a lot deserve a lot more work.

Senator SCHATZ. Which ones are fixed?

Mr. MARCUS. I would say that some of the issues that we have had in the past—

Senator SCHATZ. Right. Cybersecurity, foreign interference, privacy, extremism, fake news: which ones of those have you fixed?

Mr. MARCUS. Well, you know, for instance, Senator, the issue that happened back in the day with Cambridge Analytica cannot—

Senator SCHATZ. Right, not which ones have—hold on. Not which ones have you made significant progress. Have you fixed any of those?

Mr. MARCUS. Well, I would say that all of them will always require a great deal of work.

Senator SCHATZ. So let us just pretend it is the two of us having a conversation. My question is this: What do you say to someone who says maybe before you do a new thing and an enormously important thing, you should go ahead and make sure you have got your own shop fixed? So what do you say to that?

Mr. MARCUS. Senator, I believe that the status quo is really a huge burden on so many people around the world when it comes to financial——

Senator SCHATZ. Wait. Hold on. You are making an argument for cryptocurrency generally. You are making an argument for this proposition generally. The question I have is: Facebook has a lot of problems. You guys have had a rough couple of years. And so the question is: Why are you moving on to a new and challenging thing other than the grandiosity of Silicon Valley which causes you to get bored with your own thing and try to move into a new line of business? So the question is not would it be great to eliminate credit card fees. The question is not should the United States lead in this area. The question is: Why Facebook? And why before you have fixed your other stuff?

Mr. MARCUS. Senator, I believe it is important that we continue to innovate on behalf of the people we serve, and the same way that we have been able to bring communication prices down with our messaging app, because now anyone with a \$40 smartphone can actually communicate for free with the world, we want to continue innovating on behalf of the very people we serve, and we hope that we can do the same thing for them when it comes to access to modern financial services.

Senator SCHATZ. Do you have a specialized expertise with anti-money-laundering sanctions, prudential regulations, protecting financial information, preventing discrimination and other violations of consumer financial laws?

Mr. MARCUS. Senator, I do, and my team does as well.

Senator SCHATZ. No, I am sorry. Not you personally. Does Facebook have that?

Mr. MARCUS. Senator, through the team that I have assembled, yes, now it does.

Senator SCHATZ. Within Facebook?

Mr. MARCUS. Senator, within——

Senator SCHATZ. Or are you talking about the consortium?

Mr. MARCUS. Senator, within Calibra, which is the subsidiary that it created, it has the proper know-how to operate——

Senator SCHATZ. So you have hired up for this?

Mr. MARCUS. Yes, Senator.

Senator SCHATZ. OK. Does your consortium have bylaws?

Mr. MARCUS. Senator, the charter of the association is in the process of being ratified by its members, and it will be made public.

Senator SCHATZ. So that is a no?

Mr. MARCUS. Senator, when we launched the website and white paper in June 2018, we have guidelines. But the reason that we did not want all the other members to sign an existing bylaw or charter is we wanted them to take part in writing it, because, again, we do not want to control the network, and we think it is important that those decisions are made collegially with the other cofounding members.

Senator SCHATZ. So what I am hearing—and they are terrified to talk about this publicly—is that members of the consortium actually have lots of questions, too, similar to the questions that are being offered on this dais. And they have great reservations about moving forward, but they do not want to be left out because of

Facebook's market power. And so how do you address the bigger question, not just the one that I asked earlier about you not having fixed your own shop before you move into currency—which seems just on the face of it to be nuts. How do you answer the question about size and power and the idea that lots of people out there think Facebook is already too big and too powerful and now you are going to get into currency? So how do you address that question?

Mr. MARCUS. Senator, we answer that question with the very setup that we have at the Libra Association and the way that this network is not only governed, but the way that we will have to face tremendous competition on top of this network with other companies that already have a lot of existing financial accounts, that are already KYC, that are already operating, that have trust. So you have companies like PayPal and others that will, of course, collaborate but compete with us for—

Senator SCHATZ. I guess you have not—and I appreciate this, but you really have not answered the most basic question of all, which is: Why in the world should Facebook, of all companies, given the last couple of years, do this?

Mr. MARCUS. Senator, because we have the ability and the means to innovate on behalf of the people we serve, and we should not stand back and wait to do it if we can help the very people that we want to serve. Because we have the resources and the engineering talent, I believe we should.

Senator SCHATZ. Because of your size.

Mr. MARCUS. Senator, because of our resources and our engineering talent.

Senator SCHATZ. Because you are so big that you should get bigger.

Mr. MARCUS. That is not the point I was making, Senator.

Senator SCHATZ. Thank you.

Chairman CRAPO. Senator Menendez—excuse me, you are right. Senator Jones.

Senator JONES. Thank you. Mr. Chairman, thank you.

Mr. Marcus, I want to talk about quickly some of the money-laundering issues that I have got real concerns about, and I understand that Calibra is committed to verify users and those kinds of things. But for money-laundering purposes, if you have got a worldwide issue and you have got partners all over the world, how are you going to get your partners to verify these third-party products? And how are we going to prevent this money laundering? I think that is a major concern. How are you going to deal with your partners?

Mr. MARCUS. Senator, first I want to commit that we will not launch until we have satisfied those concerns with Treasury and other regulators around the world and how the network is configured and it operates. But, more practically, the way that the network is going to operate is that all the on and off ramps will be regulated, and we will have proper KYC and AML. As a result, activities such as money laundering, terrorism funding will have an opportunity to be monitored, and the intention here is really not for the efficacy of these programs to take a step back. Quite the opposite. We believe that we can help improve the efficacy of these

programs, and we will work hard to make that happen because this is something that I care deeply about.

Senator JONES. Well, I appreciate that. I do have some concerns about that because, as Senator Brown said earlier, we have seen Facebook run into problems in their platform time and time again on any number of issues. And I think Senator Brown's comment was it is just another learning experience. But at some point, if things continue, and especially with a currency like this, if all of a sudden this operates and you continue to see all manner of criminal activity and money laundering, at some point an innovative prosecutor is going to look across the table and say, "You, sir, are contributing to this. You are an aider and abettor." Are you prepared for that down the road? If you do not do your job and this currency is used to facilitate human trafficking, drugs, fraud, things like that, are you prepared for Facebook and all of your Calibra and Libra users to be looked at as criminal defendants?

Mr. MARCUS. Senator, we are prepared to take the amount of time that will be required to ensure that those things do not happen and that we improve on the efficacy of these programs. We really do not want this creation to be a tool for these types of activities, and this is why this time, before launching, we are taking so much time and sharing our plans early on and have started this long, consultative phase.

Senator JONES. And I did not mean to imply by my question that you are intending to do that. I know that. But I also know there are unintended consequences, and if things do not go right, at some point somebody is going to have to step up. But thank you for that.

The other thing I want to talk about briefly is taxes and how some of this will be taxed. As you know, the current IRS law treats digital currency as property, which means under current law every single transaction or purchase made with Libra will be a taxable event. The transaction will be taxable. So many businesses in the current cryptospace now help their customers comply with tax laws by submitting detailed lists of transactions to both the IRS and the consumer, similar to how stockbrokers might send both a customer and the IRS a 1099-B.

So does Facebook plan on recording and reporting all Libra transactions directly to the IRS and to consumers to ensure that they fulfill their tax requirements?

Mr. MARCUS. Senator, this is an important issue, and the way that we are approaching this is twofold. One is Libra, unlike other digital currencies out there, will not be volatile to the dollar. So as a result, the variations in prices between the dollar and Libra will be very, very minimal. But as far as the Calibra wallet is concerned, we will, of course, provide all tools to consumers so that they can report their taxes without the hassle of having to record all transactions on their own.

Senator JONES. Well, but that—I understand you are saying that you will provide that to the customer, but that you would not propose providing that to the Internal Revenue Service. Is that how I understand, that you are just putting the burden on the consumer and the customer to comply with Internal Revenue Service regulations?

Mr. MARCUS. Senator, my understanding of this matter is that this is the decision that is in the hands of the IRS and that today the IRS—it is my understanding that they require consumers to report. But we would be happy to work with the IRS to make it easier for consumers or to reach a de minimis determination for Libra and other digital currencies in order to avoid the burden for consumers.

Senator JONES. All right. Well, I think from the money-laundering aspect, criminal activity, and the Internal Revenue Service are the big things that you have got hurdles to overcome. It is going to take some time, I think, to get past all of that. But thank you. Thank you for your testimony and for being here.

Thank you, Mr. Chairman.

Chairman CRAPO. All right. Now, Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Facebook's CEO Mark Zuckerberg once said that his model was, "Move fast and break things". Several of my colleagues have referred to it. I only have 5 minutes, which is not nearly enough time to list all the things that Facebook has broken. I have highlighted some of them on the poster behind me, and the underlying theme here, this is a company that does not think through the consequences of its actions. And with nearly 2.4 billion active users, when Facebook breaks something, it has serious consequences.

So I have been listening—in and out between the meetings I have had in my office—to some of your testimony, Mr. Marcus, and basically the theme of your response to many of my colleagues, particularly on data privacy, is, "Trust us." Well, trust is something you earn, and Facebook certainly has not earned it.

So it is not enough to say that you will keep the Calibra data separate. I would like to know how exactly will you keep Libra data separate from your social media data?

Mr. MARCUS. Senator, thank you for your question. I want to also say that, in the case of Libra, we are most definitely not moving fast, and I want to reiterate my commitment that we will not move to launch or to offer Libra as a currency on Facebook's platform before—

Senator MENENDEZ. Just answer my question right now. How specifically are you going to keep the data separate?

Mr. MARCUS. So the way that we keep the Calibra data separate from the rest of Facebook is that actually within our infrastructure we have separated the data from the rest of Facebook's infrastructure and data in order for it not to get commingled with the rest of the data.

Senator MENENDEZ. Even though in your user agreement you say that you are going to, may very well share aggregate data with Facebook?

Mr. MARCUS. Aggregate data that we may use on the Calibra wallet side, nonidentifiable data to understand how the—

Senator MENENDEZ. But that is the beginning of opening up the door. Let me ask you this: If there is a commingling of data, purposeful or not, can you commit to this Committee and the public that you will notify users and the proper authorities within 48 hours?

Mr. MARCUS. Senator, I commit that we will naturally notify users that would have been affected by this, but first and foremost, we want to make sure that it never happens.

Senator MENENDEZ. I know, but if it happens, I am saying whether purposeful or not—things seem to happen at Facebook—will you commit to notify both the users and the public within 48 hours of your finding of it?

Mr. MARCUS. Senator, I commit that we will inform users and the public if such a thing happens within a reasonable timeframe.

Senator MENENDEZ. OK. That could mean a whole bunch of things.

Let me ask you this: I have been the author and architect of many of the sanctions regimes we have leveled against rogue regimes—Iran, Venezuela, Cuba, to mention some. Many of us are concerned about how those countries and how criminals can use Libra to evade U.S. sanctions from money-laundering laws.

Last year, the Treasury Department for the first time identified and published digital currency addresses associated with two Iranian-based individuals who helped exchange bitcoin for Iranian cybercriminals that used ransomware to extort millions of U.S. dollars from over 200 victims.

If Libra was used for a similar transaction, would the Libra Association, the group that validates Libra transactions, freeze the assets of such sanctioned individuals?

Mr. MARCUS. Senator, first, I really want to stress the fact that if we do not lead, others will. And as a result, the transactions that you highlighted and listed will happen on a network where we will have no jurisdiction and no reach and no ability to have any—exert any control for national security purposes.

As far as Libra is concerned, naturally, because Libra, despite the fact that it will be headquartered, will be registered with FinCEN, will collaborate, will have an AML program, and will ensure that on and off ramps are properly regulated, and as a result, those types of activities should be extremely hard to—

Senator MENENDEZ. But my core question is: Having that individual identified to you, the type I just described, would you freeze the assets of such a sanctioned individual under your system?

Mr. MARCUS. Senator, the way that this would happen and the way that the system is currently contemplated, it would be the role of the big custodial wallets operating on top of the Libra network, like the Calibra wallet and many others, to block access for funds for those addresses, as well as all of the on and off ramps that would prevent those addresses to convert—

Senator MENENDEZ. Let me ask you one other question. I have a whole bunch of them, but I will submit them for the record. This does not assuage my concerns as it relates to the very sanctions that we have worked on a bipartisan basis to pass.

So would the Libra Association—what would it do if U.S. regulators wanted to enforce sanctions on certain individuals but other global regulators did not? How would the association determine which set of rules to comply with?

Mr. MARCUS. Senator, that is a really good question and one that we are in active discussions with a number of regulators, including Treasury. And my understanding of this and the way that we are

currently thinking about this is that actually the way to properly police and control the network is through, one, the on and off ramps; and, two, to all of the wallets that will be regulated.

Senator MENENDEZ. Well, I am going to take you at your word that you are not going to act before you have all these questions resolved because, if not, what Libra could be is the wild West of cryptocurrency where, you know, money laundering, criminals, and countries seeking to avoid U.S. sanctions could be their resolve. And we just cannot have it.

Mr. MARCUS. I agree, Senator.

Chairman CRAPO. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman. Welcome, Mr. Marcus.

You know, one of the benefits of going last is you get to hear your colleagues' comments, so I want to make a couple comments I had not planned to make otherwise.

Number one, Senator Kennedy rightfully pointed out Facebook's failings in the face of Russian interference in the 2016 elections. I know you are working hard to remedy it. I frankly wish the U.S. Congress was working to remedy it as well. We have a bill in this Committee, a bipartisan bill called the "DETER Act" that would say to Putin or anybody else that wants to interfere in our 2020 elections that they will pay a certain and very high price.

So I hope, Mr. Chairman, that we will move on that. We have to get to the bottom of 2016, but, my goodness, we should be working on a bipartisan basis to protect our elections in 2020, and we have a means to do that.

Second, I heard a hint of this whole idea that Facebook and other social media companies are conspiring against right-wing voices. In fact, 4 days ago, we had the President of the United States have what he called a "social media summit" at the White House where he summoned some of the most right-wing, extreme social media voices and peddled this idea that the President's own Twitter account was somehow being blocked and limited. And yet within the last 48 hours, we have seen what a grotesque lie that was. This is a President who just spewed forth all sorts of racist comments over the last 48 hours. And it does highlight the challenge social media companies have in trying to make sure that they monitor community standards to prevent incendiary comments that can cause harm or danger and at the same time allow freedom of voices on the Internet.

So I hope we will get away from this nonsense that we often hear from the President and others about this kind of biased censorship, and I hope we will have more voices actually exercising their First Amendment rights to speak out against the President's racist comments.

Third, real-time payments. I am looking forward and enjoyed this discussion here. Every time the Chairman of the Federal Reserve, Chairman Powell, has come before this Committee and others, I have asked him why it is the U.S. Government is so far behind our European partners and many others in real-time payments. The fact that we do not have a system in this country that can clear real-time payments is today costing millions of Americans billions of dollars, and they should accelerate their efforts and get it done.

And I personally do not think we should hand that over to a consortium of the biggest banks in the country.

So let us talk about the conversation here today specifically. I understand your point saying that whether you trust Facebook or do not trust Facebook, that is not a big issue with respect to the Libra Association. I have questions and concerns—and you have heard some today—about the Libra Association itself, because what is different from things like bitcoin—bitcoin, you know, the uncertainty around bitcoin, the uncertainty of its value, the wild fluctuations, in my view, mean it is not going to be put into widespread use; whereas, the whole goal here is to have billions of people around the world using this new coin, right? I mean, that is the goal, is it not?

Mr. MARCUS. It is really to help the very people who do not have access to current financial—

Senator VAN HOLLEN. But the idea is billions of people, and because this is now going to be tied to other currencies and supposedly be more stable, it will be in very widespread use. So there are huge concerns because this, in my view, obviously has lots of questions that need to be vetted. And the organization itself, the Libra Association—you say you do not have to trust Facebook, but you do have to trust the Libra Association. And they are doing something very different. They are creating a new currency that is intended to be used by billions of people, and I think there are lots of questions that you still need to answer regarding that structure. I think people will conjure up the James Bond movie and that organization, Spectre. And unless you are really clear about how this is going to be a transparent association and be accountable in all the ways that have been discussed today, then it is not a question of whether people trust Facebook or not. It is a question of whether people trust this international—this organization run by private companies. And my view is when you are talking about a world currency that is going to be potentially used by billions of people, I am not sure there is sufficient accountability that you could build into that system that would answer all the concerns. But I look forward to the continuing conversation.

Mr. MARCUS. Thank you, Senator.

Senator VAN HOLLEN. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Kennedy has asked for a second round, and then Senator Brown and I will both go with another round of questioning, and I think that will be it. We may have another Senator or two show up.

So, with that, Senator Kennedy.

Senator KENNEDY. Mr. Marcus, I want to follow up on Senator Cotton's concerns, and I think the basis for his concern is—we can agree on this, I think—that Facebook is not really a company anymore. It is a country. I mean, you have got 2.2 billion people that use it. I do not see anything in the documents that I have seen that would prevent the members of Calibra, once Libra is prevalent throughout the world, saying, you know, we do not believe in abortion rights, and we have the transaction data of all these people, so we are just going to say if you believe in abortion rights, you cannot use Libra—or vice versa. And you could make that assess-

ment on the basis of any person's position on socioeconomic issues. I think you need to address that.

Let me ask you a question about, again, there is a big issue in trust here. In May a couple years ago, I think it was 2016, there was an article that appeared that quoted news curators at Facebook. They were in charge of the trending news section. You know what I am talking about?

Mr. MARCUS. Yes, Senator.

Senator KENNEDY. Right. I do not think you have it anymore. But they testified that they had been instructed by the management of Facebook to suppress news stories of interest to conservative readers, even if they met the qualifications of trending, and they stated that they were told to suppress news stories about CPAC, Mitt Romney, Rand Paul, Lois Lerner, Scott Walker, Chris Kyle, Ted Cruz, articles from *Newsmax*, articles from the *Washington Examiner*. And one of the curators even kept a log. Is that true?

Mr. MARCUS. Senator, I was not part of that team, and I am not aware of how it functioned, but that product does not exist anymore.

Senator KENNEDY. OK. Well, the news curators also told that they were instructed to include in the trending news section articles from certain publications, whether they were true or not, and two of those publications were CNN and *New York Times*. Is that true?

Mr. MARCUS. Senator, again, I was not involved, and this was not my product team, and it might have happened even prior to my time.

I do want to say, though, that Facebook really is a technology platform that is neutral when it comes to——

Senator KENNEDY. I am familiar with Facebook. Let me ask this one other question. The news curators said they were told by management not to ever put in an article in the trending news section about Facebook. Is that true?

Mr. MARCUS. Again, Senator, this was not my team, and I am not aware.

Senator KENNEDY. OK. Is there any data that Facebook has on its customers, if you will, that, on principle, Facebook would not monetize?

Mr. MARCUS. Well, Senator, the way that the data is used on Facebook when it comes to monetization is enabling better ads, to serve better ads to people that are personalized——

Senator KENNEDY. I get that. I am sorry to interrupt you, but I get that. But is there any data that, on principle, Facebook would say, "We are not going to make money on this, this crosses the line"? Have you ever thought about that?

Mr. MARCUS. Senator, it is not about making money, but as far as Calibra is concerned, the——

Senator KENNEDY. It is not about making money?

Mr. MARCUS. Senator, we do not typically look at data in a way that is to make money, it is just to improve the service, including improving the quality of the ads that——

Senator KENNEDY. Let me stop you now, Mr. Marcus. You are telling me that money is a secondary concern at Facebook? Don't you have shareholders?

Mr. MARCUS. Senator, we do, but I believe that it is important that we, first and foremost, serve our customers, and the way we have done it with messaging apps, notably, without monetizing them yet, is a testament to what we can do to lower costs for people when we have the——

Senator KENNEDY. All right. Last question. I have got 19 seconds here. I have got to ask this, if this is true. Do you know these people: Sheryl Sandberg, Elliot Schrage, or Monica Bickert?

Mr. MARCUS. I do, Senator.

Senator KENNEDY. OK. Is it true that Mr. Zuckerberg told them to meet several times and consider shutting down then-Candidate Trump's Facebook website in 2016 because Mr. Zuckerberg disagreed with his views on immigration? Is that true?

Mr. MARCUS. Senator, I am not aware.

Senator KENNEDY. You just do not know?

Mr. MARCUS. I do not know, Senator. It would surprise me, but I am not aware.

Senator KENNEDY. OK. Last question, I promise. I have seen this description before, and I want your thoughts on it. If you and I interface on Facebook, there are really not just two participants. It is you, it is me, and it is Facebook. Is that an accurate description, that nothing is private?

Mr. MARCUS. Except on messaging platforms, notably on WhatsApp that is fully into and encrypted. In this case, it would be just the two of us, Senator.

Senator KENNEDY. OK. And this really is my last one. If Libra catches on and let us say 200 million people are using it, somebody is going to have the data on all of the financial transactions that those 200 million people have consummated, which is going to indicate what they are buying, what they are not buying, what their likes are, where they like to shop, just a treasure trove of information. You are telling me that nobody in Calibra is going to attempt to monetize that?

Mr. MARCUS. Senator, when it comes to the Libra Association, they will not have any personal identifiable data, and as a result, they will have no way to——

Senator KENNEDY. Somebody will have the data. Who will have the data?

Mr. MARCUS. The wallets that will provide the services will have the data for their own wallets, and I can speak to the——

Senator KENNEDY. So you are telling me nobody is going to monetize that data?

Mr. MARCUS. As far as the Calibra wallets, we do not intend to——

Senator KENNEDY. But isn't it the case that at some point those consumers are going to be sent an email saying, "Do you care if we share your data? And the details are right here. Click on this, and it is going to refer you to a 10-page, single-spaced disclaimer written by the lawyers in which you could hide a dead body and nobody would ever find it"? And they are going to start doing it. Isn't that what is going to happen?

Mr. MARCUS. No, Senator.

Senator KENNEDY. OK. Thanks, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. And, Mr. Marcus, thank you for sitting here through this.

I normally do not respond to uber-partisan comments from colleagues, but I just wanted to just ask the Republican Committee staff to let Senator Cotton know that every letter to Facebook from this Committee, from any of us on this Committee, has come—or at least from the Committee, have been jointly signed by Senator Crapo and me. I think that is important to know.

As you see, Mr. Marcus, as is clear from this hearing, the distrust of Facebook is a pretty universal feeling here. You heard Senator Kennedy say it. You heard Senator McSally. You heard on the Democratic side Senators Smith and Van Hollen and Schatz and me and others. So that is an issue you need to deal with. And I want to just read back what you said to me about trust. You said, “Senator, you heard it directly from Mark—and I will reiterate this—that trust is primordial.” And I responded, “I did not hear it from Mark.” And you said, “Trust is primordial . . . we have made mistakes in the past, and we have been working,” and so on. So I know what the word “trust” means. I know what the word “primordial” means. What the hell does that mean, that trust is primordial? Apparently you said—I mean, you said, and apparently Mark Zuckerberg said, although we found no record that he said it, but I believe you if you said he said it. But what does it mean?

Mr. MARCUS. Senator, it means that we need to continually—we need to continue to do better in serving the customers, the users we are serving, and we will do what it takes to earn their trust. And that is definitely the case as well for Libra and the Calibra wallet.

Senator BROWN. And this is the same Mark Zuckerberg that once calls people who trust him with their data “dumb” and the next word starting with an “F” I cannot say in this Committee. This is the same Mark Zuckerberg who said that—I can even read what he says: “I have over 4,000 emails, pictures, addresses. People just submit it. I do not know why they trust me,” and then he said “dumb” and a profanity.

And then I hear you quoting him, and then you saying it yourself, that trust is primordial. And the definition of primordial is “from the beginning of time.” And your biggest problem is that people do not trust you. So what am I to take from this?

Mr. MARCUS. That we need to continue working very hard to ensure that we are deserving of trust.

Senator BROWN. But why would you lead with “trust is primordial”? It is so much in your DNA that you could always trust us, but then just lay out one after another times that you deceived, undermined, betrayed that trust. Again, Senator Schatz said over and over, why, with all of your problems, should we trust you on something as important as a worldwide currency and the damage that can come from it?

Mr. MARCUS. Senator, this is why we have set up Libra the way we have, which is that we will not control it, and we will be one

among 100 different participants that will govern over the network and the currency. And as a result, we will have to earn people's trust if we want them to use our products and services on top of the Libra network because they will have plenty of choice with established companies that have a lot of trust.

Senator BROWN. You trust us to believe that statement when you say 1 of 100, but you are the only one that has access to 2 billion people, and, you know, the George Orwell—some people are created more equal than others. Why should we trust you when you keep talking about all the competition, there are 100 players, but nobody is like you as the preeminent player?

Mr. MARCUS. Senator, I do want to address this because I believe that there might be some misunderstanding on how the people on the Facebook wallet, the Calibra wallet, will have to onboard. We will not have the ability to onboard all people using our products automatically, naturally. We will not even use Facebook log-in. People will have to onboard, create a new account with Calibra, upload their Government-issued ID, and as a result, there is going to be a lot of friction, and we will have to make very strong commitments so that people trust us, and we will have to honor those commitments for a very long period of time to earn people's trust because, while we do that, you will have other wallets that already have a number of customers that they can enable Libra for immediately, and we are not in that position. And as a result, we put ourselves in a position where we will have to work very hard to earn people's trust to use our products and services.

Senator BROWN. Pretty hard to trust when there is so little contrition, responding to Senator Kennedy about the 2016 election, or what you have done to the media in this country, to journalism, and what you have done, according to the United Nations in Myanmar. Pretty hard for us to trust you with a worldwide currency that you are setting up in Switzerland.

Mr. MARCUS. Senator, I believe that the status quo is not working for so many people that it is time for new progress to happen in financial services for those barriers, for so many people that are left behind to be lower and for costs for so many people to be also lower. And that is why we are deciding to take the lead on this and then relinquish this lead.

Senator BROWN. Mr. Chairman, I wish we could trust Facebook. It is pretty clear there is almost nobody on this Committee that does. Thank you.

Chairman CRAPO. Thank you, Senator Brown.

I will ask my final round of questions right now.

Mr. Marcus, I have stated in a number of our previous hearings that ensuring that individuals have real control over their data is critical, and the United States does not have, in my opinion, adequate assurances in its law. I talked about that with you in my first round of questions.

I am personally convinced that we need to—if we do not—well, we have a sectoral approach, as I indicated, and I think we need to have a more comprehensive, broad-based approach, at least for the basic rights. Europe in the GDPR does have such a law, the GDPR. That guarantees individuals with the right to information about the access to their personal data, which I believe means they

should have access—they should be notified when their data is being collected, what data is being collected, and given rights right at that point to opt out or in, and there should be corresponding responsibilities.

Does Libra and its associated third-party developers like Calibra, do they anticipate being captured under GDPR at this point in time?

Mr. MARCUS. Chairman, it will really depend on the jurisdiction of different wallets, but as far as the Calibra wallet is concerned, we will definitely have the highest standards when it comes to privacy. And as soon as the privacy policies and commitments are written, you have my commitment that we will share those with you.

Chairman CRAPO. All right. Thank you. And let me get into that a little bit in the last part of my questions here. As I understand it, using the blockchain technology results in a limited amount of personal private data actually being collected. You have indicated that a person would have to provide their Government-issued ID, and then I assume—and please correct me or help me understand this—from that point Calibra would have their ID. They would know the basic set of facts that is on their Government ID. And I assume that ID or that information is connected to some kind of a code data or something that is used in the blockchain. Is that correct?

Mr. MARCUS. No, Senator. Actually, the blockchain will not include personally identifiable data.

Chairman CRAPO. But would Calibra have the ability to connect a blockchain to the user of that blockchain?

Mr. MARCUS. Senator, it will depend on whether the transaction has been initiated from a Calibra customer or not.

Chairman CRAPO. OK. And if it was initiated by a Calibra customer, would Calibra then—Calibra would then know the identity of the person using or engaging in that transaction in that blockchain?

Mr. MARCUS. Yes, Senator, because they would be using our product.

Chairman CRAPO. And what else would Calibra know in terms of—what other data would Calibra be able to use if it wanted to?

Mr. MARCUS. Senator, the mindset in which we are establishing the product and the privacy of the product is that it will only collect the information that is required to offer the service, but also to keep accounts safe, which is, of course, really important when it comes to money, and especially because we will have strong customer protection programs. So we will need to protect accounts and data. Relevant data is actually quite helpful in protecting consumers' accounts.

Chairman CRAPO. So tell me what some of that relevant data is. Let us say it was a retail purchase. Does that mean that the item purchased is a part of that data?

Mr. MARCUS. Senator, that would really depend, and I do not believe that we need that information, for instance, either for the purposes of securing accounts or other purposes.

Chairman CRAPO. So I have been told that the blockchain technology actually allows an enhancement of privacy protection. Do

you believe that is the case, that the use of blockchain technology actually reduces the potential for the abuse of collecting data on individuals?

Mr. MARCUS. Senator, yes, typically it enables people to use software that they can run on their own, and as a result, they can be their own sovereign, if you will, of the data that is used. And then it is a question of choice for consumers. On one side they can have consumer protections, and on the other they can be self-sovereign. But there are opportunities with blockchain technology to enable people to own their own data.

Chairman CRAPO. So in comparison, leaving the Libra proposal out of the question now and just looking at the technology issue of blockchain technology versus, security, the current transactional technology that we use for credit card transactions or bank account transactions, check transactions and what have you, if we were to see a move globally into use of blockchain technology for currency transactions, would that be—would that represent an opportunity to enhance personal privacy?

Mr. MARCUS. Senator, it can be, if implemented the right way, yes.

Chairman CRAPO. All right. I am going to want to learn a lot more about that. Maybe you could give me some of your information on that.

All right. Before we gavel to a close, I want to reiterate my belief that it is critically important that policymakers and regulators understand the rules of the road as this project continues to develop. To the extent that gaps within the existing U.S. authority become apparent, it is worth examining whether new or clarifying legislation is warranted to ensure that U.S. regulators are not unfairly being relegated to the sidelines in assessment and oversight of this project and others like it.

That concludes the questioning for today's hearing. For Senators who wish to submit questions for the record, those questions are due to the Committee by Tuesday, July 23rd. Mr. Marcus, we ask that you respond to those questions as promptly as you can. And, again, thank you for being here.

Mr. MARCUS. Thank you, Chairman.

Chairman CRAPO. This hearing is adjourned.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Today we will receive testimony from David Marcus, Head of Calibra at Facebook.

On May 9, Senator Brown and I sent a letter to Facebook shortly after it was reported that the company was recruiting financial institutions and online merchants to help launch a cryptocurrency-based payments system using its social network.

Our letter asked Facebook for more information about how the system would work, its access to and use of consumer financial information, and Facebook's access to and use of information on individuals or groups of individuals in credit, insurance, employment, or housing. I appreciate Facebook's response last week.

Shortly after the letter was sent, Facebook formally announced its intention to launch the payments system, Libra, and issued a white paper providing some information about the project.

Since then, U.S. and global regulators have taken notice, including the Federal Reserve, U.K.'s Financial Conduct Authority, Financial Stability Board, G7, and others.

Last week during the Federal Reserve's Semiannual Monetary Policy Report to Congress, Chairman Powell raised concerns about the cryptocurrency's potential for inciting money laundering and financial instability problems, and also expressed concern over customers' privacy.

Yesterday, Secretary Mnuchin stated the Treasury Department has "very serious concerns that Libra could be misused by money launderers and terrorist financiers."

The Bank of England Governor Mark Carney said, "Libra, if it achieves its ambitions, would be systemically important. As such it would have to meet the highest standards of prudential regulation and consumer protection. It must address issues ranging from anti-money laundering to data protection to operational resilience."

Concerns include, but are in no way limited to: how the payment system will work, how it will be managed, and how Libra, the Libra Association, Calibra, and Facebook will all interact; what consumer protections will apply, and potential implications for consumers with respect to financial loss from fraud or the project's failure; how individuals' data will be protected, and how individuals' privacy will be preserved; how the Libra ecosystem interacts with the Bank Secrecy Act and other existing anti-money-laundering regulations; and ways that Libra could threaten financial stability and the steps that could be taken preemptively to mitigate those risks.

Despite the uncertainties, Facebook's stated goals for the payments systems are commendable.

According to the World Bank, 1.7 billion adults remain unbanked, but two-thirds of them own a mobile phone or otherwise have access to the internet.

If done right, Facebook's efforts to leverage existing and evolving technology and make innovative improvements to traditional and nontraditional payments systems could deliver material benefits, such as expanding access to the financial system for the underbanked, and providing cheaper and faster payments.

Still, Libra is based on a relatively new and continually evolving technology in which it is not entirely clear how existing laws and regulations apply.

I am particularly interested in its implications for the protection and privacy of individuals' data.

Facebook has massive reach and influence within society with over 2 billion active monthly users and access to vast amounts of personal information, including that which is received directly from users and information that can be derived from their behavior, both on and off Facebook.

Libra and Calibra will only expand this reach by increasing commerce on the Facebook platforms.

This raises several questions.

The Banking Committee has held hearings on data privacy, including as it pertains to the European Union's General Data Protection Regulation, data brokers, and the Fair Credit Reporting Act.

Given the significant amount of user information already held by the largest social media platforms and the prospect of gaining even more financial information, Congress needs to act to give individuals real control over their data.

Europe has already, by imposing obligations on companies and establishing rights for individuals with respect to their data.

We need to establish similar obligations for data collectors, brokers, and users, and implement an enforcement system to ensure the collection process is not abused, and that data is appropriately protected.

Individuals are the rightful owners of their data. They should be granted a certain set of privacy rights, and the ability to protect those rights through informed con-

sent, including full disclosure of the data that is being gathered and how it is being used.

Regulations should be clear and understandable for both collectors and consumers, and should not punish those who opt out of collection practices.

Individuals should also have the ability to review their data, correct inaccuracies, and have ample opportunity to opt out of it being shared or sold for marketing and other purposes.

Chairman Powell also said last week that “The privacy rules that we apply to banks, we have no authority to apply to Facebook or to Libra.” He added that we may even need to create a new regulator to address such issues.

As we determine next steps, what is clear is the importance that financial innovation happen here in America. In this way, the Libra announcement has heightened the need for policymakers and regulators to establish clear rules of the road.

During this hearing, I look forward to hearing more about Facebook’s project, steps it plans to take and has taken with regulators to ensure compliance with all laws and regulations, and how it intends to ensure individuals’ privacy is maintained and information is protected.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

Facebook is dangerous.

Now, Facebook might not intend to be dangerous—but they certainly don’t respect the power of the technologies they are playing with. Like a toddler who has gotten his hands on a box of matches, Facebook has burned down the house over and over, and called every arson a learning experience.

Facebook has two competing missions—make the world more open and connected, and make a lot of money. And as Facebook attempts to serve both of those missions, they wreak havoc on the rest of us.

Look at its version of disrupting the newspaper industry. Facebook has made it easier to share what you’re reading with friends. But at the same time, Facebook has redirected most of the media industry’s profits away from actual journalists and into its own coffers—and they have done it without the benefit of recreating the local news desk, without conducting the hard-nosed journalism that keeps politicians honest, and without meeting even the most basic journalistic standards.

This kind of “creative disruption” that doesn’t actually create anything is just disruption.

Or look at the impact Facebook’s profit motive has had on the way it connects people. Facebook and other tech companies will tell you that the internet just holds up a mirror to society, and reflects what is already there. But that’s not true.

To be profitable, Facebook has juiced its algorithm to hold up a magnifying glass to society rather than a mirror—kind of like the way I learned in Boy Scouts to use a magnifying glass to burn a hole in a piece of wood—concentrating our focus on the most divisive issues, pushing the most controversial opinions to the top of our news feeds—usually those are posts that play on people’s fears and worst impulses, but they may not be based on any sort of fact.

Facebook does all it can to manipulate its billions of users so it can direct our eyes toward more ads and turn an even bigger profit.

This is no exaggeration: Facebook tested whether it could manipulate our emotions. The corporation ran a psychological experiment on more than half-a-million users to see if it could manipulate our moods. Turns out it can.

And that emotional manipulation has led to horrifying results.

I don’t have to tell you what amplifying our divisions has done to discourse in this country—not just between political parties. I’d bet half the people in this room have had to block an old high school classmate or even a family member on Facebook.

Or look around the world. A U.N. report detailed how Facebook was used to spread propaganda in Myanmar that led to genocide. In the first month of violence, more than 600 members of the Rohingya people were killed—and more than 700,000 refugees had to flee the country.

I don’t think for a moment that Facebook created hate, but we know that their competing missions of connecting people and turning a profit created an algorithm and a business model that intensified it.

It’s hard to remember a world without Facebook, and it’s hard to remember a time before we had to tell our kids “be careful what you do on the internet, because it never goes away.”

Today, we expect everyone to know that what happens online has consequences offline. It’s just common sense.

That's why it's so hard for us to understand why Facebook—the company that ushered in this revolution—doesn't seem to comprehend that its actions have real world consequences. And they don't seem to understand why their intention to run their own currency out of a Swiss bank account, the topic of today's hearing, has been met with so much opposition.

Facebook's CEO Mark Zuckerberg has said that Facebook might be more like a Government than a company. But no one elected Mark Zuckerberg. And what kind of dystopian Government wants to turn families and friends against each other rather than bring people together? Well, maybe I shouldn't answer that.

Facebook has demonstrated, through scandal after scandal, that it does not deserve our trust, and that it should be treated like the profit-seeking corporation it is, just like any other company.

He and his executives have proven over and over that they don't understand governing or accountability.

They're not running a Government, they're running a for-profit laboratory. No Facebook executives have been harmed by Facebook's experiments. But look at what has happened everywhere that Facebook has run its social experiment on us.

Their motto has been "Move fast and break things". And they certainly have.

They moved fast and broke our political discourse, they broke journalism, they helped incite a genocide, and they're undermining our democracy. Now Facebook is asking people to trust them with their hard-earned paychecks. It takes a breathtaking amount of arrogance to look at that track record and think, you know what we really ought to do next? Let's run our own bank and our own for-profit version of the Federal Reserve for the world.

I understand that given the financial crisis and given the massive inequality and unfairness to workers in our economy, it's tempting to think anyone could do a better job than the Wall Street megabanks.

But the last thing we need is to concentrate even more power in huge corporations. Look at Facebook's record. We would be crazy to give them a chance to experiment with people's bank accounts, and to use powerful tools they don't understand, like monetary policy, to jeopardize hardworking Americans' ability to provide for their families. This is a recipe for more corporate power over markets and consumers, and fewer and fewer protections for ordinary people.

Thank you, Mr. Chairman, for holding this hearing.

PREPARED STATEMENT OF DAVID A. MARCUS

HEAD OF CALIBRA, FACEBOOK

JULY 16, 2019

Introduction

Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today. My name is David Marcus, and I am the Head of Calibra at Facebook. For most of my life, I have been an entrepreneur building products aimed at improving people's lives. Throughout my career, I have led businesses in regulated industries such as telecommunications and financial services. I became PayPal's President after it acquired my last startup, and I moved to Facebook about 5 years ago to run Messenger and more recently to lead our blockchain efforts.

I appreciate the opportunity to speak with you today about the vision for Libra. Libra is about developing a safe, secure, and low-cost way for people to move money efficiently around the world. We believe that Libra can make real progress toward building a more inclusive financial infrastructure. The journey to get there will be a long one, and we recognize that ours has just begun.

Chairman Powell has made clear that the process for reviewing Libra needs to be patient and thorough, rather than a sprint to implementation. We strongly agree. That was the spirit with which we published the white paper introducing the Libra project. The time between now and launch is designed to be an open process and subject to regulatory oversight and review. In fact, I expect that this will be the broadest, most extensive, and most careful prelaunch oversight by regulators and central banks in FinTech's history. We know we need to take the time to get this right. And I want to be clear: Facebook will not offer the Libra digital currency until we have fully addressed regulatory concerns and received appropriate approvals.

Before I go any further, I want to take a moment to acknowledge the 27 other companies that have joined us on this journey—including companies in the payments, technology, telecommunications, blockchain, and venture capital industries,

as well as nonprofits. We are pleased to have each of these organizations as partners, and we look forward to working with them and others to make Libra a reality.

We approach all of these efforts with humility and a commitment to engage with experts in law, finance, economics, security, compliance, and blockchain technology, as well as with the regulators and policymakers who oversee the stability and security of our financial systems. But we also know how important it is that we begin this journey now. Since publishing our white paper on Libra, I have heard from people all around the world, excited by the possibilities that Libra offers. The status quo is not working for many; it is too expensive for people around the world to use and transfer their money. We believe Libra can offer a more efficient, low-cost, and secure alternative.

I am excited about the potential that Libra holds, and I am proud that Facebook has initiated this effort here in the United States. I believe that if America does not lead innovation in the digital currency and payments area, others will. If we fail to act, we could soon see a digital currency controlled by others whose values are dramatically different. I believe that Libra can drive positive change for the many people who would benefit from it. I also believe that it can provide an opportunity for leadership consistent with our shared values.

The Structure and Management of Libra

I first want to discuss the vision for Libra, the Libra Reserve, and the Libra Association, and why executing that vision, in collaboration with Governments, multilateral organizations, and industry, can, in time, help deliver a giant leap forward toward a lower-cost, more accessible, and more connected global financial system.

Libra is designed to be a digitally native currency that can be used around the world. Libra brings together attributes of the world's best currencies: stability, low inflation, wide usability, and fungibility. Technology innovations have given people tools to connect and communicate. But while people can send each other texts, videos, and photos, in many cases they cannot easily move value between one another. Economic empowerment is one of Facebook's core values, and the 90 million businesses communicating with their customers on the Facebook platform can attest to that. We have done a lot to democratize free, unlimited communications for billions of people. We want to help do the same for digital currency and financial services, but with one key difference: We will relinquish control over the network and currency we have helped create.

Libra is a payment tool, not an investment. People will not buy it to hold like they would a stock or a bond, expecting it to pay income or increase in value. Instead, Libra is like cash. People will use it to send money to family members in other countries, for example, or to make purchases.

The Libra Reserve: Libra's Financial Infrastructure

Unlike existing stable coins—digital currencies designed to minimize volatility by being “pegged” to a single asset—Libra will not have a fixed value in any single real-world currency. Instead, Libra will be fully backed on a one-to-one basis through the Libra Reserve, which will hold a basket of currencies in safe assets such as cash bank deposits and highly liquid, short-term Government securities. These currencies will include the U.S. dollar, the British pound, the euro, and the Japanese yen. This approach will minimize exposure to fluctuations from a single region, providing further stability for people around the world who could rely on Libra for their daily financial needs.

The assets in the Libra Reserve will be held by a geographically distributed network of regulated custodians with investment-grade credit ratings to provide high auditability, as well as transparency, security, and a decentralization of the assets. These custodians are well-versed in safekeeping billions and even trillions of dollars worth of assets. Because Libra will be backed by the Reserve, anyone using Libra should have a high degree of confidence that they will be able to sell it for local fiat currency based on an exchange rate, just like exchanging one currency for another when traveling.

Monetary Policy

The currencies represented in the Libra Reserve will be subject to their respective Government's monetary policies—policies those Governments will continue to control. The Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. It will work with the Federal Reserve and other central banks to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. Monetary policy is properly the province of central banks.

The Partners and Governance of the Libra Association

Overseeing the Libra Blockchain and the Libra Reserve will be a significant undertaking and responsibility; no single organization can, or should, be solely responsible for it. We believe a cooperative approach is both warranted and necessary, and we are therefore working to develop the Libra Association: an independent membership-based organization.

The initial group of organizations that will work together on finalizing the association's charter and become "Founding Members" upon its completion are, by industry:

- Payments: Mastercard, Mercado Pago, PayPal, PayU (Naspers' FinTech arm), Stripe, Visa
- Technology and marketplaces: Booking Holdings, eBay, Facebook/Calibra, Farfetch, Lyft, Spotify, Uber
- Telecommunications: Iliad, Vodafone
- Blockchain services: Anchorage, Bison Trails, Coinbase, Xapo
- Venture Capital: Andreessen Horowitz, Breakthrough Initiatives, Ribbit Capital, Thrive Capital, Union Square Ventures
- Nonprofit and multilateral organizations, and academic institutions: Creative Destruction Lab, Kiva, Mercy Corps, Women's World Banking

Each of the Libra Association members—a diverse and global group of companies, not-for-profits, NGOs, multilateral organizations, and academic institutions—will be represented on the Libra Association Council. Through the Council, the Association will be responsible for the governance of the Libra Blockchain. It will oversee the evolution of the blockchain's protocol and network and will continue to evaluate new techniques that enhance privacy in the blockchain while taking into account concerns of practicality, scalability, and regulatory impact. It will also serve as the governing body through which the Libra Reserve is managed. All decisions will be made democratically and transparently. To ensure the Association includes a diverse membership, the Association will work to remove as many financial barriers as possible so that a significant number of nonprofit and multilateral organizations, social impact partners, and universities can join.

Facebook teams have led the creation of the Libra Association and the Libra Blockchain and will maintain a leadership role through 2019. Once the Libra network launches, however, Facebook and its affiliates will have the same privileges, commitments, and financial obligations as any other founding member of the Association. We hope to have approximately 100 such members before the Libra Blockchain launches. As one member among many, Facebook's role in governance of the Association will be equal to that of its peers. Facebook will have only one vote and will not be in a position to control the wholly independent organization.

Implications for Commerce and Libra Users and Consumers

Regulatory Oversight and Financial Stability

The Libra Association is committed to working with policymakers and regulators to achieve a safe, transparent, and consumer-friendly implementation of Libra. The Association recognizes that blockchain is an emerging technology, and that policymakers must determine how this technology will fit into the regulatory landscape.

Regulatory frameworks for digital assets are beginning to emerge nationally and internationally. The Libra Association will continue to work with regulators and policymakers to ensure that it complies with all applicable legal and regulatory requirements.

Over the past year, Federal regulators have repeatedly emphasized their commitment to fostering innovation. This is true as a general matter, as one can see with the Treasury Department's report on FinTech and Innovation. But it is also true in the use of novel technologies to support compliance with anti-money-laundering (AML), combating the financing of terrorism (CFT), and sanctions regulations. The U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN), the Federal Reserve, the Federal Deposit Insurance Corporation, and the National Credit Union Association have come together to emphasize the important role that new technologies can play in helping companies large and small meet their AML/CFT and sanctions compliance obligations. The Libra Association is committed to taking up this charge, and devoting its considerable technical expertise to this task.

To be clear, the Libra Association expects that it will be licensed, regulated, and subject to supervisory oversight. Because the Association is headquartered in Geneva, it will be supervised by the Swiss Financial Markets Supervisory Authority (FINMA). We have had preliminary discussions with FINMA and expect to engage

with them on an appropriate regulatory framework for the Libra Association. The Association also intends to register with FinCEN as a money services business.

Anti-Money Laundering, the Bank Secrecy Act, and Other Law Enforcement and National Security Concerns

The Libra Association is similarly committed to supporting efforts by regulators, central banks, and lawmakers to ensure that Libra contributes to the fight against money laundering, terrorism financing, and more. A network that helps move more paper cash transactions—where many illicit activities happen—to a digital network that features regulated on- and off-ramps with proper know-your-customer (KYC) practices, combined with the ability for law enforcement and regulators to conduct their own analysis of on-chain activity, will present an opportunity to increase the efficacy of financial crimes monitoring and enforcement. The Libra Association will continue to engage proactively and openly with all relevant stakeholders on these key issues. Libra should improve detection and enforcement, not set them back.

The Libra Association will also maintain policies and procedures with respect to AML and the Bank Secrecy Act, combating the financing of terrorism, and other national security-related laws, with which its members will be required to comply if they choose to provide financial services on the Libra network.

Protecting the Privacy and Security of Personal Information

Protecting consumers and ensuring people's privacy is one of the Libra Association's top priorities. The Association is committed to working with regulators as they explore the application of relevant laws to distributed ledger technology.

Privacy on the Libra Blockchain will be similar to existing blockchains; transactions include only the sender and receiver's public addresses, the transaction amount, and the timestamp. No other information will be visible. The Association will not separately hold any personal data on people who use the blockchain, no matter how it otherwise could be collected, and will not run any infrastructure. As a result, the Association cannot, and will not, monetize data on the blockchain. For the purposes of data and privacy protections, the Swiss Federal Data Protection and Information Commissioner (FDPIC) will be the Libra Association's privacy regulator.

The Structure and Management of Calibra

Because the Libra Blockchain will exist as an open-source ecosystem, businesses and developers around the world are free to build competitive services on top of it. And Facebook intends to be one of the many businesses that will do so. To that end, we recently announced the formation of Calibra, a Facebook subsidiary whose goal is to provide financial services using the Libra Blockchain. The first product Calibra intends to introduce is a digital wallet for Libra that will be available in Messenger, WhatsApp, and as a standalone app. The Calibra wallet will let users send Libra to almost anyone with a smartphone, similar to how they might send a text message, and at low-to-no cost. We expect that the Calibra wallet will ultimately be one of many services, and one of many digital wallets, available to consumers on the Libra network.

We do not expect Calibra to make money at the outset, and Calibra customers' account and financial information will not be shared with Facebook, Inc., and as a result cannot be used for ad targeting. Our first goal is to create utility and adoption, enabling people around the world—especially the unbanked and underbanked—to take part in the financial ecosystem.

But we expect that the Calibra wallet will be immediately beneficial to Facebook more broadly because it will allow many of the 90 million small- and medium-sized businesses that use the Facebook platform to transact more directly with Facebook's many users, which we hope will result in consumers and businesses using Facebook more. That increased usage is likely to yield greater advertising revenue for Facebook.

Implications for Consumers and Users of the Calibra Wallet

Regulatory Oversight and Financial Stability

Companies offering services on the Libra Blockchain will need to be fully compliant with the laws and regulations in the jurisdictions in which they operate, and that includes the Calibra wallet. One of the reasons that Calibra was established as a Facebook subsidiary was because it will be providing financial services, and it will be regulated accordingly. The Calibra wallet will comply with FinCEN's rules for its AML/CFT program and the rules set by the Office of Foreign Assets Control (OFAC) with respect to financial sanctions. State financial regulators will regulate Calibra as a money transmitter, and the Federal Trade Commission and the Con-

sumer Financial Protection Bureau will monitor for consumer protection and data privacy and security issues. Calibra has filed for State money transmitter licenses in the U.S. and it is also registered with FinCEN as a money services business.

Anti-Money Laundering, the Bank Secrecy Act, and Other Law Enforcement and National Security Concerns

Similarly, Calibra will comply with the Bank Secrecy Act and will incorporate KYC and AML/CFT methodologies used around the world, including those focused on customer identification and verification, and risk-based customer due diligence, while developing and applying technologies such as advanced machine learning to enhance transaction monitoring, and suspicious activity reporting. Calibra's efforts will be commensurate with its risk profile based on several factors, such as Calibra's product features, customer profiles, geographies, and transaction volumes.

Protecting the Privacy and Security of Personal Information

Calibra is also being designed with a strong commitment to protecting customer privacy. Calibra believes that customers hold rights to their data and should have simple, understandable, and accessible data-management controls. Calibra will not share individual customer data with the Libra Association, no matter how it might be collected, nor will Calibra receive other personally identifiable user data from the Libra Association. And, except in limited circumstances, such as preventing fraud or criminal activity and complying with the law, Calibra will not share customers' account information or financial data with Facebook unless people agree to permit such sharing. Calibra customer account information and financial data will not be used to improve ad targeting on the Facebook, Inc., family of products.

Conclusion

The goal for Libra is straightforward: A digital currency built on a secure and stable open-source blockchain, backed by a reserve of real assets, and governed by an independent association. We want to create more access to better, cheaper, and open financial services—no matter who you are, where you live, what you do, or how much you have. We recognize that the road to reaching that goal will belong, and it will not be achieved in isolation. That is why we have begun publicizing the vision for Libra and why we have been discussing, and will continue to discuss, how best to achieve that goal with businesses, nonprofit and multilateral organizations, and academic institutions from around the world, as well as with policymakers, central banks, and regulators. We recognize the authority of financial regulators and support their oversight of this project.

Thank you for having me here today. I look forward to answering your questions.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN CRAPO
FROM DAVID A. MARCUS**

Q.1. *Question on Regulatory Oversight:* Your testimony states that Calibra has registered with the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCEN) and the Libra Association intends to as well. Please confirm which entities will register with FinCEN.

A.1. Calibra, a Facebook subsidiary, has registered with FinCEN as a money services business. We understand that the Libra Association also intends to register with FinCEN as a money services business.

Q.2. *Questions on Libra Governance:* Will Facebook and/or the Libra Association directly require companies that offer services on the Libra Blockchain to comply with the Bank Secrecy Act and incorporate know-your-customer and anti-money-laundering and counterterrorism financing methodologies? Please answer for both U.S. and non-U.S. companies, as well as for custodial wallets and noncustodial wallets.

A.2. We understand that the Libra Association intends to register with FinCEN as a money services business and, as such, will be subject to the Bank Secrecy Act’s anti-money-laundering (AML) requirements. In addition, we understand the Libra Association intends to require that each member of the Association comply with AML guidelines that the Libra Association expects to establish, along with all applicable legal and regulatory obligations, including those relating to AML, to which the member is subject based upon the member’s activities and the jurisdictions in which it operates. Entities that are not Libra Association members that provide services for Libra users, such as digital wallet services, may be subject to AML and other laws depending upon the jurisdictions in which they are located and operate.

In recognition of the importance of this issue, we understand the Libra Association intends to work with regulators to address, before launch, any regulatory concerns related to the Association’s AML requirements.

Q.3. Kevin Weil, Calibra’s Vice President of Product, recently said that “. . . there are no plans for the Libra Association to take a role in actively vetting developers.” During the hearing, you told Senator Sinema that the Libra Association will “not get in the way of developers developing things” but that it will “need to find the right approach to ensure that publishing services on the Libra network has controls.”

What will these controls entail?

Will the Libra Association commit to ensuring robust audits of developers on the Libra Blockchain to ensure they are complying with all applicable laws and regulations?

A.3. The Libra Blockchain will be an open platform, which means that developers and businesses can build financial services products on top of it, creating a more thriving global ecosystem. This will allow businesses large and small to add value through their services, which can be accessed by anyone in the world. The idea is to create a level playing field so that people and small- and

micro-businesses around the world have equal access to a lower cost, global payment tool and financial infrastructure. Because the Libra Blockchain will be an open ecosystem, businesses will be able to create competitive services that result in market pressures keeping fees low. That open ecosystem will also allow curation, recommendation, and verification services to emerge that will help consumers sort through available options.

When Libra is first launched, we expect that developers will be able to use a limited number of applications focused on facilitating payments through the Libra Network. These could be merchant apps (e.g., the ability to receive payments as a business using Libra) or wallets (the ability to store, spend, and send money on the Libra Blockchain). As the network evolves and becomes mature, the Libra Blockchain will be able to support additional use cases and applications.

We understand the Libra Association is evaluating whether it would qualify as an “administrator” of a virtual currency as described in FinCEN guidance, but in any case, it intends to register with FinCEN as a money services business and will be subject to regulation as such. In addition, we understand that the Libra Association intends to require that each member of the Association comply with policies that the Libra Association expects to establish, along with all applicable legal and regulatory obligations to which the member is subject based upon the member’s activities and the jurisdictions in which it operates. Entities, including developers that are not Libra Association members, but provide services for Libra users, may be subject to laws and requirements depending upon the jurisdictions in which they are located and operate.

Each wallet on the Blockchain will determine its own policies in compliance with its local jurisdiction. Calibra will protect consumers by, among other things, investing in financial literacy and focusing on providing education. The Calibra wallet will be designed with education in the product experience itself—so along the way, consumers will understand what they are doing and what Libra can do for them. Our understanding is that the Libra Association will also fund social impact programs with partners that are focused on financial literacy around the world.

As far as the Calibra wallet is concerned, it will also provide strong consumer protections, including fraud protection, customer support, and password recovery. When using the Calibra wallet, automated tools will proactively monitor activity to detect fraudulent behavior. If fraudulent activity is suspected, Calibra will either deny the activity in real-time or ask for additional information before the activity can be completed. The Calibra wallet will have additional layers of authentication so people can trust their money will stay safe even if they lose their phone or password. And in the rare event of unauthorized access to a Calibra wallet, the user will be given a refund. Calibra will also offer dedicated customer support, ensuring that people will receive timely assistance, whether it be answering questions related to their account, or responding to reports of illicit activity. Like other custodial wallets, Calibra will manage the public and private keys of its customers. This means that people will have recourse if they lose their password and will

not have to worry about permanently losing access to their funds if they lose their phone.

Q.4. Will the Libra Association make public the levels of investments of each Founding Member?

A.4. The Libra Association is still in the process of formation and we understand that it has not yet determined whether the investments made by Initial Members will be made public. Regardless of a Member's investment level, we understand that the voting powers of Initial Members will be capped to avoid concentration of power. Additionally, the Association expects to work with members that are nonprofits, multilaterals, social impact partners, and universities to allocate a meaningful percentage of capital raised toward social impact grant-making in support of financial inclusion that would provide a mechanism for funding the hard costs related to running a node for such members to ensure that such organizations are also represented in the Association.

Q.5. Once Libra has launched, will the Libra Association repay Facebook, Inc., for its investments in the development of the network?

A.5. To the extent that Facebook has made loans or provided other funding to the Libra Association in the course of its early stage efforts to develop Libra, these funds may be repaid to Facebook. Once the Association completes its fundraising, we expect that it will achieve financial independence.

Facebook has also devoted significant resources to Libra over the past year. It does not expect to be repaid by the Libra Association for all of those resources.

Q.6. *Questions on Data Privacy:* What data privacy and consumer protections will apply to users of Libra within the U.S.?

A.6. Protecting and ensuring the privacy of those using the Libra Network is a top priority, and we understand the Libra Association is committed to working with regulators as they explore the application of privacy and data protection laws. Facebook anticipates that Calibra will be subject to U.S. privacy laws, as well as global laws like GDPR.

Facebook and the Libra Association recognize that regulators will be keen to engage with those building services to be offered in their jurisdictions. And the Libra Association is committed to working with authorities to shape a regulatory environment that encourages technological innovation while maintaining high standards of consumer protection.

People who use Calibra will benefit from strong consumer protections, including automated fraud detection, convenient in-app reporting of issues, and dedicated customer service. In addition, Calibra is being designed with a strong commitment to protecting customer privacy. We believe that customers hold rights to their data and should have simple, understandable, and accessible data-management controls. To that end, Calibra will provide its customers with disclosure that describes how customers may purchase and sell Libra coins, including through Calibra, and market and other risks associated with holding and using Calibra coins.

Q.7. What data privacy and consumer protections will apply to users of Libra outside the U.S.?

A.7. Please see the response to Question 6.

Q.8. You recently told the Banking Committee that Facebook, Inc., collects data from transactions that occur on-platform and use it for advertising and personalization.

Please list and describe all personal data Facebook, Inc., currently collects from on-platform transactions.

A.8. When an individual uses a Facebook product for purchases or other financial transactions (such as making a purchase in a game or making a donation), we collect information about the purchase or transaction. This includes information about the merchant; payment information, such as the user's credit or debit card number and other card information; other account and authentication information; and billing, shipping, and contact details.

Q.9. What type of personal data will Facebook, Inc., collect for on-platform transactions that use the Calibra wallet? For example, if a transaction occurs on Facebook using the Calibra wallet, what personal data will Facebook (the platform) collect?

A.9. Facebook created Calibra as a regulated subsidiary in part to ensure separation between social and financial data and to build and operate services on its behalf on top of the Libra Network. And except in limited circumstances that are described below, Calibra will not share customers' account information or financial data with Facebook.

Those limited circumstances where data might be shared between Calibra and Facebook include when data sharing is used to prevent fraud or criminal activity, as well as when users choose to share their data. As a Facebook subsidiary, Calibra may be legally obligated to share certain data with Facebook so the company can meet its regulatory requirements. This could consist of aggregated payment numbers for financial and tax reporting, or information necessary to comply with the law.

The limited user information that Calibra does collect and store will be subject to strong security and access controls. User payment credentials, such as a debit card number, will not be accessible by Facebook or its affiliates. User transaction activity will be private and will never be posted to Facebook, unless users themselves choose to share it.

Similar to other commerce platforms, there may be times when Facebook, acting in its capacity as a merchant or platform, will independently have access to information about completed transactions that take place on Facebook's commerce platform (e.g., purchase made, merchant, transaction amount, date, time). This may include transactions completed via Calibra with Libra as the exchanged currency, though this would not involve a special transfer of information from Calibra to Facebook. In those situations, Facebook's independent access to transaction information will be the same as for other transactions on the Facebook platform completed using other payment methods like credit cards.

Q.10. Outside the information necessary to complete a transaction, what type of personal data will Calibra collect on its users whether or not the transaction occurs on Facebook, Inc.?

A.10. To sign up for a Calibra wallet account, users will need to provide their phone number, first name, last name, date of birth, address, and a form of Government-issued identification (e.g., a license, passport, or ID card) during registration. This information is necessary to ensure that Calibra complies with KYC, AML, and other regulatory requirements applicable to it under U.S. and other law. We will have strong controls in place to ensure that data is only accessed by authorized individuals to fulfill necessary responsibilities, including those related to AML, CFT, and sanctions requirements, and to protect users against fraud. The limited user information that Calibra does collect and store will be subject to strong security and access controls.

Q.11. *Questions on Libra-Enabled Commerce:* Will Facebook, Inc., require its advertising clients and/or company partners to use, accept, and/or promote Libra? Please answer separately for Facebook, Inc.'s family of services and Calibra.

A.11. No. While Facebook does plan to accept Libra for ads, we will continue to enable businesses to pay for ads using the payment methods we currently accept.

Q.12. How will Facebook, Inc., incentivize each of the following to use, accept and/or promote Libra? Please answer separately for Facebook, Inc.'s family of services and Calibra.

1. Advertising clients
2. Company partners
3. Individuals/potential users

A.12. While Facebook expects to accept Libra as payment for its advertising services, it has not yet determined if or how it will incentivize its advertising customers to use Libra.

We understand that the Libra Association will offer incentives, with the goals of accelerating the utility and adoption of Libra by encouraging businesses and people to participate in the ecosystem and ensuring the growth and health of the ecosystem.

First, many members of the Libra Association will be incentivized to join as members (and, as applicable, operate nodes on the Libra Blockchain) by the potential to profit from their financial investment in the Libra Association if the Libra digital currency gains widespread adoption. Other members of the Libra Association, such as NGOs, will be incentivized to join the Libra Association as a way to further their mission of providing financial or other services to those most in need of such services. Some members may be incentivized by a combination of these motivations.

Second, Designated Dealers will be incentivized to make markets in Libra coins by the potential to earn arbitrage profits. Exchanges will be incentivized to list Libra coins for trading by the potential to receive fees with respect to transactions in those coins, in the same way that exchange operators today receive fees for transactions in other tradeable assets.

Third, businesses offering services in the Libra ecosystem, such as Facebook's subsidiary Calibra, will be incentivized to do so by

the potential to earn a profit on the provision of those services, consistent with their business models. Others who choose to provide services in the Libra ecosystem, such as NGOs and academic institutions, may be motivated by the potential to leverage the Libra Network to provide accessible and inclusive financial services to additional groups of individuals.

Fourth, assuming that service providers on the Libra Network offer services that are attractive to and useful for consumers, retail users of Libra coins will be incentivized to use Libra coins to make payments and send money to others. The current payments system is too expensive and too slow. The potential of a cheaper and faster payments solution is expected to be attractive to many.

These incentives are distinct from how Facebook, Inc.'s family of services will treat Libra payments made by advertising customers.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM DAVID A. MARCUS**

Q.1. Please provide to the Committee any chartering, organizing, or incorporating documents related to the Libra Association and a list of persons or organizations that have agreed to such documents.

A.1. The initial group of 28 organizations (Initial Members) are still working together on finalizing the Association's charter. Before Libra is launched, we expect that the Libra Association will grow to around 100 geographically distributed and diverse members, serving as initial validator nodes on the Libra Blockchain. In the meantime, the Libra website outlines in detail the proposed specifics regarding the Libra Association's responsibilities, roles, and governance mechanisms. This outline will serve as a basis for discussion among the Association's members as they develop the charter and bylaws. For more information, please see <https://libra.org/en-US/association-council-principles/#overview>.

The Libra website also contains information regarding the membership criteria necessary for a business, social impact partner, or academic institution to become a member. For more information, please see <https://libra.org/en-US/becoming-founding-member/#joining-libra-association>.

Q.2. Please provide to the Committee any documents detailing the agreements related to Libra investment tokens.

A.2. We understand the Libra Association may raise money by offering Libra Investment Tokens to various sources, including: (1) Initial Members and (2) members who join the Libra Association after the initial launch. Our understanding is that purchase of Libra Investment Tokens may be a condition to membership in the Libra Association, other than for nonprofits, NGOs, and academic institutions. These latter institutions may not be required to purchase or hold Libra Investment Tokens.

We understand the terms and agreements related to Libra Investment Tokens have yet to be finalized. Our current expectation is that the Libra Investment Token will entitle holders to a formula return (as-yet undefined) based on the interest income produced on assets held in the Libra Reserve. We understand that funds paid

for Libra Investment Tokens will be used to develop the Libra ecosystem, including developments related to the Libra coin. Holders of Libra Investment Tokens will not benefit from any financial guarantee that their investment will be successful and will be subject to risk of loss of their investment if the Libra coin and the Libra Association are not commercially successful. Indeed, the Libra Investment Token is a speculative instrument being offered only to sophisticated investors who understand the risks of the investment. No financial guarantee or right of redemption will be provided to investors in the Libra Investment Token.

Q.3. You testified to the Committee that Libra is a “payment tool,” and in your July 8, 2019, response to our letter, you stated:

The reality is that financial transactions today take too long and cost too much. The fees associated with moving money are high, and those that can afford it least are being charged the most.

If Facebook’s new payment tool is designed to upset the status quo of the payments market, why did Facebook seek the participation of two of the largest payment incumbents, Visa and Mastercard, in setting up a competing payments platform?

A.3. The goal of Libra is to provide a faster, lower-cost payment solution that is available to everyone, especially those who have historically been underserved by existing payments and other financial services solutions. Because Libra wallets, including Calibra, will benefit from many of the positive characteristics of blockchain technology, like low transaction fees and instant payments, we hope that they will enable more people and businesses to take part in the global economy.

Building a global digital payment tool is a tremendous undertaking that no single company could—or should—do alone. The Libra Association is designed to not be controlled by any single stakeholder; instead, it will involve a group of trusted, geographically diverse companies, including Mastercard and Visa, NGOs, academic institutions, and organizations. This structure is meant to ensure that the network is not driven by the interests of a single company—or subject to a single point of failure. We believe that the participation of Visa and Mastercard in the Libra Association will help to accelerate the acceptance of Libra within current merchant networks—an important part of creating more general acceptance for Libra globally. And while we hope that companies like Visa and Mastercard will build and offer services on the Libra Network, the open nature of the ecosystem means that any other company that wishes to offer a competitive service can do so as well.

Q.4. Setting aside the possibility that Facebook may have a Libra wallet that competes with Visa or Mastercard’s Libra wallets, will the Libra ecosystem be designed to compete directly with Visa and Mastercard payments?

A.4. The Libra Blockchain will be an open ecosystem, which will allow businesses to create competitive services on the Libra Network. Any company will be free to build a wallet on the network. These wallets will provide choice and competition that will benefit consumers. The Calibra wallet will also be interoperable with other

apps and financial service providers that offer complementary services, such that, even if one end of a transaction uses the Calibra wallet, the other end does not need to do the same.

We will continue to partner with financial services companies like Visa and Mastercard across our family of apps—and this includes Calibra. Other service providers are also free to build their own Libra wallets. Additionally, our current plan is to continue to offer person-to-person payments in Messenger for people in the U.S. WhatsApp is committed to working with partners to offer WhatsApp payments in a number of countries as well. This provides people with a vast array of options to use the payments services they prefer.

Q.5. Please provide to the Committee any agreements, contracts, affiliations or joint ventures Facebook has with Visa or Mastercard separate from their participation in the Libra initiative.

A.5. Facebook's policy is not to make public contracts or other agreements between private parties. Such agreements typically include sensitive business information that must be treated confidentially in order to prevent competitive harm and ensure the integrity of contractual relationships.

Q.6. Please also explain in detail whether Facebook will enter into any agreements with Visa or Mastercard related to the Calibra wallet or other Calibra financial services, including any exclusivity agreements related to credit card processing.

A.6. Please see the response to Question 5.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN FROM DAVID A. MARCUS

Q.1. What revenue streams will Facebook, through its subsidiary Calibra or otherwise, envision earning from Libra?

A.1. The goal for Calibra is to charge very little or nothing for person-to-person transactions, and, accordingly, we do not expect Calibra to generate significant revenues at the outset. Our first goal is to create utility and adoption, enabling people around the world—especially the unbanked and underbanked—to take part in the financial ecosystem.

We do expect that the Calibra wallet will be immediately beneficial to Facebook because it will allow many of the 90 million small- and medium-sized businesses that use the Facebook platform to transact more directly with Facebook's many users, which we hope will result in consumers and businesses using Facebook more. That increased usage is likely to yield greater advertising revenue for Facebook. Additionally, if we earn people's trust with the Calibra wallet over time, we will also be in a position to start offering more financial services, generating other revenue streams for the company.

Moreover, Facebook introduced Libra because it aligns with our mission. Bringing the world closer together involves giving people tools to connect and communicate, including by easily moving value between one another. Economic empowerment is one of our core values, and the 90 million businesses on the Facebook platform can attest to that. We have done a lot to democratize free, unlimited

communications for billions of people. We want to help do the same thing for digital money and financial services, with one key difference: we will relinquish control over the very network and currency we have helped create.

It bears repeating that Facebook will not control the Libra Network, the currency, or the Reserve backing it, nor will it have any special responsibility over the network. Facebook expects to be only one among over a hundred members of the Libra Association by launch. We will not have any special rights or privileges. Even more importantly, users will not have to use the Calibra wallet to get the benefit of Libra; people will have many ways in which to use Libra and access the network.

Those limited circumstances where data might be shared between Calibra and Facebook include when data sharing is used to prevent fraud or criminal activity, as well as when users opt-in to share their data. As a Facebook subsidiary, Calibra may be legally obligated to share certain data with Facebook so the company can meet its regulatory requirements. This could consist of aggregated payment numbers for financial and tax reporting or information necessary to comply with the law. The limited user information that Calibra does collect and store will be subject to strong security and access controls. User payment credentials, such as a debit card number, will not be accessible by Facebook or its affiliates. User transaction activity is private and will never be posted to Facebook, unless users themselves choose to share it.

Similar to other commerce platforms, there may be times when Facebook, acting in its capacity as a merchant or platform, will independently have access to information about completed transactions that take place on Facebook's commerce platform (e.g., purchase made, merchant, transaction amount, date, time). This may include transactions completed via Calibra with Libra as the exchanged currency, though this would not involve a special transfer of information from Calibra to Facebook. In those situations, Facebook's independent access to transaction information will be the same as for other transactions on the Facebook platform completed using other payment methods like credit cards.

Q.2. Will Facebook collect or receive preferential access to user's financial data by owning Calibra or by being a (the leading) member of the Libra Association?

A.2. No. Data on the Libra Blockchain, which includes transaction information listed only by public blockchain addresses, will be pseudonymous and will be equally visible to everyone.

Facebook created Calibra as a regulated subsidiary in part to ensure separation between social and financial data and to build and operate services on its behalf on top of the Libra Network. And except in limited circumstances that are described below, Calibra will not share customers' account information or financial data with Facebook.

For more information on the limited circumstances where data might be shared between Calibra and Facebook, please see the response to Question 1.

Q.3. Will the Libra Association’s governance meetings be open to the public? Will they take written questions or comments from Libra users?

A.3. We understand the Libra Association is committed to providing Libra users with the opportunity to ask questions about and comment upon the Libra coin and the operations of the Libra Association. We understand that the exact nature of these processes will be agreed upon by the members of the Libra Association.

Q.4. Will the Libra Association invite Government bodies (e.g., central banks of underdeveloped Nations where Libra may displace national currencies) to join as members?

A.4. At this time, we understand that the Libra Association intends to limit membership to certain types of organizations and will work with its Initial Members to create a set of sector-specific evaluation criteria for organizations that wish to join. We do not expect central banks or other Government bodies to become members of the Libra Association, but we expect that membership criteria for the Libra Association will continue to evolve, as determined by the Libra Association and its members. More generally, oversight and feedback from Government bodies, including those from countries with less developed banking and monetary systems, as well as the G7 Working Group on stable coins, will be crucial to a successful launch of Libra. The Libra Association does not intend to offer the Libra digital currency in any jurisdiction until it has addressed applicable regulatory concerns, including concerns about Libra’s interaction with national currencies, and received appropriate approvals. And even if Government bodies from underdeveloped Nations do not themselves become members of the Libra Association, non-governmental organizations active in and attentive to the interests of those in underdeveloped Nations are expected to join.

Q.5. Will the Libra Association permit individuals or entities to “pool” memberships? If a consortium of NGOs, for example, raised funds to purchase a membership, could they join the Libra Association as a full voting member? How does the Libra Association intend to receive and incorporate input from communities it will influence and affect?

A.5. As discussed in the response to Question 4, we understand the Libra Association will work with its Initial Members to create a set of sector-specific criteria for organizations that wish to join. A consortium of NGOs meeting those criteria applicable to NGOs may be eligible to apply. Additionally, we understand the Association intends to identify social impact partners aligned with its mission of financial inclusion and will work with them to establish a Social Impact Advisory Board and a social impact program. The Libra Association expects that input from member NGOs will be a valuable source of information from the communities it will influence and affect. Individuals are not expected to be admitted as members of the Libra Association.

Q.6. Will the Libra Association incorporate the views of Libra users in governance? Put another way, will the product users (the unbanked who stand to be affected by Libra’s focus on social impact) have a voice in how Libra operates?

A.6. Please see the responses to Questions 3, 4, and 5.

Q.7. Why exclude Libra users from any financial benefit of the system? Since they will be paying fees to exchange local fiat into Libra and those fees are being used to purchase “stable” assets like T-bills and other Government securities, how can the unbanked share in the financial upside that is now only available to Libra Investment Token Holders? Perhaps through some direct subsidy?

A.7. The Libra ecosystem is expected to enable users of Libra to send and receive money in a way that is easier, less costly, faster, and safer than the status quo. Investments made by members of the Libra Association will fund the development of this ecosystem, and though a portion of the return on the Libra Reserve will accrue to the benefit of those member-investors, the overall benefits of the Libra ecosystem in terms of easier, less costly, faster, and safer payments will ultimately accrue to the benefit of Libra users.

Q.8. Coindesk recently published a number of earnings estimates for Libra Investment Token holders based on the Libra token achieving different levels of adoption. One model estimates that if Libra achieves adoption equal to 10 percent of the U.S. M1 money supply, Libra would generate—after deducting the assumed \$1 billion in annual operational expenses—nearly \$7 billion of interest per year, with a yearly return on investment (ROI) for the Libra Governance token holders of 688.51 percent.

Given the wealth that will be created by a successful Libra platform, why not use earnings from user deposits to lower costs for users to buy into Libra?

A.8. We are not in a position to comment on Coindesk’s projections, which are speculative. We know that the current payments system imposes high costs on everyday users, and this problem is a key motivation for Libra. We understand that for Libra to be useful, it will need to offer a lower-cost solution than is available today. We expect improved technology and competition to dramatically reduce the fees associated with payments made through services offered on the Libra Network, including fees paid in connection with the purchase, storage, sale, and transfer of Libra coins.

Q.9. What are the first target markets for Libra? Is the Association considering only economically underdeveloped countries?

A.9. We understand the Association is considering as markets both “underdeveloped” and “developed” countries. While we believe that Libra can offer widespread utility, it will provide the most immediate value to people and merchants who regularly make or receive cross-border payments and people with limited or no access to financial services, such as the unbanked or the underbanked. We hope Libra will provide more people with more options for financial services than they may have access to today. While the Association will make the final decision, we understand that it will not determine where Libra are distributed and used, and will not interface with customers. Libra will be distributed by exchanges, wallet services, and other trading platforms. We expect that the Association will prioritize local partnerships in markets that are remittance corridors to further facilitate local adoption.

Q.10. What efforts has Facebook and/or the Libra Association undertaken to engage regulators in underdeveloped Nations where Libra may have its largest social impact? Why did Facebook not consult with the relevant finance ministries where it expects Libra to have its greatest and immediate impact?

A.10. Members of Libra’s development team have met and continue to meet with central banks around the world, including central banks in those countries where Libra may have the largest social impact. During those meetings, the development team has explained that the currencies represented in the Libra Reserve will be subject to their respective Governments’ monetary policies. We understand the Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. We expect it will work with the Federal Reserve and other central banks to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. Monetary policy is properly the province of central banks.

Q.11. Would not the unbanked be better off being banked with regulated banks than using Libra? At least with a bank account, users would be able to earn interest on their deposits, have legal protections such as FDIC insurance on the value of their deposits, and be able to withdraw funds within 24 hours. What are the comparable guarantees or protections with Libra?

A.11. We are launching Libra in part because the unbanked lack access to traditional, regulated banks. Our vision is to create a simple digital currency and financial infrastructure that empowers people around the world. By creating a decentralized currency and an open platform for developers and businesses, large and small, to create accessible and inclusive financial services, this vision can become a reality. A digital currency powered by blockchain technology offers specific advantages over traditional financial services, and an open-source blockchain will enable businesses and developers around the world to build services that meet the needs of their communities. Payment mechanisms such as the Calibra wallet will give users an option to use Libra as a medium of exchange to send remittances and make payments more easily and at a lower cost than they can with existing payment systems and services.

Libra will be fully backed on a one-to-one basis through the Libra Reserve, which will hold a fungible pool of bank deposits and highly liquid, very short-term Government securities. These assets are expected to be denominated in the U.S. dollar, the British pound sterling, the euro, the Japanese yen, and the Singapore dollar. Because Libra will be fully backed and we expect that the Libra Association will encourage a diverse ecosystem of exchanges, individuals holding Libra digital coins can have a high degree of assurance that they can sell them for local fiat currency based on an exchange rate at a narrow spread below the value of the Reserve, similar to exchanging one currency for another when traveling. The assets in the Libra Reserve will be held by a geographically distributed network of bank custodians with investment-grade credit rating to provide both security and decentralization of the assets.

Calibra will be a regulated money services business. It will be required at all times to hold Libra coin equal to or greater than 100 percent of the coins owned by customers. Further, Calibra will provide stronger protections than many other cryptocurrency wallets today, including know-your-customer compliance, consumer and fraud protection, customer support, and password recovery. When using Calibra, automated tools will proactively monitor activity to detect fraudulent behavior. If fraudulent activity is suspected, Calibra will either deny the activity in real-time or ask for additional information before the activity can be completed. The Calibra wallet will include additional layers of authentication so that users can trust their money will stay safe even if they lose their phone or password. And in the rare event of unauthorized transactions in a user's Calibra wallet, that user will be given a refund. Calibra will also offer dedicated customer support, ensuring that people will receive timely assistance, whether it be answering questions related to their account, or responding to reports of illicit activity. Like other custodial wallets, Calibra will manage the public and private keys of its customers. This means that people will have recourse if they lose their password and will not have to worry about permanently losing access to their funds.

In terms of security, we are utilizing systems that have been certified for PCI compliance and are implementing security measures that are compliant with data protection regulations. Moving forward, we will continue to take active steps to ensure we are meeting expectations to secure traditional financial instruments and will continuously evolve our security posture to meet an ever-changing threat landscape.

Of course, using Libra is a choice, and individuals with access to traditional banks will always have the option of keeping their funds in a bank if they do not believe that Libra is best for them.

Q.12. Libra's white paper describes the Libra reserve as "[Libra] buyer of last resort" should Libra's "authorized resellers" want to sell back Libra for its underlying assets.

Based on this description, does Facebook intend the Libra Association to operate akin to the Federal Reserve, even though the Association does not set monetary policy?

A.12. The Libra Association is not designed to operate akin to the Federal Reserve or any other central bank. We understand the Libra Association will be the "buyer of last resort" for Libra coins because it will be the only entity capable of repurchasing Libra coins in return for their value in U.S. dollars or some other currency (i.e., "burning" them, meaning repurchasing them for cash and permanently taking them out of circulation). Only Designated Dealers, not retail users of Libra coins, will have the contractual right to return Libra coins to the Libra Association for repurchase in exchange for U.S. dollars or some other currency equal to the then-current value of the assets (established by third-party price providers) held in the Libra Reserve corresponding to those Libra coins. Retail users of Libra coins will buy and sell Libra coins for their own account on third-party trading platforms or from intermediaries acting as dealers and market makers. If and when a Designated Dealer places an order to sell Libra coins, we under-

stand the Association will fulfill this order by selling assets or transferring cash from the Reserve, not by lending or borrowing funds from third parties.

Q.13. To use Libra, will users be required to use the Calibra wallet? Or does the Libra Association anticipate making grants to startups looking to build improved wallets for Libra, or incorporate Libra as a token for existing wallets?

A.13. No. Users will not be required to use the Calibra wallet to take advantage of all that Libra has to offer. The Libra Blockchain will be an open ecosystem, which will allow businesses to create competitive services on the Libra Network. Any company will be free to build a wallet on the network. These wallets will provide choice and competition, which will benefit consumers. The Calibra wallet will also be interoperable with other apps and financial service providers that offer complementary services. And the Calibra wallet will support data portability, so that users who wish to move from the Calibra wallet to another service provider will be able to transfer their data with ease.

Q.14. Why is Libra its own unit of account? Would this not erode local purchasing power and harm the financially vulnerable who take on exchange rate risk between Libra and the local currency in which goods, services and wages are priced in?

A.14. The Libra Association was established with the mission of creating a lower cost, more accessible payment tool built on the Libra Blockchain that will facilitate a more connected global payments system. For many, the current payments system is too expensive, too slow, or in some cases, completely inaccessible. If successful, Libra would help address some of these issues, costs, and barriers.

Libra's comparative advantage will be in cross-border transactions that already involve multiple currencies and exposure to foreign exchange risk. Moreover, Libra is designed to exist alongside existing currencies. A key objective is to provide people around the world with access to a low-volatility cryptocurrency that can serve as a low-friction medium of exchange on an international basis from day one and can support new digitally native use cases such as micropayments. The Libra Reserve will play a vital role in supporting value preservation, building trust, and protecting the resources users, merchants, and developers bring to the network.

For countries that have capital controls in place, we expect regulators in those countries will apply them to wallets that enable Libra as they see fit, since on- and off-ramps will be regulated. And we understand that the Association plans to work with central banks to identify issues that may relate to those central banks' ability to perform monetary policy. Libra is meant to exist alongside local currencies, and therefore we would expect that Libra would not be a replacement for local currencies as a unit of account. Instead, Libra is meant to serve primarily as a means of payment. Moreover, Libra coins, digital wallets, and other mechanisms designed to make remittances or payments over the Libra Network will need to reduce the overall cost of such transactions, including any exchange rate costs, in order to be successful. We expect that any costs of using Libra, such as exchange rate fees, will

be offset by lower transaction fees and other benefits relative to existing payment options.

Q.15. Will the Libra Association provide quarterly (or real time) audits of the available reserves?

A.15. We expect the Libra Reserve to be subject to rigorous supervisory oversight, internal and external audit, and public reporting requirements. First, we anticipate that the Libra Association will be subject to an appropriate regulatory framework, which we expect will involve supervision by FINMA, and that its regulators will subject the Libra Reserve to rigorous supervisory oversight. Second, we expect that the Libra Association will regularly publish unaudited information on the composition of the Libra Reserve. Third, we understand that the Libra Association will establish and maintain an appropriate risk management framework for the Libra Reserve, which will include periodic internal audits or reviews, and external audits. Finally, the Libra Association is expected to publish information from these audits and reviews on a regular basis, subject to applicable law, in order to demonstrate that all Libra coins in circulation are fully matched by cash and cash equivalents in the Libra Reserve.

Q.16. Please walk us through the steps for how the Libra Association will be “decentralized” and how Libra which will always run on a permissioned network ever be a decentralized, permissionless currency?

A.16. We understand the Libra Association’s governing council will be responsible for developing and adopting a technical plan for the Libra Network node operation to become permissionless. We expect that the Libra Blockchain will transition to a permissionless structure only if applicable regulatory requirements will be met and any transition plans are expected to be reviewed by governing regulatory authorities. We understand that the Libra Association does not expect this step to take place within the next 5 years, and in any case will seek to transition to a permissionless blockchain only if and when it is confident that it has systems in place to address applicable AML and sanctions requirements as well as other applicable law.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM DAVID A. MARCUS

Q.1. If Libra gains mass adoption, it could pose a threat to United States sovereignty because it could harm the integrity of its monetary system and the ability to maintain a primary currency. In your testimony, you state that the Libra Association has “no intention of competing with any sovereign currencies or entering the monetary policy arena.”

Have you considered all the implications that Libra would have for national sovereignty?

A.1. Our goal is for Libra to exist alongside existing currencies, and we do not believe that the existence of Libra coins will pose any threat to U.S. sovereignty—similar to how payments technology and networks have not posed a threat in the past.

The Federal Reserve will maintain control over the U.S. monetary system, including U.S. interest rates, the supply of U.S. dollars, and the other aspects of U.S. monetary policy. We expect that U.S. dollars withdrawn from the U.S. banking system in order to invest in Libra coins will be redeposited in the U.S. banking system in the form of the U.S. Treasuries in the Libra Reserve.

Libra is not designed to replace the U.S. dollar or any other currency, but to extend their functionality by allowing for cheaper and faster payments. It is designed to be a complement to local fiat currencies, not a substitute. It complements them by allowing for cross-border payments at a low cost.

Q.2. What is to prevent the Libra Association from unilaterally altering its stated intention not to interfere with monetary policy and national Government control of the money supply?

A.2. The currencies represented in the Libra Reserve will continue to be subject to their respective Governments' monetary policies. We expect that certain changes to the Libra Reserve could also be subject to regulatory requirements that are being considered by a G7 Working Group and other regulators. We understand the Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. It will work with the Federal Reserve and other central banks responsible for monetary policy to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. Monetary policy is properly the province of central banks. And we expect FINMA and the G7 central banks to insist on a regulatory framework for the Libra Association that will ensure that the Association cannot interfere with monetary policy.

Q.3. We have seen how Kremlin and Kremlin-linked actors are exploiting cryptocurrencies to carry out malign influence operations. For instance, the Special Counsel charged Russian military intelligence agents who hacked into the Democratic National Committee and weaponized the stolen information with conspiracy to launder money. The indictment specifically cited how the Russian agents used bitcoin in the furtherance of their scheme, stating that "the use of bitcoin allowed the Conspirators to avoid direct relationships with traditional financial institutions, allowing them to evade greater scrutiny of their identities and sources of funds." It has also been reported in the media that cryptocurrencies are utilized for other illicit purposes such as money laundering, sanctions evasion, and support for terrorism.

What safeguards will you put in place to ensure that Libra does not provide similar anonymity to those that seek to use your cryptocurrency to finance their malign influence operations against the United States, our allies, and our partners?

How will you ensure that Libra will not be utilized to interfere in our elections, launder money, or evade sanctions?

How will you facilitate cooperation with law enforcement to counter illicit activity?

A.3. Facebook and the Libra Association are committed to working with policymakers and regulators to achieve a safe, transparent, and consumer-friendly implementation of Libra. We recognize that blockchain is an emerging technology, and that policymakers must

determine how this technology will fit into the regulatory landscape. We understand that the Association also intends to register with FinCEN as a money services business.

Facebook and the Libra Association are similarly committed to supporting efforts by regulators, central banks, and lawmakers to ensure that Libra contributes to the fight against money-laundering, terrorism financing, and more. A network that helps move more paper cash transactions—where many illicit activities happen—to a digital network that includes, for relevant parties, on- and off-ramps with proper know-your-customer practices, combined with the ability for law enforcement and regulators to conduct their own analysis of on-chain activity, will present an opportunity to increase the efficacy of financial crimes monitoring and enforcement. We understand the Libra Association plans to continue to engage proactively and openly with all relevant stakeholders on these key issues. Libra should improve detection and enforcement capabilities, not set them back.

Our understanding is that the Libra Association will consult with vendors who have expertise in identifying illicit activity on public blockchains. It will also maintain guidelines with respect to anti-money-laundering, combating the financing of terrorism, and other applicable national security-related laws, with which we understand its members will be required to comply. These service providers will include payment services and marketplaces that are already trusted today by millions of people to complete their transactions safely, and that have major investments in people and technology to fight fraud and prevent illicit activity.

The Libra Association and Calibra are committed to working with law enforcement. In the event that illicit activity does take place on the Libra Blockchain or by Calibra's customers, law enforcement can subpoena details on accounts and transactions from specific wallet operators or other relevant service providers and, in appropriate circumstances, may be able to obtain court orders or administrative orders requiring a wallet operator to freeze or move Libra coins. Law enforcement agencies will also be able to access the Libra Blockchain ledger directly and conduct their own analysis.

Q.4. In a July 3 note you posted to Facebook, you stated the following:

Facebook created a subsidiary—Calibra—that will operate a wallet service on top of the Libra Network, and while Facebook, Inc., owns and controls Calibra, it won't see financial data from Calibra.

In the same post, you also wrote:

If Libra is successful, Facebook will first benefit from it by enabling more commerce across its family of apps. More commerce means ads will be more effective, and advertisers will buy more of them to grow their businesses. Additionally, if we earn people's trust with the Calibra wallet over time, we will also be in a position to start offering more financial services, and generate other revenue streams for the company.

If Libra facilitates more commerce across Facebook's family of apps, how is it that Facebook won't see financial data from Calibra and other entities providing Libra digital wallet services?

Facebook already wields considerable commercial power by leveraging our social media data through the sale of ads. With Calibra, Facebook could have access to even more of our financial data, which would make Facebook's ads more effective and permit Facebook to offer more financial services. Why should Facebook be permitted to wield even more power than it already possesses?

A.4. The benefit that Facebook derives from Calibra is not based on access to Calibra financial data. Calibra will enable the 90 million small- and medium-sized businesses on the Facebook platform to engage in more commerce with Facebook's users. If they engage in more commerce, there will be more advertising spend from those businesses. That would be a first indirect effect of having Calibra and the Libra Network be successful. Over time, we hope that through the Calibra wallet we can offer more services and partnerships with existing banks and financial services companies to drive new revenue streams for the company.

Indeed, Calibra is being designed with a strong commitment to protecting customer privacy. Calibra believes that customers hold rights to their data and should have simple, understandable, and accessible data-management controls.

Facebook created Calibra as a regulated subsidiary in part to ensure separation between social and financial data and to build and operate services on its behalf on top of the Libra Network. And, except in limited circumstances that are described below, Calibra will not share customers' account information or financial data with Facebook.

Those limited circumstances where data might be shared between Calibra and Facebook include when data sharing is used to prevent fraud or criminal activity, as well as when users choose to share their data. As a Facebook subsidiary, Calibra may be legally obligated to share certain data with Facebook so the company can meet its regulatory requirements. This could consist of aggregated payment numbers for financial and tax reporting or information necessary to comply with the law.

The limited user information that Calibra does collect and store will be subject to strong security and access controls. User payment credentials, such as a debit card number, will not be accessible by Facebook or its affiliates. And user transaction activity is private and will never be posted to Facebook, unless users themselves choose to share it.

Similar to other commerce platforms, there may be times when Facebook, acting in its capacity as a merchant or platform, will independently have access to information about completed transactions that take place on Facebook's commerce platform (e.g., purchase made, merchant, transaction amount, date, time). This may include transactions completed via Calibra with Libra as the exchanged currency, though this would not involve a special transfer of information from Calibra to Facebook. In those situations, Facebook's independent access to transaction information will be the same as for other transactions on the Facebook platform completed using other payment methods like credit cards.

Q.5. In a July 3 note you posted to Facebook, you wrote the following about Libra:

[I]f this is not done right, it could definitely present systemic risks no one wants.

Please describe with specificity the two worst systemic risks?

If despite your best efforts, these systemic risks are realized, how will you or any other senior executive at Facebook or Calibra take personal responsibility for these failures?

A.5. First, it is important to reiterate our commitment to taking the time to get this right. We understand the Libra Association will not offer the Libra digital currency in any jurisdiction until we have fully addressed applicable regulatory concerns—including concerns about potential systemic risks—and have received appropriate approvals in that jurisdiction.

Two of the most significant systemic risks that a payment token could pose, if not structured properly, would be those stemming from (i) a fractional reserve, wherein the payment tokens in circulation are not fully backed by corresponding assets in the reserve, and (ii) a liquidity mismatch, wherein the assets in the reserve are not limited to cash and cash equivalents, but instead include illiquid or other risky assets.

The Libra digital currency will be structured to address these systemic risks by requiring all the Libra coins in circulation to be fully backed by corresponding assets in the Libra Reserve, and to limit the assets in the Libra Reserve to cash and cash equivalents in the form of very short-term Government securities. And we expect FINMA and the G7 central banks to insist on a regulatory framework for the Libra Association that will impose controls on the investments in the Libra Reserve to prevent the Libra Reserve from being invested in risky assets.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM DAVID A. MARCUS

Q.1. Mr. Marcus, as I raised with you in the hearing, it is my understanding that if the Libra Association was made aware of a sanctioned individual and that individual's digital currency address, it would have the technical ability to stop transactions to or from that address, regardless of the wallet and "on- or off-ramp" that individual used.

Is it true that the Libra Association would have the technical ability to stop such transactions?

A.1. The Libra Association is committed to ensuring that the Libra Network complies with applicable laws and regulations, including applicable anti-money-laundering (AML) requirements and sanctions laws and regulations. To this end, we expect that the Libra Association and its members will explore what technical and contractual options are available and may be appropriate to ensure that appropriate measures are taken to comply with sanctions and AML requirements, including blocking or restricting transactions to a blockchain address of a sanctioned individual.

Speaking for Calibra, Calibra will take steps at multiple levels to prevent and detect possible sanctions-related activity by scan-

ning users of the Calibra wallet against issued sanctions lists and country and regional sanctions programs—including those administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC)—and blocking prospective and current users when appropriate. Calibra will also implement automated geo-blocking controls to prevent users from accessing the Calibra wallet or transacting from specified locations.

Similarly, Calibra has registered with FinCEN as a money services business, and as such will comply with relevant FinCEN regulations and guidance. Additionally, Calibra will incorporate know-your-customer and anti-money-laundering/combating-the-financing-of-terrorism methodologies used around the world, including those focused on customer identification and verification, as well as risk-based customer due diligence. Calibra will achieve this, in part, by developing and applying technologies such as advanced machine learning to enhance transaction monitoring and suspicious activity reporting. Calibra’s efforts will be commensurate with the risks posed by several factors such as Calibra’s product features, customer profiles, geographies, and transaction volumes.

Q.2. Will you, as a founding member of the Libra Association, commit to stopping such transactions to provide an added layer of security in the event that a sanctioned actor attempts to use a wallet or “on- or off-ramp” based in a jurisdiction that does not comply with U.S. sanctions law?

A.2. Please see the response to Question 1.

Q.3. As Libra transitions to a permissionless blockchain, how are you going to ensure that Libra isn’t used by illicit actors in the same way they’ve tried to use Bitcoin and other cryptocurrencies?

A.3. The Libra Association is committed to complying with applicable laws and is evaluating appropriate steps to safeguard the Libra Network from abuse by criminal actors. We understand the Libra Association’s governing council will be responsible for developing and adopting a technical plan for the Libra Network to become permissionless. The Libra Blockchain will transition to a permissionless structure only if applicable regulatory requirements will be met. Any transition plans are expected to be discussed with governing regulatory authorities. We understand that the Libra Association does not expect this step to take place within the next 5 years.

Q.4. In your testimony, you stated that Calibra would develop and apply technologies such as advanced machine learning to “enhance transaction monitoring and suspicious activity reporting”. Will you commit to testing these systems before Libra launches to ensure that they are at least as capable as our current banking system of stopping illicit financing and share those results with this Committee, FinCEN, and other regulators?

A.4. We understand that the Libra Association will not offer the Libra digital currency in any jurisdiction until it has fully addressed regulatory concerns and received appropriate approvals in that jurisdiction. Calibra is registered as a money services business (MSB) with FinCEN and, per FinCEN guidance, MSBs must develop an anti-money-laundering program that is “reasonably de-

signed to prevent the money services business from being used to facilitate money laundering and the financing of terrorist activities.” 31 CFR §1022.210(a). To meet this requirement, MSBs must “[p]rovide education and/or training of appropriate personnel concerning their responsibilities under the program, including training in the detection of suspicious transactions to the extent that the money services business is required to report such transactions under” the BSA. Id. §1022.210(d)(3). As a registered MSB, Calibra will ensure that its AML program meets these requirements.

Q.5. In your testimony you stated that Libra will help build a more “inclusive financial infrastructure.” The Libra white paper also points to Libra as a potential solution for the underbanked and the unbanked. In the U.S., 16.9 percent of black households and 14 percent of Hispanic households were unbanked in 2017. Furthermore, 30.4 percent of black households and 28.9 percent of Hispanic households were underbanked in 2017.

Does Facebook or Calibra intend to help consumers obtain proper Government identification and any other documentation they might need to comply with Know Your Customer rules so underbanked people can access Libra?

If not, how will Calibra verify that the consumer is who they say they are?

A.5. We recognize that a lack of traditional means of identification is sometimes a key barrier to serving the underbanked, and we understand that other organizations building for Libra are exploring ways in which services could be provided to these individuals in compliance with applicable law. This may include, for example, the Libra Association providing grant funding to organizations that assist people in underrepresented communities in obtaining Government identification as a path to access to financial services, whether through the Libra Network or otherwise.

Q.6. Facebook is not just a social network anymore. It is also one of the largest venues for online advertising, shopping, gaming, and more. And that means Facebook holds tremendous power to dictate how people pay for those services. Facebook could offer users discounted rates if they pay in Libra, and thereby stimulate adoption of the currency, fuel its ad services, harvest more user data, and increase reliance on the platform as a whole.

Given Facebook’s troubled history with manipulative ads and abuse of consumer data, will Facebook commit to not incentivize the use of Libra by offering customers discounted rates for advertising or other services if they pay in Libra?

A.6. Facebook has not yet determined if or how it will incentivize its advertising customers to use Libra. We are building Calibra with strong privacy safeguards in place and will be responsive to our community’s feedback to ensure we are continuing to be respectful of their preferences. Calibra is committed to protecting privacy, and it is being designed accordingly.

Q.7. According to a July 22, 2019, article in the *Washington Post* “A wave of fakes purporting to sell or represent Facebook’s not-yet-available Libra currency have swept onto the social-media giant’s platforms”.

What proactive steps is Facebook taking to ensure that these accounts are promptly removed without relying on user reporting?

If an individual falls prey to a fraudulent account, what remedies will Facebook offer to the user?

A.7. Before they are published on Facebook, ads go through an ad review process. Additionally, Facebook removes ads and Pages that violate our policies when we become aware of them, and we are constantly working to improve detection of scams on our platforms.

Two of our core advertising principles stem from our belief that ads should be safe, and that we build for people first. Misleading or deceptive ads have no place on Facebook. We want people to continue to discover and learn about new products and services through Facebook ads without fear of scams or deception. We are committed to preventing misleading advertising on our platforms, especially in the area of financial products and services. That is why ads may not promote cryptocurrency trading or related products and services without prior written permission. This policy is part of an ongoing effort to improve the integrity and security of our ads, and to make it harder for scammers to profit from a presence on Facebook.

Authenticity matters, for Pages as well as ads, because people need to trust that the content they are seeing is valid and they need to trust the connections they make. Our technology helps us take action against millions of attempts to create fake accounts every day, and detect and remove millions more, often within minutes of creation. When it comes to abusive fake accounts, our goal is simple: find and remove as many as we can while removing as few authentic accounts as possible. We do this in three distinct ways and include data in the Community Standards Enforcement Report to provide as full a picture as possible of our efforts:

1. *Blocking accounts from being created:* The best way to fight fake accounts is to stop them from getting onto Facebook in the first place. We have built technology that can detect and block accounts before they are created. Our systems look for a number of different signals that indicate if accounts are created in mass from one location. A simple example is blocking certain IP addresses altogether so that they cannot access our systems and thus cannot create accounts.
2. *Removing accounts when they sign-up:* Our advanced detection systems also look for potential fake accounts as soon as they sign-up, by spotting signs of malicious behavior. These systems use a combination of signals such as patterns of using suspicious email addresses, suspicious actions, or signals previously associated with other fake accounts we have removed. Most of the accounts we currently remove are blocked within minutes of their creation before they can do any harm.
3. *Removing accounts already on Facebook:* For accounts that make it onto the platform, we give these accounts the benefit of the doubt until they exhibit signs of malicious activity. We find these accounts when our detection systems identify such behavior or if people using Facebook report them to us. We use a number of signals about how the account was created and how the account is being used to determine whether it

has a high probability of being fake and disable those that are.

With respect to the Calibra digital wallet, Calibra will offer strong consumer protections and intends to comply with applicable consumer protection regulations, including responsibilities arising out of its State money transmission licenses. Calibra's consumer protection efforts will include automated fraud detection, in-app reporting, and dedicated customer service. In the rare event of unauthorized transactions of Libra coins stored in the Calibra wallet, Calibra will offer full refunds.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNER
FROM DAVID A. MARCUS**

Q.1. In both the Senate Banking Committee hearing on July 16th and the House Financial Services Committee hearing on July 17th you repeatedly stated that Facebook would not launch Libra unless and until the concerns of regulators were addressed. Subsequently, it has been reported that Facebook would consider launching Libra outside the U.S., even if the concerns of regulators had not been addressed. This appears to contradict your testimony in multiple instances:

Senator Brown: My question is this: Is there anything, Mr. Marcus, that elected leaders and economic experts can say that will convince you and Facebook that it should not launch this currency?

Mr. Marcus: Senator, we agree with all of the concerns, very legitimate concerns that were raised by Chairman Powell, Secretary Mnuchin, and many others. And . . . getting this right means addressing these concerns in full and ensuring that there is proper regulatory oversight for this project. And we are fully committed to doing what it takes to get there.

Senator Brown: But, Mr. Marcus, with all due respect, if all of us who have seen the collective amnesia of this Congress in terms of what happened 10 years ago, if all of us find this to be a bad idea, think you should not do this launch, are you still going to do it?

Mr. Marcus: . . . I will commit again to do what it takes to address these concerns; and if those concerns are not addressed and if the regulatory oversight is not appropriate, then, you know, we will not launch until it is.

Senator Jones: Mr. Marcus, I want to talk about quickly some of the money-laundering issues that I have got real concerns about, and I understand that Calibra is committed to verify users and those kinds of things. But for money-laundering purposes, if you have got a worldwide issue and you have got partners all over the world, how are you going to get your partners to verify these third-party products? And how are we going to prevent this money

laundering? I think that is a major concern. How are you going to deal with your partners?

Mr. Marcus. Senator, first I want to commit that we will not launch until we have satisfied those concerns with Treasury and other regulators around the world and how the network is configured and it operates.

Representative Maloney: And I take it that it's a no to the chairwoman's question about requesting a moratorium on Libra until policymakers can figure out how to handle it? Was that a yes or a no to her question when she called for a moratorium?

Mr. Marcus: Congresswoman, the commitment is that we will not launch until we have addressed all concerns fully and have the proper [approval].

Representative Velazquez: Would you commit yourself to not launch Libra before all the concerns from the Federal Reserve and all of the regulators are addressed? Yes or no?

Mr. Marcus: Absolutely, Congresswoman, and I want to reiterate this commitment that this was the spirit in which we announced early and we will do what's right to . . .

Chairwoman Waters: Thank you. A point of clarification. Mr. Marcus did you commit to the moratorium to Ms. Velazquez?

Mr. Marcus: Chairwoman, I committed to waiting . . .

Chairwoman Waters: Excuse me, I just need a yes or no.

Mr. Marcus: Chairwoman, I just want to be precise. I committed to waiting for us to have all the appropriate regulatory approvals and address all concerns before we move forward.

Representative Davidson: last I would say do you plan to launch this outside the of the United States if you can't get regulatory certainty in the United States?

Mr. Marcus: Congressman, I'm glad you asked the question and we will not actually proceed until we get all of the concerns address and the proper regulatory oversight here.

In light of your testimony, how should we interpret statements by a Facebook spokesperson that Facebook would potentially launch Libra outside the U.S. even if regulators in the U.S. still have concerns?

A.1. As David Marcus stated recently before members of Congress, we are fully committed to working with regulators here and around the world. Facebook will comply with the regulatory requirements of all U.S. regulators. And we understand that the Libra Association will not offer the Libra digital currency in any jurisdiction

until it has fully addressed regulatory concerns and received appropriate approvals in that jurisdiction.

Q.2. The security and integrity of our financial system rests on an important interplay between Federal law, State law, and State tort law that ensures not only the soundness of the entire system, but also protects everyday American consumers. In testimony before the House Financial Services Committee, you acknowledged that Section 230 of the Communications Decency Act does not apply to financial services products like Libra and Calibra.

Will Facebook commit to not invoking Section 230 in any civil or criminal suit brought by a State Attorney General, State agency, or private plaintiff in connection with any alleged civil or criminal violation by Facebook relating to Libra or Calibra?

A.2. Section 230 of the Communications Decency Act provides that “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” Outside of certain specific exceptions, this means that online platforms that host content posted by others are generally not liable for the speech of their users, and indeed, Section 230 explicitly provides that a platform that chooses to moderate content on its service based on its own standards does not incur liability on the basis of that decision. Specifically, 47 U.S.C. §230(c)(2) provides, in relevant part, that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.”

Through the Calibra wallet, users will have the ability to transfer funds to other Calibra users or others on the Libra Network, including people using other wallets. Because Section 230 does not apply to payments, we do not expect Section 230 to apply to such transfers of funds.

Q.3. Facebook’s global dominance of the mobile messaging market will enable Facebook to quickly gain market share in the mobile payments space, particularly with Facebook integrating Calibra into WhatsApp and Facebook Messenger (and barring the integration of 3rd party wallets into those dominant apps). Facebook’s success across the developing world has in large part been propelled by agreements it has reached with telecommunications carriers worldwide to exempt and otherwise prioritize Facebook traffic from the otherwise stringent data caps users typically face. Given Facebook’s expressed desire to expand into the payments and financial services markets in developing countries—potentially deploying Libra abroad even if it is barred from doing so in the United States—it is critically important to understand which markets hold the greatest prospect of rapid adoption of Facebook financial products. Zero-rating arrangements have the intent, and effect, of driving widespread consumer adoption of products subject to zero-rating or paid prioritization. Given that Libra will be backed by both the dollar and dollar-denominated securities—and will therefore pose financial instability risks to the U.S. market even if

it is not launched here—it is vital for Congress to understand which countries are poised to adopt Libra (and Calibra).

Please list each country in which Facebook maintains, or plans to employ, a zero-rating or paid prioritization relationship with at least one telecommunications provider.

A.3. Facebook is a popular service, but it is by no means dominant. In fact, Facebook faces intense competition for all of the products and services that we provide. To name a few examples, Twitter, Snapchat, Apple iMessage, Pinterest, Skype, Telegram, Viber, and YouTube offer photo and video sharing, messaging, advertising, and other services that compete with Facebook. Moreover, data is not exclusive or finite. Companies in every industry can and do collect data and use it to develop and improve their services. There is nothing to stop our competitors from collecting similar (if not identical) data, or collecting substitutable data and using it in innovative ways.

For most people who are not online, the biggest challenges to connecting are affordability of the internet, and awareness of how internet services are valuable to them. Through Facebook's Free Basics offering, users are offered access to basic online services without data charges. In collaboration with mobile operators, Free Basics allows people to experience the relevance and benefits of being online for free, and acts as an on-ramp to the broader internet, with services such as news, health information, local jobs, communications tools, education resources, and local Government information. Any mobile operator can participate, and Free Basics is open to any service that meets the program's technical criteria, which are openly published.

More broadly, it should not be assumed simply because Facebook has a large user base for its Facebook platform that any specific percentage of that user base will decide to use the Calibra wallet. People will have to create new accounts with Calibra to use Calibra's services; they will not be able to use their Facebook accounts. And before potential Calibra users will be able to use Calibra's services, they will need to provide Government-issued identification so they can be identified and verified based on Calibra's know-your-customer program. In comparison, other potential wallets, including other existing payment providers, already have large user bases that have completed the know-your-customer process and therefore can immediately offer services to their users. Additionally, the Calibra wallet will support data portability, so that users who wish to move from the Calibra wallet to another service provider will be able to transfer their data with ease.

Q.4. FinCEN advisories make very clear that a "financial institution's leadership is responsible for performance in all areas of the institution including compliance with the BSA [Bank Secrecy Act]." FinCEN stipulates that an institution's leaders should also receive "periodic BSA/AML training." Given the global dependence on Facebook communications products, any financial products offered by Facebook will be used extensively—including by criminal actors. Indeed, the use of WhatsApp by transnational criminal organizations, including Mexican drug cartels, has been widely reported.

Has your company's most senior leadership received anti-money laundering (AML) and know-your-customer (KYC) training consistent with FinCEN regulations and guidance?

A.4. Calibra has registered with FinCEN as a money services business, and as such, intends to comply with all FinCEN regulations and guidance, including with respect to AML training.

Q.5. Facebook speaks very eloquently about the goals of Libra in expanding access to banking services but Libra—and Calibra—have enormous value to Facebook. Indeed, Facebook has announced that its largest apps—Facebook Messenger and WhatsApp—will have Calibra Wallet integrations from the start. Messenger and WhatsApp are the two most dominant messaging apps globally—one or the other is the most dominant messenger app in every country in the world except China, Japan and a handful of others. Facebook has announced a closer integration of these messaging apps in an effort to strengthen its competitive position.

Please explain in detail how the integration will proceed. For example, will it be implemented in stages? What is the timeline for each stage? What level of interoperability will exist among the Facebook messaging platforms when each stage is complete?

A.5. As discussed in the response to Question 3, Facebook is by no means dominant.

We are still early in the process of developing the Calibra wallet, and along the way we will consult with a wide range of external experts to ensure that we can deliver a product that is safe, private, and easy to use for everyone. Our goal is to make it easy for people to use Calibra to send money, whether they are using a Calibra wallet or another Libra wallet. Indeed, interoperability is a bedrock principle of the Libra Network, and as a result, though Calibra will be integrated into Messenger and WhatsApp, Calibra users will be able to send and receive payments to other Libra holders, even if those Libra holders use other wallets.

Calibra will also be available as a standalone app, such that Calibra users do not have to have Facebook, Messenger, or WhatsApp accounts to use Calibra. Anyone—including existing Messenger, WhatsApp and Facebook users—who wishes to use the Calibra wallet will have to create an account with Calibra and provide additional information, such as Government-issued identification.

Q.6. Post-integration, what new abilities will Facebook have to push products such as Libra to users across its various messaging platforms? Will the integration also give Facebook the power to engage in other cross-platform marketing, outside its messaging layer?

A.6. Calibra is opt-in, and people who use the Facebook family of apps will be able to choose whether to use Calibra in the same way that they can choose whether to use other payments products. While people using WhatsApp and Messenger will be free to use the Calibra wallet to store and make payments with Libra, they are also free to use Libra through other wallets built on the Libra Blockchain. And the Calibra wallet will support data portability, so that users who wish to move from the Calibra wallet to another service provider will be able to transfer their data with ease.

Q.7. Facebook has made repeated attempts to enter the Chinese market, with direct engagement between Facebook’s CEO and Xi Jinping a matter of public record. On the other side of the ledger, China has aggressively pushed foreign Governments to include the renminbi in their foreign reserve holdings—something the Chinese are pursuing to promote greater foreign reliance on, and domestic stability for, the renminbi. A core feature of Libra is that the company will maintain a basket of foreign currencies.

Facebook claims it has no “current” plans to enter China; will Facebook commit to not adding—and to oppose any efforts by other Libra members to add—the renminbi to the foreign currency?

A.7. The Libra Association, not Facebook, will determine which currencies will be reflected in the Libra Reserve from time to time. The initial currency basket is expected to be composed of the U.S. dollar, euro, Japanese yen, British pound sterling, and Singapore dollar. We expect the Libra Association to be subject to an appropriate regulatory framework, including direct oversight by FINMA and indirect oversight by various other regulatory bodies, including the Federal Reserve and the other G7 central banks. Any decision whether to add a new currency to the Libra Reserve would be made based on all the facts and circumstances at the time, including any direct or indirect regulatory restrictions.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM DAVID A. MARCUS**

Q.1. Facebook has a record of making assurances during splashy announcements and then subsequently quietly reneging on those commitments deep in the fine print of user agreements. The press release announcing Libra and Calibra includes a disclaimer that “these forward-looking statements may differ materially from actual results due to a variety of factors and uncertainties, many of which are beyond our control,” seemingly foreshadowing a similar future reversal of course.

Please provide a copy of your written testimony and transcript of your testimony today indicating which representations you made to the Senate Banking Committee “may differ materially from actual results” and which Senators can rely upon.

A.1. Consistent with applicable law and common practice when making forward-looking statements, Facebook provided standard cautionary language in our press release intended to notify investors that the statements being made were based on information and expectations at the time made and that certain risks and uncertainties could cause actual results to be different in the future. That we have done so in no way indicates any intention or desire to back away from or otherwise alter the commitments that we have made to Congress and applicable regulators with respect to Libra. This is true both as a general matter and specifically with respect to statements made in the course of Mr. Marcus’ appearance before the Senate Banking Committee, during which he testified truthfully, based on the information known to him at the time.

Q.2. The white paper that Facebook released along with its announcement made certain representations about how Libra would

be governed, including that the Libra Association would be “independent,” but said that “the initial group of organizations will work together on finalizing the association’s charter” suggesting that no agreement operationalizing those commitments has yet been reached. Does Facebook see the final association charters as “factor or uncertain[ty] . . . beyond its control,” which would let you renege on the commitments you made to Congress?

A.2. We expect that the Libra Association will be governed by the Libra Association Council, which will be comprised of a representative from each member of the Association. The Initial Members, including Calibra, are collaborating to develop and adopt a comprehensive set of governing documents for the Association. We expect that the Libra Association will make decisions democratically and transparently. Regarding our commitments to Congress, Facebook will not offer services for the Libra digital currency in any jurisdiction until we have fully addressed applicable regulatory concerns and received appropriate approvals in that jurisdiction.

Q.3. The Federal Trade Commission recently announced a \$5 billion settlement with Facebook over privacy violations stemming from a 2011 Consent Order. Facebook has also faced a series of public privacy mishaps in recent years, establishing a long record of failures in protecting user data. Facebook claims that it will protect financial data that it obtains through Calibra, and that this data will not be shared with Facebook or any third party without consumer consent.

Facebook’s press release states that “aside from limited cases,” Calibra will not share information with Facebook. Please describe the “limited cases” in which the company will or may share data with others.

A.3. Facebook created Calibra as a regulated subsidiary in part to ensure separation between social and financial data and to build and operate services on its behalf on top of the Libra Network. And, except in limited circumstances that are described below, Calibra will not share customers’ account information or financial data with Facebook.

Those limited circumstances where data might be shared between Calibra and Facebook include when data sharing is used to prevent fraud or criminal activity, as well as when users choose to share their data. As a Facebook subsidiary, Calibra may be legally obligated to share certain data with Facebook so the company can meet its regulatory requirements. This could consist of aggregated payment numbers for financial and tax reporting or information necessary to comply with the law.

The limited user information that Calibra does collect and store will be subject to strong security and access controls. User payment credentials, such as a debit card number, will not be accessible by Facebook or its affiliates. And user transaction activity is private and will never be posted to Facebook, unless users themselves choose to share it.

Similar to other commerce platforms, there may be times when Facebook, acting in its capacity as a merchant or platform, will independently have access to information about completed transactions that take place on Facebook’s commerce platform (e.g., pur-

chase made, merchant, transaction amount, date, time). This may include transactions completed via Calibra with Libra as the exchanged currency, though this would not involve a special transfer of information from Calibra to Facebook. In those situations, Facebook's independent access to transaction information will be the same as for other transactions on the Facebook platform completed using other payment methods like credit cards.

Q.4. In those cases, will the company alert users to this sharing?

A.4. Calibra will describe its data sharing practices in its data policy, and where appropriate, in customer notices.

Q.5. The press release also states that no data will be shared "without customer consent."

Will this consent be opt-in? If so, please describe the process for obtaining customer consent to share personal financial information with Facebook and other third parties.

A.5. As we have explained, the limited circumstances where data might be shared between Calibra and Facebook include when data sharing is used to prevent fraud or criminal activity, or when users choose to share their data. Calibra has not designed or built these experiences yet. As a Facebook subsidiary, Calibra may be legally obligated to share certain data with Facebook so the company can meet its regulatory requirements. This could consist of aggregated payment numbers for financial and tax reporting or information necessary to comply with the law.

Q.6. The release states that data "will not be used to improve ad targeting on the Facebook family of products." Will the data be used for ad targeting on the Calibra wallet?

A.6. The Calibra wallet has no plans to show ads, including in its standalone app, and Calibra will not make money to begin with. Our first goal is to create utility and adoption, and enable people around the world—especially the unbanked and underbanked—to take part in the financial ecosystem. This will be the first in a suite of financial products we hope to create on the Libra Blockchain. Once we drive adoption and scale, we will explore ways to monetize.

Q.7. Please describe all cybersecurity measures your company plans to take to protect sensitive financial and other data of Calibra users.

A.7. Calibra will take a combination of technical steps to keep user information secure, including data partitioning, encryption, and strong access controls. User transaction activity is private and will never be posted to Facebook, unless users themselves choose to share it. For example, some people who send cross-border payments may decide to screenshot their transactions and share them with a friend or family member. User payment credentials, such as a debit card number, will not be accessible by Facebook or its affiliates.

We are utilizing systems that have been certified for PCI compliance and are implementing security measures that are compliant with data protection regulations. Moving forward, we will continue to take active steps to ensure we are meeting expectations to secure traditional financial instruments and will continuously evolve

our security posture to meet an ever-changing threat landscape. For Calibra itself, we are also going to be subject to cybersecurity regulations that apply to other financial services companies, such as Section 200.16 and Part 500 of the New York Department of Financial Services' Codes, Rules, and Regulations, and will aim for additional certifications.

We will also take significant measures to keep people's Libra safe, including using cold-storage, which is air-gapped and offline, as well as a small percentage of coin in hot wallets for daily transactions. We will have physical security controls (including cameras, vaults, and biometrics) as well as cryptographic controls (such as multisignatures requiring a quorum of approvers, and the use of hardware security modules (HSMs)) to prevent any malicious activity.

Q.8. A patchwork of Federal and State data privacy and cybersecurity laws, standards, and best practices apply to different products and industries. Please describe all relevant privacy and security frameworks that will govern Libra and Calibra.

A.8. Protecting consumers and ensuring people's privacy is a top priority for both the Libra Association and for Calibra. Facebook anticipates that Calibra will be subject to U.S. privacy laws, as well as global laws like GDPR.

From the inception of the Libra Blockchain design and continuing through the ongoing development process, ensuring user privacy has been, and will continue to be, a core principle at the center of the Libra Blockchain network. We understand that the Libra Blockchain development process incorporates, and will continue to incorporate, a "privacy-by-design" approach, such that privacy considerations are taken into account and integrated during the development process. Indeed, one of the reasons the design principles underpinning the Libra Blockchain effort were disclosed far in advance of launch was to incorporate feedback and comments from privacy regulators and other relevant stakeholders. We understand the Association takes its responsibility in this regard very seriously, and already has an internal privacy working group focused on these issues.

We recognize that regulators charged with consumer protection and privacy will be keen to engage with those building services to be offered in their jurisdictions. We understand the Libra Association is committed to working with authorities to shape a regulatory environment that encourages technological innovation while maintaining the highest standards of consumer protection and privacy.

Calibra is also being designed with a strong commitment to protecting customer privacy.

In terms of security, please see the response to Question 7 for details on the cybersecurity measures Calibra intends to take.

Q.9. The House Subcommittee on Antitrust, Commercial, and Administrative Law launched an antitrust investigation into online platforms, including Facebook. Facebook amassed power in part by collecting data on its users and leveraging that data to corner the market on online advertising. Through its dominance in the digital advertising market, Facebook is able to exercise power over vendors and digital advertisers.

How does Facebook plan to either incentivize or require vendors to accept Libra?

A.9. Facebook is a popular service, but it is by no means dominant. In fact, Facebook faces intense competition for all of the products and services that we provide. To name a few examples, Twitter, Snapchat, Apple iMessage, Pinterest, Skype, Telegram, Viber, and YouTube offer photo and video sharing, messaging, advertising, and other services that compete with Facebook. Moreover, data is not exclusive or finite. Companies in every industry can and do collect data and use it to develop and improve their services. There is nothing to stop our competitors from collecting similar (if not identical) data, or collecting substitutable data and using it in innovative ways.

Facebook does not plan to require vendors to use Libra. Facebook has not yet determined if or how it will incentivize vendors to use Libra.

Q.10. If Libra becomes more widespread, does Facebook have plans to leverage its position on as a Member of the Board to extract concessions or increase prices on vendors? Does the company have safeguards in place to ensure this does not happen?

A.10. The Libra Blockchain will be an open blockchain; developers, businesses, and nonprofits of all sizes and from all around the globe will be free to build on the blockchain. That level playing field provides people and small- and micro-businesses around the world equal access to a simple global currency and financial infrastructure. And as a result, Calibra will have to compete with many other providers. If Calibra were to try to somehow leverage its position to raise prices—which it will not—other service providers could undercut Calibra by offering cheaper services on the same Libra Blockchain.

While Facebook does plan to accept Libra for ads (and hopes we will be able to pass benefits on to advertisers), we will continue to enable businesses to pay for ads using the payment methods we currently accept. Facebook, through its subsidiary Calibra, will have equal voting rights to other members of the Association, and will not have a guaranteed position on the Board of the Association.

Q.11. The Board of Libra, the member association that will manage the new cryptocurrency, is made up of massive companies that already hold substantial market power, including Uber, PayPal, and Vodafone.

If the currency becomes more widespread, will Libra allow member associations to provide special discounts and services to consumers, not available to be offered by nonmember associations, which will allow these companies to leverage their paid membership in Libra to increase their respective market dominance?

A.11. While the Association will make the final decision, we understand that the Libra Association will offer incentives, with the goals of accelerating the utility and adoption of Libra by encouraging businesses and people to participate in the ecosystem and ensuring the growth and health of the ecosystem.

We understand that Libra Association members may be eligible to receive incentives in exchange for onboarding new users of Libra

coins and for facilitating the use of Libra coins in transactions. These incentives may include:

- *New User (Onboarding)*. The Libra Association may distribute incentives to eligible wallets for each person who onboards and completes the wallet's regulated know-your-customer screening process.
- *New User (Retention)*. Additionally, if a person meets activity criteria set by the Association for a certain period 1 year after onboarding, the wallet may be able to claim another reward.
- *Transaction Volume*. For every transaction processed using Libra, merchants may receive a percentage of the transaction back.

We believe that Libra will be a positive force for competition. Since the Libra Blockchain will be an open ecosystem, businesses will be able to create competitive services that will lead to market pressure to keep fees low (both within Libra and in competing payment methods) and to continue to create new and innovative services.

Q.12. Facebook has stated that the Calibra Wallet app will link to companies that provide certain services, such as digital currency exchanges. Coinbase, a digital currency exchange based in San Francisco, is a member of the Board of Libra. Will Calibra favor or promote Coinbase when presenting users with exchange options on the wallet app?

A.12. We are working to make Calibra interoperable with other apps and financial service providers that offer complementary services. While Calibra is still exploring different partnerships, including with exchanges and other market participants that offer Libra services with exchanges, we will look to partner with companies that offer the best services for Calibra users while prioritizing reliability and security. We will not favor service providers merely because they are also Libra Association members.

Q.13. Will Libra, Facebook, or Calibra promote any other services through the wallet app or other means, and if so, what are those services?

A.13. Please see the response to Question 12.

Q.14. In a press release announcing the launch of Libra, Facebook wrote, "[f]or many people around the world, even basic financial services are still out of reach: almost half of the adults in the world don't have an active bank account and those numbers are worse in developing countries and even worse for women, the cost of that exclusion is high—approximately 70 percent of small businesses in developing countries lack access to credit" It presented Libra as an answer to that challenge.

Nineteen percent of Americans and 55 percent of people in emerging economies don't have smartphones and the numbers are worse for older, poorer, and less well-educated consumer. How will Libra reach these consumers?

A.14. The Libra Association was established with the mission of creating a lower cost, more accessible payment tool built on the Libra Blockchain that will facilitate a more connected global pay-

ments system. For many, the current payments system is too expensive, too slow, or, in some cases, completely inaccessible. If successful, Libra would help address some of these issues, costs, and barriers. And, because the Libra Blockchain will exist as an open-source ecosystem, businesses and developers will be free to build competitive services using it. Ongoing competition among Libra service providers is expected to keep fees low, reduce frictions and expand accessibility for those seeking access to payment systems, and deliver new payment solutions to users across the globe.

Additionally, while Calibra will not have an immediate solution for individuals who do not own a smartphone, we expect that developers may build Libra wallets that work over SMS, or use technologies that work on nonsmartphones in emerging markets. We expect that developers will be able to build desktop-based apps for those with access to an internet cafe. In the meantime, we will continue to evaluate additional ways to offer Calibra's services to reach those individuals. For the large percentage of people without bank accounts who do have smartphones, we plan to start by supporting the Messenger and WhatsApp communities, i.e., people with smartphones who are already using those apps to communicate with their friends and family, as well as people who choose to download the standalone Calibra app.

Q.15. Will Libra encourage or allow members of the Libra Association to offer special discounts to consumers who pay with the new cryptocurrency?

A.15. Please see the response to Question 11.

Q.16. Many of the initial members of the Libra Association are large businesses with significant market shares in their industries. What guardrails will be created so that policies of Libra Association do not disadvantage small businesses?

A.16. We think Libra will be advantageous to small businesses—the businesses that are typically most affected by the high fees exacted by the current system—for several reasons. First, a global digital currency powered by blockchain technology offers specific advantages over traditional financial services, and an open-source blockchain will enable small businesses and developers around the world to build services that meet the needs of their communities. Approximately 70 percent of small businesses in developing countries lack access to credit.

Second, being able to use a global currency and blockchain will also allow these businesses to expand their reach by accepting payments from around the world, including from tourists.

Third, Libra digital coins will be backed by a reserve of stable assets so people can trust that their Libra coins will retain their value, and because blockchain technology reduces the number of intermediaries involved in a transaction, the hope is that this will help keep fees to a minimum. Several of the expected initial members of the Libra Association, including but not limited to PayPal, Stripe, Mercado Pago, and PayU, have become large businesses through a core business strategy of providing merchant services to small- and medium-sized merchants. As such, we expect that at least some of the incentives offered by the Association will be passed on to these small businesses. Our vision is to create a level

playing field so that people and small businesses around the world have equal access to a simple global currency and financial infrastructure.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCHATZ
FROM DAVID A. MARCUS**

Q.1. In creating Libra, does Facebook intend to create a global currency? If yes, what attributes would enable Libra to be used like currency?

A.1. We understand the Libra Association intends to create a new digital currency that can be transferred efficiently over the Libra Network and that is fully backed by a Reserve consisting of a basket of leading national currencies. We believe that Libra coins will function primarily as a medium of exchange, and that the various digital wallets and other payment mechanisms that will be built on top of the Libra Network will sharply reduce the cost of cross-border remittances and payments for local commercial transactions.

Q.2. What provision of U.S. law authorizes Facebook to create a new currency?

A.2. While we are not aware of any U.S. law that would prohibit the Libra Association from issuing the Libra digital currency or allowing U.S. persons to buy and sell it, we understand the Libra Association will not offer the Libra digital currency in any particular jurisdiction until it has fully addressed applicable regulatory concerns and received appropriate approvals in that jurisdiction. The time between now and launch is designed to be an open process and subject to regulatory oversight and review. In fact, we expect that this will be the broadest, most extensive, and most careful prelaunch oversight by regulators and central banks in FinTech's history.

Q.3. You have stated that Libra would not compete with sovereign currencies. Please explain how. How would you ensure that Libra does not destabilize sovereign currencies around the world?

A.3. Libra coins are not meant to be a replacement for existing currencies and, indeed, will be fully backed by the Libra Reserve, which will likely include the U.S. dollar and four of the most liquid other sovereign currencies (euro, Japanese yen, British pounds sterling, and Singapore dollar) and very short-term Government securities denominated in those same types and percentages of currencies.

The currencies represented in the Libra Reserve will continue to be subject to their respective Governments' monetary policies. We expect that certain changes to the Libra Reserve could also be subject to regulatory requirements that are being considered by a G7 Working Group and other regulators. We understand the Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. It will work with the Federal Reserve and other central banks responsible for monetary policy to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. Monetary policy is properly the province of central banks. And we expect FINMA and the G7 central banks to insist on a regu-

latory framework for the Libra Association that will ensure that the Association cannot interfere with monetary policy.

Q.4. Is the expectation that consumers who sign up for the Calibra digital wallet will exchange local currency for Libra and keep a balance of Libra in the wallet to use within the Facebook marketplace?

A.4. We expect Libra coins to be used primarily as a medium of exchange rather than as a store of value, at least by users in countries with stable national currencies, such as the U.S. dollar or euro. Thus, we expect most Calibra users to continue to hold the majority of their funds in the form of local currency deposited in their bank accounts or, in the case of the unbanked, in the form of paper money. Calibra users wishing to make a payment would be expected to withdraw or otherwise use local currency to purchase Libra coins that would be used to make the remittance or payment. While it is possible that some Calibra users located in countries with volatile national currencies might consider Libra coins to be a more reliable store of value than their local currencies, we expect that most users from such countries would be more likely to hold U.S. dollars, euros, or some other stable currency through their bank accounts or in the form of paper money than to hold Libra coins in their Calibra wallet. Nevertheless, it is possible that some people might choose to hold Libra coins as a store of value if that is the best option for them.

Calibra is a mobile wallet that you can use to send, spend, and save money—built for anyone, throughout the world. Among other benefits, Calibra customers can save their Libra coins and use them for every day transactions like paying rent, sending money home, or reimbursing a friend for dinner. Calibra customers can convert their local currency into Libra coins to add money to their wallets, or vice versa, when they want to withdraw. Users will be able to choose whether to keep their money in their Calibra wallet or cash out, and we expect that many people will choose to cash out and use their local currencies for purchases and other transactions. When converting local currency to or from Libra, the app will show the customer the exchange rate so they know what they are getting.

Q.5. How will the Libra held in Calibra be protected? Will balances be protected by FDIC insurance?

A.5. We will take significant measures to keep people's Libra safe, including using cold-storage, which is air-gapped and offline, as well as a small percentage of coin in hot wallets for daily transactions. We will have physical security controls (including cameras, vaults, and biometrics) as well as cryptographic controls (such as multisignatures requiring a quorum of approvers, and the use of hardware security modules (HSMs)) to prevent any malicious activity.

Libra coins held in the Calibra digital wallet will not be protected by FDIC insurance, as FDIC insurance only covers deposits in U.S. banks and savings associations, and Calibra is not a bank or a savings association. However, Calibra will be regulated as a money transmitter, and registered with FinCEN as a Money Services Business. This regulatory framework will require Calibra to al-

ways hold Libra coins equal to or greater than 100 percent of the coins owned by customers. Further, Calibra will offer strong consumer protections, including automated fraud detection, in-app reporting, and dedicated customer service. In the rare event of unauthorized use of the Libra coin stored in the Calibra wallet, Calibra will offer full refunds.

Q.6. One of Libra’s potential consortium members, Visa, conducted \$8.2 trillion in payments in 2018. If \$8.2 trillion in transactions were conducted with Libra, does that mean the Libra reserve would hold \$8.2 trillion of sovereign currencies in reserve? Or could the Libra consortium invest in other assets?

A.6. Because the Libra Reserve will be backed on a one-to-one basis, a consumer’s unit of Libra will always be backed by the same value in the Reserve at all times. Those assets will consist of a basket of currencies in safe assets such as cash in banks and very short-term Government securities. The amount of the Reserve will be determined by Libra coins in circulation, not by total payment volume, and we expect that many coins will change hands rapidly and also be sold by the users for fiat currency.

Q.7. What legal or regulatory body would oversee the decisions by the Libra consortium about which assets to hold in reserve?

Would there be any limit enforceable by law on the types of assets the Libra consortium could hold in reserve or the amount of interest Libra members could make from the reserve?

A.7. We expect that the Libra Association will be subject to regulatory and supervisory oversight by FINMA, and that FINMA will oversee the decisions by the Libra Association about which assets to hold in the Libra Reserve, potentially in consultation with other regulators, including the Federal Reserve and the other G7 central banks. Similarly, we expect that certain changes to the Libra Reserve could also be subject to regulatory requirements that are being considered by a G7 Working Group and other regulators.

We expect that the Libra Association’s future commitments in its charter and bylaws as to the type of assets it could hold in the Reserve, and the policy to make investments for capital preservation and liquidity, not for yield, would be enforceable by regulation.

Regarding the Reserve itself, we understand that each Libra coin will be backed one-to-one by a pro rata share or unit of a fungible pool of cash and very short-term Government securities that are expected to be denominated in U.S. dollars (~50 percent), euros (~18 percent), Japanese yen (~14 percent), British pounds sterling (~11 percent) and Singapore dollars (~7 percent) (each such pro rata share corresponding to a Libra coin, a “Currency Basket”) and held by a global network of well-capitalized bank custodians or other similarly secure custodial arrangements as agreed upon with applicable regulators. We understand the Libra Association is continuing to evaluate the specific percentages of assets in the Libra Reserve denominated in each currency, so these percentages are subject to change as agreed among the members of the Libra Association.

Q.8. What would the potential impact be on sovereign currencies—both those held in reserve and those that are not part of the Libra

basket of currencies—if trillions worth of those currencies are converted into Libra?

A.8. We believe that consumers in countries whose currencies are represented in the Libra Reserve are likely to use Libra coins primarily as a medium of exchange and will continue to hold their local currencies as their preferred stores of value. Moreover, we believe consumers looking for a better store of value than their local currencies will continue to prefer the U.S. dollar or other sovereign currencies.

Moreover, for countries that have capital controls in place, we expect regulators in those countries will apply them to wallets that enable Libra as they see fit, since on- and off-ramps will be regulated. We understand the Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. It will work with the Federal Reserve and other central banks responsible for monetary policy to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. And we expect FINMA and the G7 central banks to insist on a regulatory framework for the Libra Association that will ensure that the Association cannot interfere with monetary policy.

Q.9. You emphasized that Calibra would have strong anti-money-laundering (AML) and know-your-customer (KYC) systems in place. But, how will the Libra consortium ensure that any entity that serves as an on- or off-ramp for Libra will have strong AML and KYC systems in place?

A.9. The Libra Association is committed to complying with applicable laws and evaluating steps to safeguard the Libra Network from abuse by criminal actors. Entities that are not Libra Association members that provide services, including on- and off-ramps, for Libra users may be subject to AML and other laws depending upon the jurisdictions in which they are located and operate.

We understand that the Libra Association expects to establish KYC/AML standards pertaining to the on-boarding of Libra Association members and authorized resellers. Additionally, the Reserve's liquidity will be controlled by the Association, as the only party able to mint coins (unlike in other blockchains), and we understand the Association will engage only with regulated resellers to provide liquidity. Those resellers will be subject to the same KYC process as members.

The Libra Association expects that its Articles of Association, or other appropriate document(s) binding on the Libra Association members under Swiss law (such as the member agreement or by-laws) will include a commitment to compliance with applicable AML/CFT obligations. We understand the Libra Association also expects to establish AML/CFT guidelines that govern its activities and those of Libra Association members, each with respect to their involvement with the Libra Blockchain. The Libra Association expects to evaluate what technical and/or contractual mechanisms to employ to ensure that custodial wallet providers operating on the Libra Network comply with such requirements. And we understand the Libra Association expects financial service providers operating on the Libra Network (such as custodial wallet providers) will com-

ply with applicable AML/CFT obligations, including, for example, by collecting and retaining information on transactions involving their customers, as required under applicable local law. Information stored in the Libra Blockchain will be publicly available, such that anyone, including Government authorities, will be able to conduct an analysis of Libra Blockchain activity, including monitoring transaction activity on the Libra Network (although that information will be available only based upon public blockchain addresses).

Q.10. How will you ensure that Libra is not used to facilitate election interference, the destabilization of democracies, or the spread of disinformation?

A.10. The Libra Blockchain will be used for payment transactions and therefore will not provide a ready vehicle for content distribution, nor will it function readily as a file storage system or a means to disseminate information.

Q.11. What responsibility would the Libra consortium have to proactively ensure that Libra is not being used to subvert economic sanctions or finance criminal enterprises?

A.11. We understand that the Libra Association intends to register with FinCEN as a money services business and, as such, will be subject to the Bank Secrecy Act's AML requirements. In addition, we understand the Libra Association intends to require that each member of the Association comply with AML guidelines that the Libra Association expects to establish along with all applicable legal and regulatory obligations—including those relating to AML—to which the member is subject based upon the member's activities and the jurisdictions in which it operates. Entities that are not Libra Association members that provide services for Libra users, such as digital wallet services, may be subject to AML and other laws depending upon the jurisdictions in which they are located and operate.

Our understanding is that, in recognition of the importance of this issue, the Libra Association intends to work with regulators to address, before launch, any regulatory concerns related to the Association's AML obligations.

Q.12. As described, Libra sounds like an asset-backed security. Would Libra be considered a security and subject to regulation by the Securities and Exchange Commission? Why or why not?

A.12. The Supreme Court has explained that a key consideration in determining whether a nontraditional asset is a security is whether holders of that asset have a reasonable expectation of profits based on the entrepreneurial or managerial efforts of others. See, e.g., *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946). The SEC has repeatedly reiterated this view with respect to digital assets, including through recent staff-level guidance and no-action letters. See, e.g., SEC, Strategic Hub for Innovation and Financial Technology, "Framework for 'Investment Contract' Analysis of Digital Assets" (Apr. 3, 2019), <https://www.sec.gov/corpfin/framework-investment-contract-analysis-digital-assets>; SEC Division of Corporation Finance, No-Action Letter, TurnKey Jet, Inc. (Apr. 3, 2019), <https://www.sec.gov/divisions/corpfin/cf-noaction/2019/turnkey-jet-040219-2a1.htm>; SEC Division of Corporation Finance, No-Ac-

tion Letter, Pocketful of Quarters, Inc. (July 25, 2019), <https://www.sec.gov/corpfin/pocketful-quarters-inc-072519-2a1>.

Fundamentally, a Libra digital coin is not an investment and not a security. It is a payments tool. Libra does not provide any prospect of an investment return for the holder of a Libra digital coin based on the activities of others. People will not buy a Libra coin to hold it as if it were a stock or a bond, expecting the Libra coin to pay income or otherwise increase in value. We are continuing to discuss these issues with the SEC and its staff, but for these and related reasons, we believe that a Libra digital coin should not be considered a security under U.S. law.

Q.13. You stated that consumer’s Calibra transaction data would not be shared with Facebook. What specific information or types of information would be shared between Calibra and Facebook?

A.13. Facebook created Calibra as a regulated subsidiary in part to ensure separation between social and financial data and to build and operate services on its behalf on top of the Libra Network. And, except in limited circumstances that are described below, Calibra will not share customers’ account information or financial data with Facebook.

Those limited circumstances where data might be shared between Calibra and Facebook include when data sharing is used to prevent fraud or criminal activity, as well as when users choose to share their data. As a Facebook subsidiary, Calibra may be legally obligated to share certain data with Facebook so the company can meet its regulatory requirements. This could consist of aggregated payment numbers for financial and tax reporting or information necessary to comply with the law.

The limited user information that Calibra does collect and store will be subject to strong security and access controls. User payment credentials, such as a debit card number, will not be accessible by Facebook or its affiliates. User transaction activity is private and will never be posted to Facebook, unless users themselves choose to share it.

Similar to other commerce platforms, there may be times when Facebook, acting in its capacity as a merchant or platform, will independently have access to information about completed transactions that take place on Facebook’s commerce platform (e.g., purchase made, merchant, transaction amount, date, time). This may include transactions completed via Calibra with Libra as the exchanged currency, though this would not involve a special transfer of information from Calibra to Facebook. In those situations, Facebook’s independent access to transaction information will be the same as for other transactions on the Facebook platform completed using other payment methods like credit cards.

Q.14. On July 22, the *Washington Post* reported that “[a] wave of fakes purporting to sell or represent Facebook’s not-yet-available Libra currency [has] swept onto” Facebook and Instagram, and that Facebook removed these pages “after the *Washington Post* alerted Facebook to their spread.”¹

¹https://www.washingtonpost.com/technology/2019/07/22/facebook-libra-currency-spawns-wave-fakes-including-facebook-itself/?utm_term=.11a7729b2c3c

Before being alerted to the fake activity, what steps had Facebook taken to prevent fake accounts, pages, and groups purporting to sell or represent Libra? Why did those steps fail to prevent these fake activity on Facebook and Instagram? Why did Facebook not detect these fake activity? What steps will Facebook take going forward to address this problem? What protection will Facebook provide to consumers who may fall prey to fake activity and fraud?

A.14. Before they are published on Facebook, ads go through an ad review process. Additionally, Facebook removes ads and Pages that violate our policies when we become aware of them, and we are constantly working to improve detection of scams on our platforms.

Misleading or deceptive ads have no place on Facebook. We want people to continue to discover and learn about new products and services through Facebook ads without fear of scams or deception. We are committed to preventing misleading advertising on our platforms, especially in the area of financial products and services. That is why ads may not promote cryptocurrency trading or related products and services without prior written permission. This policy is part of an ongoing effort to improve the integrity and security of our ads, and to make it harder for scammers to profit from a presence on Facebook.

Authenticity matters, for Pages as well as ads, because people need to trust that the content they are seeing is valid and they need to trust the connections they make. We are now blocking millions of attempts to register false accounts each and every day. When it comes to abusive fake accounts, our goal is simple: find and remove as many as we can while removing as few authentic accounts as possible. We do this in three distinct ways and include data in the Community Standards Enforcement Report to provide as full a picture as possible of our efforts:

1. *Blocking accounts from being created:* The best way to fight fake accounts is to stop them from getting onto Facebook in the first place. We have built technology that can detect and block accounts before they are created. Our systems look for a number of different signals that indicate if accounts are created in mass from one location. A simple example is blocking certain IP addresses altogether so that they cannot access our systems and thus cannot create accounts.
2. *Removing accounts when they sign-up:* Our advanced detection systems also look for potential fake accounts as soon as they sign-up, by spotting signs of malicious behavior. These systems use a combination of signals such as patterns of using suspicious email addresses, suspicious actions, or signals previously associated with other fake accounts we have removed. Most of the accounts we currently remove are blocked within minutes of their creation before they can do any harm.
3. *Removing accounts already on Facebook:* For accounts that make it onto the platform, we give these accounts the benefit of the doubt until they exhibit signs of malicious activity. We find these accounts when our detection systems identify such behavior or if people using Facebook report them to us. We use a number of signals about how the account was created

and how the account is being used to determine whether it has a high probability of being fake and disable those that are.

With respect to the Calibra digital wallet, Calibra will offer strong consumer protections and intends to comply with applicable consumer protection regulations, including responsibilities arising out of its State money transmission licenses. Calibra's consumer protection efforts will include automated fraud detection, in-app reporting, and dedicated customer service. In the rare event of unauthorized transactions of Libra coins stored in the Calibra wallet, Calibra will offer full refunds.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM DAVID A. MARCUS**

Q.1. *Money Laundering*—During the hearing I asked about how the Libra Association itself will be involved in enforcing AML rules and obligations. You responded that the association itself “is not running anything, it’s just coordinating governance.” However, in your letter to Chairman Crapo and Ranking Member Brown, you state that the Association will be “operating the Libra Blockchain.” This raises questions of what obligations the Association will have to prevent laundering.

Please specify how AML obligations, as they exist in the United States, will work with the varying entities that make up the Libra system.

A.1. We understand that the Libra Association intends to register with FinCEN as a money services business and, as such, will be subject to the Bank Secrecy Act’s anti-money-laundering (AML) requirements. In addition, we understand the Libra Association intends to require that each member of the Association comply with AML guidelines that the Libra Association expects to establish along with all applicable legal and regulatory obligations, including those relating to AML, to which the member is subject based upon the member’s activities and the jurisdictions in which it operates. Entities that are not Libra Association members that provide services for Libra users, such as digital wallet services, may be subject to AML and other laws depending upon the jurisdictions in which they are located and operate.

In recognition of the importance of this issue, we understand that the Libra Association intends to work with regulators to address, before launch, any regulatory concerns related to the Association’s AML requirements.

Q.2. Under FinCEN guidance, do you believe the Libra Association would qualify as an “administrator,” placing AML obligations on the Association itself?

A.2. The Libra Association is committed to ensuring that the Libra Network is compliant with applicable laws and regulations. We understand that the Libra Association is evaluating whether it would qualify as an “administrator” of a virtual currency as described in FinCEN guidance, but that, in any case, it intends to register with FinCEN as a money services business and, as such, will be subject to the Bank Secrecy Act’s AML requirements.

Q.3. Have you thought about any concerns related to synthetic identity fraud?

A.3. The Libra Association is committed to preventing malicious, fraudulent, or other illegal conduct using the Libra Blockchain, including synthetic identity fraud. We expect that the Libra Association will explore a range of appropriate technical and contractual options to mitigate this concern.

With respect to Facebook's operation of the Calibra wallet, we have established a multitiered, risk-based customer due diligence program that requires different levels of information collection, user identification, and due diligence based on the risk associated with a specific user. We expect that our procedures and processes for user identification, due diligence, and enhanced due diligence will play a critical part in Calibra's overall compliance program. Among other things, Calibra will subject all users, irrespective of assessed risk value, to customer identification and verification processes before a user can utilize the Calibra wallet and related services, including purchasing or sending Libra.

Q.4. Tax Issues—Libra's value is pegged to a basket of global currencies. This seems to mean that as global exchange rates change, the domestic value of a person's holdings will change as well. This can create capital gains, which are taxed in many countries. A spokesperson has said that "People will be responsible for filing their taxes in accordance with local laws in the jurisdictions in which they operate. We expect that many wallets and financial services built on the Libra Blockchain will provide people with tools to help manage this."

Is there going to be any sort of oversight over potential tax evasion issues?

Will Governments have any means to police this on the platform?

A.4. Facebook's Calibra product (i.e., digital wallet) will include functionality to assist both Facebook and users in complying with the required reporting obligations for transactions that occur on the platform.

Q.5. International Monetary Policy Impacts—The director of the People's Bank of China research bureau stated if Libra is established, other countries may look to compete by developing central bank digital currencies that are more closely linked to their own national currencies. China is already exploring this option.

What are the implications for global monetary policy, such as the status of the dollar as the world's reserve currency?

A.5. The Libra Blockchain is meant to complement the existing global payments system. We do not believe that the existence of Libra coins will have a destabilizing impact on global monetary policy or affect the U.S. dollar's status as the world's reserve currency. Each Libra coin will be backed one-to-one by a basket of assets held in the Libra Reserve. The current plan is for the assets in the Libra Reserve to be limited to cash and very short-term Government securities that are expected to be denominated in U.S. dollars, euros, Japanese yen, British pounds sterling, and Singapore dollars that will be held by a global network of well-capitalized bank custodians.

Libra is not meant to be a replacement for Government-issued currencies and is not meant to—and we would not expect it to—affect the ability of countries whose currencies are included in the Reserve to carry out their independent monetary policy. The currencies represented in the Libra Reserve will continue to be subject to their respective Governments’ monetary policies. We expect that certain changes to the Libra Reserve could also be subject to regulatory requirements that are being considered by a G7 Working Group and other regulators. We understand the Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. It will work with the Federal Reserve and other central banks responsible for monetary policy to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. Monetary policy is properly the province of central banks. And we expect FINMA and the G7 central banks to insist on a regulatory framework for the Libra Association that will ensure that the Association cannot interfere with monetary policy.

Q.6. Can you explain more about how the basket of reference currencies will impact the value of real, existing currencies?

A.6. We understand that each Libra coin will be backed one-to-one by a pro rata share or unit of a fungible pool of cash and very short-term Government securities that are expected to be denominated in U.S. dollars (~50 percent), euros (~18 percent), Japanese yen (~14 percent), British pounds sterling (~11 percent), and Singapore dollars (~7 percent) (each such pro rata share corresponding to a Libra coin, a “Currency Basket”) and held by a global network of well-capitalized bank custodians or other similarly secure custodial arrangements as agreed upon with applicable regulators. We understand the Libra Association is continuing to evaluate the specific percentages of assets in the Libra Reserve denominated in each currency, so these percentages are subject to change as agreed among the members of the Libra Association.

We do not believe that Libra will materially affect the value of the basket of currencies in the Libra Reserve. Though Libra may increase demand for one or more of the individual currencies, we do not expect that any such increase in demand would be sufficient to affect the market values of those currencies. Again, we understand the Libra Association, which will manage the Reserve, has no intention of competing with any sovereign currencies or entering the monetary policy arena. It will work with the Federal Reserve and other central banks responsible for monetary policy to make sure Libra does not compete with sovereign currencies or interfere with monetary policy. And we expect FINMA and the G7 central banks to insist on a regulatory framework for the Libra Association that will ensure that the Association cannot interfere with monetary policy.

Q.7. *Governance and the Libra Association*—According to the white paper, you say “The Libra Association is an independent, not-for-profit membership organization headquartered in Geneva, Switzerland. The association’s purpose is to coordinate and provide a framework for governance for the network and reserve.”

What transparency standards will apply to this new association that Facebook proposes should govern Libra?

A.7. While Facebook currently has a leadership role in the Libra Association, once the Libra Network launches, Facebook and its affiliates will have the same privileges, commitments, and financial obligations as any other Initial Member of the Association. Moreover, the Association is a separate organization from Facebook with its own executives, and it is still in formation. We can speak only to our current understanding of the Association and its plans.

We expect that the Libra Association will make decisions democratically and transparently in a manner to be agreed among the members of the Libra Association. We understand the Association will be governed by the Libra Association Council, which will be comprised of a representative from each member of the Association. Together, they will make decisions on the governance of the Libra Blockchain and Reserve. Operating and policy decisions of the Council will require various voting thresholds depending on the importance of the decision; major policy or technical decisions will require the supermajority consent of two-thirds of the votes. We understand that the voting process will be transparent: most votes will be conducted on the Libra Blockchain, especially when the decision affects the Blockchain, such as votes to add new members. Ultimately, the governance of the Association will be determined by the members, and it is our expectation that the charter and bylaws of the Association will be public once finalized, and will continue to be public as they evolve.

Q.8. Are there any sort of public feedback mechanisms to decisions made by Libra?

A.8. We understand the Association welcomes input from the general public and is committed to providing Libra users the opportunity to ask questions about and comment upon the Libra coin and the operations of the Libra Association. We expect the exact nature of these processes will be agreed among the members of the Libra Association. When it comes to decisions made by wallet providers, users will be able to choose among wallets offered by various companies, which will create competitive pressures to provide useful features and rigorous protections. The consensus mechanisms and other programming underpinning the Libra Blockchain have also been made open-source, and we welcome developers to provide feedback and contribute code to help build the Libra ecosystem.

Q.9. Will Libra's decisions take into account national interests, such as the value and control of currencies?

A.9. We understand the Libra Association has no intention of entering the monetary policy arena. The currencies represented in the Libra Reserve will be subject to their respective Governments' monetary policies. We understand the Libra Association will only mint or burn Libra Coins in response to buy or sell orders from authorized resellers, and the Association will not have targets for the number of coins that "should" be in circulation. We expect the Libra Association will work with the Federal Reserve and other central banks to make sure Libra does not compete with sovereign currencies or interfere with monetary policy.

Q.10. Isn't there risk of collusion amongst the participants that could vote to change behavior to their benefit?

A.10. As noted in the response to Question 7 above, the Association is a separate organization from Facebook and is still in formation. That said, while the Libra Association will make final decisions about governance, we understand that the Council will be structured to minimize the risk of collusion. For example, we understand most decisions will be made by votes of the full Council, requiring an absolute majority, if not a two-thirds supermajority, which will make swaying the results of a vote difficult—especially given the geographic diversity and the requirements and profile of Initial Members. We expect that the voting powers in the Council will be capped for each member to avoid concentration of power. Additionally, we expect that the Libra Association will develop a policy that will forbid a degradation of the assets in the Reserve to the advantage of Association members or investors.

Q.11. *Capital Controls*—In response to the Great Recession a number of countries like Brazil, Uruguay, and China imposed capital controls. These are measures taken by a Government or central bank that aim to limit the flow of capital in and out of the domestic economy. Many Nations resort to these policies to prevent capital flight from their Nations during financial crises.

Have you thought about how Libra will impact the ability of Nations to respond to crises with tools like capital controls?

A.11. For countries that have capital controls in place, we expect regulators in those countries will apply them to wallets that enable Libra as they see fit, since on- and off-ramps will be regulated. And we understand that the Association plans to work with central banks to identify issues that may relate to those central banks' ability to perform monetary policy.

For more information on how the Libra Blockchain is meant to complement the existing global payments system, please see the response to Question 5.

Q.12. *Smart Contracts*—According to the white paper put out by the Libra Association, the system will rely on so-called "smart contracts." As far as I understand, these are computer-coded sets of instructions that "self-perform" contracts without a middleman by automatically transferring the good or services to the buyer when the monetary and other conditions are agreed upon.

Would you agree with is an accurate characterization?

A.12. The automated purchase of goods or services is one possible use case for "smart contracts." More generally, smart contracts describe the rules for changing the "state" of the blockchain. A rule that encodes an exchange is one way of changing that state.

Q.13. Certain factors in contract law such as frustration, duress, undue influence, or misrepresentation need subjective human interpretation of judgement on a case-by-case basis, how is this possible under automated contract execution?

A.13. Whether contracts governing Libra or the Libra Network are traditional contracts or take the form of smart contracts embodied in computer code, these contracts would be subject to the same laws that apply to other types of contracts. We understand the

Libra Association expects to carefully consider the implications of contract law and other law in the jurisdictions in which it will operate. Developers building on the Libra Blockchain will also be responsible for ensuring that what they build complies with applicable law.

Q.14. Broadly, how have you thought about how contract law in the various Nations you will be operating in will impact Libra?

A.14. Please see the response to Question 13.

Q.15. *Libra and “Right to Deletion”*—The European Union’s GDPR as well as my bill includes a right for consumers to delete information that is stored about them. Because of their decentralized nature, blockchains and the information stored on them is not designed to be removed, it is immutable.

Can you explain the tension between these consumer rights and how Libra will work?

A.15. The Libra Blockchain is pseudonymous and allows users to hold one or more addresses that are not linked to their real-world identity. This approach is familiar to many users, developers, and regulators. Companies that write onto the Libra Blockchain, such as wallets, exchanges, merchants, and similar services, will be the entities that store consumers’ personal information and therefore, they will have the legal obligations to comply with applicable data protection laws and regulations—including any rights of deletion.

Q.16. Have you thought through how Libra may have to work differently in the EU?

A.16. The Libra Association is committed to supporting the global dialogue on how blockchain and cryptoassets should be regulated, including in the EU. We understand that the Association fully plans to engage with privacy regulators in a clear and transparent fashion to understand regulatory requirements and discuss technological and governance solutions for compliance.

Q.17. *Investments*—The way the Libra Association will make profit is by earning interest and investing the reserves it holds. As you know, by a two-thirds vote of Libra members, policy can be changed without any input from Libra users or regulators.

Isn’t it possible that by a simple vote, the Libra Association can simply change the investment strategy and invest the reserves in risky assets? What protections exist for users in this case?

A.17. We expect FINMA and the G7 central banks to insist on a regulatory framework for the Libra Association that will impose controls on the investments in the Libra Reserve to prevent the Libra Reserve from being invested in risky assets. Subject to these regulatory controls, we understand the Libra Association may change the Reserve composition to ensure it preserves value and to respond to significant changes in market conditions (e.g., an economic crisis in one of the represented regions). Additionally, we expect that the Libra Association will develop a policy that will forbid a degradation of the assets in the Reserve to the advantage of Association members or investors.

Q.18. *Consumer Profiling*—In the last few years we have seen financial data being using to create secret consumer scores that can

become proxies for credit scores. This has led to highly concerning practices like digital redlining and discrimination.

Will there be protections in place to ensure data collected from Libra is not used for this purpose?

A.18. Discrimination has no place in the Libra Association. To the contrary, the goal of Libra is to foster inclusion in the financial system by lowering transaction costs and removing barriers to access. Libra was established to be a digitally native currency that can be used around the world and enable economic empowerment.

We also know that consumers of financial services and products can be vulnerable. That is why there is a commitment to strong consumer protection in the Libra ecosystem. We understand the Libra Association is committed to working with authorities to shape a regulatory environment that encourages technological innovation while maintaining the highest standards of consumer protection. When it comes to data privacy, we are committed to complying with global privacy regulations and working with regulators and policymakers to ensure protection of user data.

Q.19. *Cambridge Analytica Similarities*—Calibra will partner with third party developers to build digital wallets. Such vendors get to decide what personal information they require from consumers and what they get to do with it. It goes without saying that Facebook does not have a good track record overseeing partners when personal data of millions of users is involved.

What does Facebook plan to do to ensure that Libra doesn't become the next Cambridge Analytica?

A.19. At this time, Calibra does not plan on partnering with third-party developers to build digital wallets. And Calibra is being designed with a strong commitment to ensuring customers' privacy rights in relation to their data. We believe that customers hold rights to their data and should have simple, understandable, and accessible data-management controls and clear information about how we may work with vendors and service providers to support our services. Facebook will be leveraging its third-party compliance program to ensure that any vendor or service provider with access to personal data is appropriately vetted and monitored.

It is also important to note that the Libra Blockchain is the platform upon which Calibra will be built. There are no plans for a platform operated on top of Calibra.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

**LETTER TO MARK ZUCKERBERG SUBMITTED BY CHAIRMAN CRAPO
AND SENATOR BROWN**

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GREGG RICHARD, STAFF DIRECTOR
LAURA SWANSON, DEMOCRATIC STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

May 9, 2019

Mark Zuckerberg
Founder, Chairman and Chief Executive Officer
Facebook
1 Hacker Way
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

This week the Senate Banking Committee held its first hearing on Privacy Rights and Data Collection in a Digital Economy. Earlier this year, the Senate Banking Committee's Chairman and Ranking Member invited feedback on the collection, use and protection of sensitive information by financial regulators and private companies in light of the immense growth and use of data for a multitude of purposes across the economy. As the Committee moves forward with additional hearings to build the record for legislation, it is important to understand how large social platforms make data available that can be used in ways that have big implications for consumers' financial lives, including to market or make decisions on financial products or services that impact a consumer's access to or cost of credit and insurance products, or in ways that impact their employment prospects. It is also important to understand how large social platforms use financial data to profile and target consumers.

The *Wall Street Journal* recently reported that Facebook is recruiting dozens of financial firms and online merchants to help launch a cryptocurrency-based payments system using its social network. Last year, Facebook asked U.S. banks to share detailed financial information about consumers. In addition, privacy experts have raised questions about Facebook's extensive data collection practices and whether any of the data collected by Facebook is being used for purposes that do or should subject Facebook to the Fair Credit Reporting Act.

Accordingly, please respond to the following questions.

- 1) How would this new cryptocurrency-based payment system work, and what outreach has there been to financial regulators to ensure it meets all legal and regulatory requirements?
- 2) What privacy and consumer protections would users have under the new payment system?

- 3) What consumer financial information does Facebook have that it has received from a financial company?
- 4) To the extent Facebook has received consumer financial information from a financial company, what does Facebook do with such information and how does Facebook safeguard the information?
- 5) Does Facebook share or sell any consumer information (or information derived from consumer information) with any unaffiliated third parties?
- 6) Does Facebook have any information bearing on an individual's (or group of individuals') creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living that is used (either by Facebook or an unaffiliated third party) to establish eligibility for, or marketing of a product or service related to, (1) credit, (2) insurance, (3) employment, or (4) housing?
- 7) How does Facebook ensure that information bearing on an individual's (or group of individuals') creditworthiness, credit standing, credit capacity, character, general reputation, and/or personal characteristics is not used in violation of the Fair Credit Reporting Act?

Sincerely,



Mike Crapo
Chairman



Sherrod Brown
Ranking Member

FACEBOOK RESPONSE SUBMITTED BY DAVID MARCUS

July 8, 2019

Chairman Mike Crapo
Ranking Member Sherrod Brown
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

Thank you for your recent letter. I appreciate your interest in Project Libra, and I welcome the opportunity to discuss this important initiative with you.

Libra is a big idea. Our aim is to develop a safe, secure, and low-cost way for people to efficiently move money around the world. The reality is that financial transactions today take too long and cost too much. The fees associated with moving money are high, and those that can afford it least are being charged the most. Libra was designed with those populations in mind. The goal of the Libra Association is to reduce transaction costs and expand access to the financial system using blockchain technology.

We understand that big ideas take time, that policymakers and others are raising important questions, and that we can't do this alone. We want, and need, governments, central banks, regulators, non-profits, and other stakeholders at the table and value all of the feedback we have received. That's why we and the other members of the Libra Association issued a white paper early in this process, so that there could be ample time for policymakers to ask questions and share concerns. I want to give you my personal assurance that we are committed to taking the time to do this right.

THE LIBRA ASSOCIATION

In May of 2018, Facebook formed a small team that was dedicated to exploring ways to help more people benefit from blockchain technology, with a focus on financial services. We believe that blockchain technology can be used to provide people and businesses with better access to essential financial services at a much lower cost than currently available. The team set out to create a resilient digital currency and network while complying with applicable anti-money laundering (AML), combating the financing of terrorism (CFT), sanctions, and other laws.

These efforts culminated in our work, along with a coalition of companies and organizations, to found the Libra Association. The Libra Association is a not-for-

The Facebook logo, consisting of the word "facebook" in white lowercase letters on a blue rectangular background.

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profit membership association. The Association plans to launch Libra, a digital currency built on the Libra Blockchain that people can use for their everyday needs. Libra will be 100% backed by a reserve of bank deposits and very short-term government securities denominated in US dollars, the euro, and certain other major currencies.

The Association will be responsible for setting rules for its members, operating the Libra Blockchain, issuing the digital currency, and managing the reserve that backs the digital currency. The members of the Libra Association will consist of geographically distributed and diverse businesses, nonprofit and multilateral organizations, and academic institutions. The reserve will be held on behalf of the Association by a geographically dispersed network of commercial banks and possibly certain central banks. We expect the Association to hold a governmental license or similar authorization appropriate for an issuer of a digital currency that is 100% backed by a reserve, to be subject to appropriate anti-money laundering oversight and inspection, and otherwise to be subject to appropriate government regulation.

While final decision-making authority will rest with the Association, Facebook is expected to maintain a leadership role through the rest of 2019. Once the Libra network launches, Facebook and its subsidiary will have the same commitments and financial obligations as any other founding member of the Association. As one member among many, Facebook's role in governance of the Association will be the same as that of its peers.

FACEBOOK INC.'S SUBSIDIARY CALIBRA

Facebook created Calibra, Inc., a US subsidiary of Facebook regulated as a money services business, to build and operate services on top of the Libra network. Calibra will be Facebook's representative in the Association. As a separate, regulated subsidiary of Facebook, Calibra will safeguard consumer financial data and will not use or share this data for ad targeting purposes.

As we set out to build this digital currency and blockchain, we have met with industry experts and leaders in areas like financial inclusion, economics, security, compliance, privacy and blockchain technology. We have also met with central banks, treasury and finance ministry officials and financial services regulators, primarily in the United States and Europe, and we look forward to continuing to engage with lawmakers and regulators. We know that these are complicated issues, and that they won't be solved overnight, or by one company alone.

With that context in mind, below, please find answers to your specific questions.

1. How would this new cryptocurrency-based payment system work, and what outreach has there been to financial regulators to ensure it meets all legal and regulatory requirements?

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With Libra, developers and businesses will be able to build new, accessible financial service products for people and businesses in countries around the world. This ecosystem will be underpinned by the **Libra Blockchain**, a new blockchain that has been built from the ground up to prioritize scalability, security, and reliability, as well as the flexibility required to evolve over time; and the **Libra Reserve**, a reserve of low-risk and highly liquid financial assets that will fully back the Libra digital currency, providing low volatility and the opportunity for wide consumer and business acceptance.

Facebook has done outreach to financial services, regulators, central banks, treasury and finance ministry officials and other national policymakers, global standard setting bodies like the Financial Action Task Force, and other stakeholders like the Bank for International Settlements. The Association will continue this outreach on its own behalf as its membership is increasingly diversified.

The Libra Association will work with policymakers and regulators to make sure this new ecosystem is a value-add to economies, that consumers are protected, and that the role of government oversight and central banks is appropriate. The Association is fully committed to advancing the global dialogue on how blockchain and cryptoassets should be regulated.

Facebook, through its newly established subsidiary Calibra, has also had discussions with regulators to discuss Calibra's digital wallet to be built on the Libra Blockchain, which is expected to be one of many competing digital wallets available to consumers. Our conversations have been focused on a number of issues, including the global AML, CFT, and sanctions compliance program Calibra is developing to guard against financial crimes and to further consumer protection and data privacy. Calibra has applied for state money transmitter licenses in the US, and Calibra is registered with FinCEN as a money services business.

2. What privacy and consumer protections would users have under the new payment system?

Similar to existing and widespread cryptocurrencies such as Ethereum and Bitcoin, transactions that take place directly on the Libra Blockchain are "pseudonymous," meaning that the user's identity is not publicly visible. Only data relevant to each transaction, such as the blockchain address of the sender and receiver, the timestamp, and the transaction amount, are recorded and publicly visible. Consumers and businesses will operate on the Libra Blockchain through public account addresses, which are not linked to their real-world identity.

The Libra Association itself will not be involved in processing user transactions and will not store any personal data of Libra users. Transactions on the Libra Blockchain will be processed and stored by validator nodes or by wallet services, such as Calibra's digital wallet. We anticipate that most consumers will use "custodial"

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wallets, which offer an extra level of privacy, as custodial wallets will place transactions in bulk on the Libra Blockchain without an address for each individual transactor. Calibra's wallet will be custodial.

As Libra is an open source platform, third party developers will be able to build on top of the Libra Blockchain, including by building digital wallets. It will be the responsibility of these providers to determine the type of information they may require from their customers and to comply with regulations and standards in the countries in which they operate. Regulators of Calibra and other digital wallet services can require them to collect information about the identity and activities of their users and make such information available to law enforcement and regulatory agencies, such as for AML, CFT, and sanctions purposes.

Calibra is still being developed, but will offer customer support, anti-fraud protections and refunds, and a dedicated fraud and risk management team. Calibra is committed to protecting user privacy through providing simple, understandable, and accessible data management controls. Aside from limited cases, Calibra will not share account information or financial data with Facebook or any third party without customer consent, except for data shared with law enforcement and regulatory agencies as required by law, such as for AML, CFT, and sanctions purposes. For example, Calibra customer account information and financial data will not be used to improve ad targeting on Facebook or across its family of social media and messaging products.

3. What consumer financial information does Facebook have that it has received from a financial company?

Today, users provide their payment credentials in order to carry out transactions on Facebook platforms. Transactions take place either through Facebook Payments Inc. (which processes person-to-person payments in the United States over Messenger, donations to US charities onboarded to our fundraising platform, and payment for digital goods or games within Facebook on the web) or a commercial partner (e.g., PayPal powers transactions for certain US-based shops on Pages and Instagram Checkout in the US).

Facebook Payments Inc. is a financial institution and subsidiary of Facebook with its own privacy policy and AML, CFT, and sanctions compliance program. Facebook Payments Inc. collects non-public personal financial information data necessary for payment transactions (e.g., payment credentials) in accordance with the Gramm-Leach-Bliley Act (GLBA), and is PCI-DSS compliant. Payment card information is stored in a separate PCI-DSS compliant environment.

Payment account information (e.g., credit card number or bank account information) is not used for Facebook advertising or personalization. Similar to other direct interactions users have on Facebook, other information about

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transactions can be used for advertising and personalization on the Facebook platform in accordance with Facebook's Data Policy.

As Facebook is the platform on which these transactions take place, Facebook Inc. also collects data related to the transaction (e.g., purchase, merchant, transaction amount, date, time), similar to any other commerce platform. For example, Facebook collects information related to interactions on Marketplace, which is used to provide a better user experience and to better suggest products.

Financial companies can also utilize Facebook's platform to interact with users. For example, financial companies may use bots or APIs to facilitate customer interactions. While Facebook is the platform by which these interactions take place, Facebook itself does not have access to payment credentials in these interactions.

4. To the extent Facebook has received consumer financial information from a financial company, what does Facebook do with such information and how does Facebook safeguard the information?

Please see our answer to Question 3.

5. Does Facebook share or sell any consumer information with unaffiliated third parties?

Consumer information is not sold to unaffiliated third parties. We may share data with unaffiliated third parties in limited circumstances that fall under GLBA exceptions, such as with consent, for fraud prevention, or with service providers. We provide a privacy notice on any sharing with unaffiliated third parties.

6. Does Facebook have any information bearing on an individual's (or group of individuals') creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used (either by Facebook or an unaffiliated third party) to establish eligibility for, or marketing of a product or service related to 1) credit, 2) insurance, 3) employment, or 4) housing?

Consistent with the disclosures to users in our Data Policy, Terms of Service, and in other user-facing notices, Facebook allows its users to connect with, message, and share information of their choosing.

Facebook does not share any user information with third parties for eligibility purposes, as defined under the Fair Credit Reporting Act (FCRA). In fact, Facebook's Platform Policy prohibits third parties from using data to make the "eligibility determinations" that the FCRA contemplates. Facebook investigates suspected violations of the Platform Policy by developers and can, and has, taken action to terminate access to the platform by developers who violate our policies.

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Additionally, Facebook does not share any individual user information with third parties as part of its self-service advertising tools.

Facebook does not obtain or use consumer reports or credit scores for any purpose.

7. How does Facebook ensure that information bearing on an individual's (or group of individuals') creditworthiness, credit standing, credit capacity, character, general reputation, and/or personal characteristics is not used in violation of the Fair Credit Reporting Act?

Please see our answer to Question 6.

Sincerely,



David Marcus

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LETTER SUBMITTED BY THE ELECTRONIC PRIVACY INFORMATION
CENTER

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July 15, 2019

The Honorable Michael Crapo, Chairman
The Honorable Sherrod Brown, Ranking Member
Senate Committee on Banking, Housing, & Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

We write to you regarding your hearing on “Examining Facebook’s Proposed Digital Currency and Data Privacy Considerations.”¹ EPIC appreciates your timely attention to the consumer impacts of Facebook’s entry into the financial services market.

EPIC is a public-interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.² EPIC is a leading advocate for consumer privacy and has appeared before this Committee on several occasions.³

Facebook/WhatsApp: A History of Broken Privacy Promises

To fully understand why Facebook cannot be trusted to launch its own currency, we must look to promises Facebook has made in the past. In 2014, Facebook purchased WhatsApp, a text-messaging service that attracted users specifically because of strong commitments to privacy.⁴ WhatsApp’s founder stated in 2012 that, “[w]e have not, we do not and we will not ever sell your personal information to anyone.”⁵ EPIC and the Center for Digital Democracy urged the Federal Trade Commission to block the deal.⁶ As we explained at the time:

¹ *Examining Facebook’s Proposed Digital Currency and Data Privacy Considerations*, 116th Cong. (2019), S. Comm. on Banking, Housing, and Urban Affairs (Jul. 16, 2019), <https://www.banking.senate.gov/hearings/examining-facebooks-proposed-digital-currency-and-data-privacy-considerations>.

² EPIC, *About EPIC*, <https://epic.org/epic/about.html>.

³ See, e.g., *Consumer Data Security and the Credit Bureaus: Hearing Before the Senate Comm. on Banking, Housing, and Urban Affairs*, 115th Cong. (2017) (testimony of Marc Rotenberg, Exec. Dir., EPIC), <https://epic.org/testimony/congress/EPIC-Testimony-SBC-10-17.pdf>; *Cybersecurity and Data Protection in the Financial Sector: Hearing Before the Senate Comm. on Banking, Housing, and Urban Affairs*, 112th Cong. (2011) (testimony of Marc Rotenberg, Exec. Dir., EPIC), https://epic.org/privacy/testimony/EPIC_Senate_Banking_Testimony%206_21_11.pdf.

⁴ EPIC, *In re: WhatsApp*, <https://epic.org/privacy/internet/ftc/whatsapp/>.

⁵ WhatsApp, *Why We Don’t Sell Ads* (June 18, 2012), <https://blog.whatsapp.com/245/Why-we-dont-sell-ads>.

⁶ EPIC and Center for Digital Democracy, Complaint, Request for Investigation, Injunction, and Other Relief In the Matter of WhatsApp, Inc., (Mar. 6, 2014), <https://epic.org/privacy/ftc/whatsapp/WhatsApp-Complaint.pdf>.

EPIC Statement
Senate Banking Committee

1

Facebook’s Proposed Cryptocurrency
July 15, 2019

Privacy is a Fundamental Right.

WhatsApp built a user base based on its commitment not to collect user data for advertising revenue. Acting in reliance on WhatsApp representations, internet users provided detailed personal information to the company including private text to close friends. Facebook routinely makes use of user information for advertising purposes and has made clear that it intends to incorporate the data of WhatsApp users into the user profiling business model. The proposed acquisition will therefore violate WhatsApp users' understanding of their exposure to online advertising and constitutes an unfair and deceptive trade practice, subject to investigation by the Federal Trade Commission.⁷

The FTC ultimately approved the merger after Facebook and WhatsApp promised not to make any changes to WhatsApp users' privacy settings.⁸ However Facebook announced in 2016 that it would begin acquiring the personal information of WhatsApp users, including phone numbers, directly contradicting their previous promises to honor user privacy.⁹ Following this, EPIC and CDD filed another complaint with the FTC in 2016, but the Commission has taken no further action.¹⁰

Facebook also said recently it would target WhatsApp users with ads, despite earlier statements to the contrary and opposition from WhatsApp's founders.¹¹ The disclosure is particularly troubling following recent reporting that Facebook relies on users' phone numbers for targeting.¹²

Facebook's Failures to Protect User Data

Facebook has a long history of failing to protect user data. In April 2018, Facebook admitted the unlawful transfer of 87 million user profiles to the data mining firm Cambridge Analytica, which harvested the data obtained without consent to influence the 2016 U.S. presidential election.¹³ That

⁷ *Id.* at 1.

⁸ See, Letter from Jessica L. Rich, Dir., Bureau of Consumer Prot., Fed. Trade Comm'n, to Facebook and WhatsApp (Apr. 10, 2014), <https://epic.org/privacy/internet/ftc/whatsapp/FTC-facebook-whatsapp-ltr.pdf> (concerning the companies' pledge to honor WhatsApp's privacy promises).

⁹ WhatsApp, *Looking Ahead for WhatsApp* (Aug. 25, 2016), <https://blog.whatsapp.com/10000627/Looking-ahead-for-WhatsApp>.

¹⁰ EPIC and Center for Digital Democracy, Complaint, Request for Investigation, Injunction, and Other Relief In the Matter of WhatsApp, Inc. (Aug. 29, 2016), <https://epic.org/privacy/ftc/whatsapp/EPIC-CDD-FTC-WhatsApp-Complaint-2016.pdf>; Marc Rotenberg, *The Facebook-WhatsApp Lesson: Privacy Protection Necessary for Innovation*, Techonomy (May 4, 2018), <https://techonomy.com/2018/05/facebook-whatsapp-lesson-privacy-protection-necessary-innovation>.

¹¹ Anthony Cuthbertson, *WhatsApp to Start Filling Up with Ads Just Like Facebook*, Independent (Oct. 1, 2018), <https://www.independent.co.uk/life-style/gadgets-and-tech/news/whatsapp-update-targeted-ads-status-facebook-brian-acton-a8563091.html>.

¹² Liam Tung, *Facebook Is Using Your 2FA Phone Number to Target Ads at You*, ZDNet (Oct. 1, 2018), <https://www.zdnet.com/article/facebook-is-using-your-2fa-phone-number-to-target-ads-at-you>.

¹³ Cecilia Kang and Sheera Frenkel, *Facebook Says Cambridge Analytica Harvested Data of Up to 87 Million Users*, N.Y. Times, (Apr. 4, 2018), <https://www.nytimes.com/2018/04/04/technology/mark-zuckerberg-testify-congress.html>.

breach of user privacy was considered one of the most significant in the history of Internet-based services, and led almost immediately to investigations around the world.¹⁴

Two months later, it was revealed that Facebook had disclosed user data to at least 60 device makers including Apple, Amazon, and Samsung over the last decade.¹⁵ That number was later revised to disclosures to over 150 companies, who were requesting “the data of hundreds of millions of people a month.”¹⁶

In October 2018, Facebook announced that about 30 million users had their highly sensitive data hacked, including location data, contacts, relationship status, and search queries.¹⁷ In December, Facebook revealed that a “software bug” allowed third-party apps to erroneously access the photos of up to 6.8 million users, including images that users began uploading to Facebook but then did not post publicly.¹⁸

Those are just the privacy breaches over the span of nine months in 2018.

Facebook clearly cannot be trusted with consumers’ financial data. The company has a long history of both failing to maintain adequate security safeguards and of lying to regulators.¹⁹ Congress should take action to stop Facebook’s cryptocurrency before it’s too late.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee on these issues.

Sincerely,

Marc Rotenberg
Marc Rotenberg
EPIC President

Caitriona Fitzgerald
Caitriona Fitzgerald
EPIC Policy Director

¹⁴ Lauren Feiner, *Mark Zuckerberg’s call for tougher Internet regulation won’t save Facebook from these investigations*, CNBC (Mar. 31, 2019), <https://www.cnbc.com/2019/03/31/facebook-federal-and-international-investigations-into-data-privacy.html>.

¹⁵ Gabriel J.X. Dance, Nicholas Confessore, and Michael LaForgia, *Facebook Gave Device Makers Deep Access to Data on Users and Friends* (Jun. 3, 2018), <https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html>.

¹⁶ Gabriel J.X. Dance, Michael LaForgia, and Nicholas Confessore, *As Facebook Raised a Privacy Wall, It Carved an Opening for Tech Giants* (Dec. 18, 2018), <https://www.nytimes.com/2018/12/18/technology/facebook-privacy.html>.

¹⁷ Rob Price, *Hackers stole millions of Facebook users’ highly sensitive data — and the FBI has asked it not to say who might be behind it* (Oct. 12, 2018), <https://www.businessinsider.com/facebook-30-million-users-affected-hack-fbi-asked-not-to-reveal-source-2018-10>.

¹⁸ Tomer Bar, *Notifying our Developer Ecosystem about a Photo API Bug*, Facebook for Developers Blog (Dec. 14, 2018), <https://developers.facebook.com/blog/post/2018/12/14/notifying-our-developer-ecosystem-about-a-photo-api-bug/>.

¹⁹ Mark Scott, *E.U. Fines Facebook \$122 Million Over Disclosures in WhatsApp Deal*, N.Y. Times, May 18, 2017, <https://www.nytimes.com/2017/05/18/technology/facebook-european-union-fine-whatsapp.html>

**LETTER SUBMITTED BY THE INDEPENDENT COMMUNITY BANKERS
OF AMERICA**



Preston L. Kennedy, *Chairman*
 Noah W. Wilcox, *Chairman-Elect*
 Robert M. Fisher, *Vice Chairman*
 Kathryn G. Underwood, *Treasurer*
 Alice P. Frazier, *Secretary*
 Timothy K. Zimmerman, *Immediate Past Chairman*
 Rebecca Romero Rainey, *President and CEO*

July 15, 2019

The Honorable Mike Crapo
 Chairman
 Committee on Banking, Housing
 & Urban Affairs
 United States Senate
 Washington, D.C. 20510

The Honorable Sherrod Brown
 Ranking Member
 Committee on Banking, Housing
 & Urban Affairs
 United States Senate
 Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of community banks across America, with more than 52,000 locations, I write to thank you for convening tomorrow's hearing on "Examining Facebook's Proposed Digital Currency and Digital Privacy Considerations." The proposed creation of Libra, if allowed to proceed, would be a significant and irreversible development that would alter the global financial landscape. Tomorrow's hearing is, we hope, a first step in what should be a comprehensive review by this committee and other congressional committees of the serious concerns carried by this proposal. Federal and state financial regulatory agencies and financial authorities worldwide should be interested as well. The stakes are too high to proceed without a thorough understanding of the risks and consequences, intended and unintended. ICBA endorses the recent comments of Federal Reserve Chairman Jerome Powell who cited "many serious concerns regarding privacy, money laundering, consumer protection and financial stability." The purpose of this letter is to express the community bank perspective on Libra.

Facebook's market power, influence, and data sharing jeopardize consumer privacy

With some two billion users worldwide and no true competitors, Facebook wields monopolistic power in social media. Facebook owns and manipulates a wealth of detailed user data, including profile information, browsing history on Facebook as well as linked apps, demographic data such as educational attainment, race and ethnicity, political and religious views, and other known and unknown information. Facebook shares this information with marketers and other third parties and is in fact in the business of extracting revenues from this data. This business model contains an inherent tradeoff between user privacy and revenue opportunities its investors count on. Facebook had profits of \$22 billion in 2018. The company has a vested interest in meeting Wall Street's earnings expectations. Policymakers should be extremely cautious about allowing Facebook to expand its reach into users' financial data through the creation of Libra.

The Nation's Voice for Community Banks.®

WASHINGTON, DC 1615 L Street NW Suite 900 Washington, DC 20036	SAUK CENTRE, MN 518 Lincoln Road PO Box 267 Sauk Centre, MN 56378	866-843-4222 www.icba.org
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Facebook has been fined an unprecedented \$5 billion by the Federal Trade Commission for sharing user data with Cambridge Analytica for the purpose of creating targeted political messages and influencing American elections. This is far from the only documented case in which Facebook has given unauthorized access to user data to third parties.

In other cases, Facebook security weaknesses have exposed as many as 50 million users to hijackers. If Facebook were allowed to leverage their monopoly power in the digital payments arena, thereby obtaining users' income data and other financial data, users' exposure and privacy risk would reach hazardous levels. The integration of tech giants and consumer finance would result in an enormous concentration of financial and technological data and assets.

Privacy standards contained in the Gramm-Leach-Bliley Act, which ICBA supports, ensure consumers of financial institutions receive enhanced protection of their personal information. In addition, these institutions are required, through law and regulation, to provide privacy notices and disclosures to customers about the information they collect and share and the purposes for which it is used. ICBA believes that all entities that handle personal information, including the Libra Association and its partners and third parties that contract with these entities, should be required to safeguard personal financial information and provide consumer notices and disclosures in a manner comparable to financial institutions. These requirements should be enforced by agency supervision and examination.

Financial Stability

In addition to the serious privacy concerns noted above, Libra must be carefully regulated to ensure that it does not pose a threat to financial stability in the United States and abroad.

According to the Libra white paper, the value of a unit of Libra would be pegged to the value of a basket of government-issued currencies. The Libra Association would stand ready to redeem Libra for anyone of the currencies that make up the basket at the prevailing exchange rate.¹ To meet this obligation, they would hold reserves which would be invested in various assets. The return on these assets would be distributed among Libra investors, though not Libra users.

To be operated safely, the size of these reserves and the quality and liquidity of its investments would need to be carefully regulated. Any number of events – for example, a devaluation of one of the currencies that make up a basket or loss of confidence in Libra's reserve investments – could precipitate a run on Libra, with users demanding immediate redemptions on a mass scale. There would be nothing comparable to a deposit insurance system to reassure holders of Libra of its expected exchange value. Failure to liquidate its reserves to honor these redemptions could precipitate a global crisis.

In this sense Libra may be compared to an international money market fund that fixes the value of a share at \$1 to guarantee its redemption value and give the appearance of cash, while investing in short term debt.² Money market funds were viewed as virtually riskless investments until the fall of 2008

¹ The Libra Association is an association of entities including Facebook and its 27 partners (to date) which would govern the cryptocurrency and its blockchain and asset reserves.

² The comparison of Libra to a money market fund was suggested by Jon Sindreu. See Sindreu, Jon. "Can Facebook's Libra Avoid Regulators? History Suggests Not." Wall Street Journal. July 4, 2019.

when, after the failure of Lehman Brothers, investors began to doubt the worth of their investments. A surge of redemption requests in the Primary Reserve Fund totaled \$40 billion, causing it to “break the buck,” and other money market funds in the U.S. and abroad followed suit. Ultimately a taxpayer-backed, government guarantee was needed to prevent the money market fund industry from being overwhelmed by redemption requests. It is worth noting that this turmoil in the money market fund industry occurred despite investor protection regulation as well as regulation of money market fund investments.

Without strong regulation, Libra would be vulnerable in the same way money market funds have been and would pose considerably more systemic risk if Libra’s ambition for a world-wide crypto currency is realized.

A new avenue for money laundering

Unless Libra is subject to Anti-Money Laundering / Bank Secrecy Act (AML/BSA), it would create an avenue to money laundering that would undermine law enforcement. Libra would become the currency of choice for criminals as well as terrorists. Community banks are willing participants in the nation’s mandated anti-money laundering programs. But the value of these programs would be significantly compromised if they do not include Libra.

Appropriate regulation of Libra

If implementation of Libra is authorized, appropriate regulation is needed to ensure public trust and to mitigate against the significant risks outlined above. This regime should be comparable to the multitude of regulations applicable to traditional, functionally similar payments products and services offered by the closely regulated banking system and should include requirements covering:

Capital adequacy and reserves	Activity restrictions
Due diligence	Information security
Business resiliency	Ownership and control
Anti-money laundering and anti-terrorist financing	Reporting & maintenance of books and records
Consumer protections	Privacy
Safeguarding customer information	Vendor and third-party management
Ongoing examination	

Without such a regime, there will be a dangerous, unprecedented level of risk to consumer privacy, digital commerce, and the global financial system.

ICBA thanks you again for raising the profile of this important issue. We look forward to offering ongoing input as you continue to study the risks of Libra and other digital currencies and devise an appropriate regulatory regime.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the Senate Banking Committee

**LETTER SUBMITTED BY THE NATIONAL ASSOCIATION OF FEDERALLY-
INSURED CREDIT UNIONS**



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National Association of Federally-Insured Credit Unions

July 15, 2019

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

Re: Tomorrow's Hearing, "Examining Facebook's Proposed Digital Currency and Data Privacy Considerations"

Dear Chairman Crapo and Ranking Member Brown:

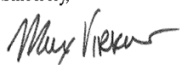
I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) ahead of tomorrow's hearing on "Examining Facebook's Proposed Digital Currency and Data Privacy Considerations." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 117 million consumers with personal and small business financial service products. NAFCU and our members appreciate the continued attention the Committee has given the growing fintech sector, and we stand ready to work with you as you examine this important topic.

NAFCU supports the Committee looking at regulatory concerns before the launch of a cryptocurrency should occur, including compliance with *Bank Secrecy Act* (BSA) and Anti-Money Laundering (AML) regulations. Credit unions have long supported efforts to combat criminal activity in the financial system, and NAFCU has consistently recognized the importance of the Financial Crimes Enforcement Network (FinCEN) and BSA/AML regimes. These regulations and laws are essential to combatting terrorism financing and criminal activity and have only just begun to adapt to the realities of cryptocurrency-based exchange. Establishing a strong AML program does not happen overnight, and the culture of compliance that exists in an experienced financial institution, as opposed to any new player in the system, must not be overlooked.

NAFCU also appreciates the Committee examining consumer privacy. Any institution offering a cryptocurrency would need to collect and store detailed information of their wallet holders. While depository institutions have for decades complied with a national standard on data security since the passage of the *Gramm-Leach-Bliley Act*, other entities who handle consumer financial data do not have such a national standard. There is an urgent need for a national data security standard for entities that collect and store consumers' personal and financial information that are not already subject to the same stringent requirements as depository institutions. In addition, states have begun to adopt privacy laws that have the potential to create a patchwork of standards.

Thank you for your attention to this important issue. NAFCU is supportive of innovation in the marketplace, but we want to ensure that we maintain a strong and safe financial ecosystem. We look forward to the continued examination of this and other issues of importance to credit unions. Should you have any questions or require any additional information, please contact me at mvirkus@nafcuhq.org or 703-842-2261.

Sincerely,

A handwritten signature in black ink, appearing to read "Max Virkus", with a stylized flourish at the end.

Max Virkus
Associate Director, Legislative Affairs

cc: Members of the Senate Banking Committee

STATEMENT SUBMITTED BY CAITLIN LONG

July 15, 2019

Sen. Mike Crapo, Chairman
Sen. Sherrod Brown, Ranking Member
United States Senate
Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510

Re: "Examining Facebook's Proposed Digital Currency and Data Privacy Considerations"—
July 16, 2019 Hearing

Dear Chairman Crapo and Ranking Member Brown:

I appreciate the opportunity to submit the following statement for your consideration, and would like to thank you and the members of the Senate Committee on Banking, Housing, and Urban Affairs. My background spans both the traditional financial system and digital assets, as I spent 22 years on Wall Street (most recently as managing director and head of Morgan Stanley's pension solutions business in New York until 2016) and have been involved with digital assets for nearly 7 years. Presently, I serve on the Wyoming Blockchain Task Force as a gubernatorial appointee and am co-founder of the Wyoming Blockchain Coalition, which is continuing to build a welcoming framework for the digital asset industry's regulatory compliance. I am purely a volunteer in both roles. This testimony is my own and should not be construed to represent the views of either organization.

The Libra project is shining light on outdated U.S. financial regulations that are (a) holding back the U.S. economy and (b) giving rise to the concept of digital currency "stablecoins" in the first place.

Digital currencies are the first major innovation in payment systems in nearly five decades. It is imperative that the U.S. tread carefully on this matter, since the genie is out of the bottle—digital currencies cannot be uninvented, and they offer significantly more efficient payment systems relative to those of the status quo. If we fight this technological trend, the innovation will simply move offshore rather than die.

Digital currencies, such as that of Libra, can fit within a regulatory compliant framework in the U.S. today. The State of Wyoming has created a comprehensive, regulatory compliant framework for digital assets by enacting 13 trailblazing laws,¹ one of which may be particularly relevant for the Facebook discussion because it creates a special-purpose bank charter. This new type of bank is authorized to custody digital assets and is required to

¹ A summary is contained here: Caitlin Long, *What Do Wyoming's 13 New Blockchain Laws Mean?*, Forbes.com, Mar. 4, 2019, <https://www.forbes.com/sites/caitlinlong/2019/03/04/what-do-wyomings-new-blockchain-laws-mean/>.

comply with all federal anti-money laundering and related laws, as discussed further below. Wyoming's suite of laws clearly demonstrate to Congress that it is possible to create a common-sense regulatory framework that can keep blockchain innovation in the U.S., while also strengthening both legal certainty and consumer protection in this space.

However, the Libra project also poses two major policy issues for Congress to consider: privacy and Federal Reserve interest payments. Congress should be concerned about potential abuse of consumer financial privacy by both businesses and governments. Additionally, the project raises the question whether the Federal Reserve's interest on excess reserves (IOER)² program should be available to Facebook's project, whether directly or indirectly, especially since the Bank of England recently announced it will open its interest-bearing deposit program to technology companies (including the Libra project).³

Below I expand on these four main points: (1) how outdated financial regulations caused the creation of stablecoins, which brought us to this juncture; (2) that digital currencies are the first major innovation in the payment system in decades; (3) that a model for how to fix U.S. federal regulations exists, and it can be found in Wyoming's new blockchain laws; and (4) that Congress should be concerned about two particular issues pertaining to Facebook's project: privacy and Federal Reserve interest payments.

1. Facebook's Libra project is shining light on outdated U.S. financial regulations that are holding back the U.S. economy, and which gave rise to "stablecoins" in the first place.

Banks have largely shunned the digital currency industry, making it difficult (if not impossible) for investors to trade U.S. dollars and digital currencies back and forth. If they could, investors would use the traditional banking system to do this, just as they do when trading stocks or commodities back and forth with dollars, but the traditional banking system has almost entirely blocked them. So, out of necessity the digital currency industry responded by inventing a "stablecoin"—a digital currency backed by dollars held in trust, whose trades settle on payment rails that are far more efficient than those of the traditional banking system, but which is also inextricably linked to the traditional banking system.

So, if Congress wants to make stablecoins irrelevant (including Libra), it can easily do so—simply by allowing the banking system to consistently bank this new asset class.

Stablecoins are one of many unintended consequences of Congressional policies that turned access to the financial system into a policy tool to solve certain problems—but, as an

² *Interest on Required Reserve Balances and Excess Balances*, Federal Reserve Bd. of Governors, <https://www.federalreserve.gov/monetarypolicy/treqresbalances.htm> (last visited Jul. 14, 2019).

³ Chris Giles, *Bank of England Intends to Open Its Vaults to Tech Companies*, Financial Times, Jun. 21, 2019, <https://www.ft.com/content/148c3724-9376-11e9-b7ea-60e35ef678d2>.

unintended side effect also created major barriers to lawful commerce. When you create barriers to commerce, you get less commerce. These barriers are one of the reasons why economic growth is sluggish in the United States. *Why are we happy with 3% growth when we regularly hit 5% growth not so long ago?*⁴

To address the conditions that gave rise to stablecoins in the first place, Congress should:

- (a) **Remove reputation risk as a factor in banks' CAMELS score.** Bank examiners in Washington, D.C. should not have the power to punish banks for serving customers that the examiners deem to be "high reputation risk"—a subjective standard that is too easily abused. Including reputation risk in bank examinations has led to the unintended consequence of "de-risking"—a term referring to banks withdrawing access to the U.S. banking system for "high risk" customers, which has caused entire countries and lawful industries to lose access. In addition, the policy of requiring reputation risk assessments gave rise to Operation Choke Point⁵ from 2013-17, where certain government officials abused these regulations to force banks to withdraw banking access for dozens of politically disfavored (but lawful) industries, including the digital currency industry. Many members of this Committee have attempted to reverse Operation Choke Point, but its effects linger on. Frankly, as long as reputation risk is part of bank examinations (specifically, the CAMELS score), it's simply not worthwhile for banks to serve industries that a bank examiner might subjectively deem "high reputation risk." This policy has reduced lawful commerce in the U.S. and Congress should fix it.
- (b) **Stop weaponizing the U.S. financial system.** The U.S. dollar is the world's reserve currency. This means financial services are cheaper to Americans, and this is sometimes referred to as an "exorbitant privilege."⁶ Yet, history has shown that no reserve currency status has ever lasted forever. A reserve currency must be *usable* to keep its status, and policies that restrict access make it less *usable* for lawful commerce. When U.S. policymakers threaten to withdraw access to the U.S. banking system, such as the U.S. Treasury Department did on May 7, 2019 when it threatened Europe for creating INSTEX⁷ as a payment system alternative to SWIFT, the usefulness of the U.S. dollar as a reserve currency diminishes. Such restrictions and threats increase the incentive for users to seek alternatives as insurance against the

⁴ *Gross Domestic Product*, Bureau of Econ. Analysis, Dep't of Commerce, <https://www.bea.gov/data/gdp/gross-domestic-product> (last visited Jul. 14, 2019).

⁵ Dennis Shaul, *There's No Downplaying the Impact of Operation Choke Point*, *American Banker*, Nov. 28, 2018, <https://www.americanbanker.com/opinion/theres-no-downplaying-the-impact-of-operation-choke-point>.

⁶ Wolfgang Munchau, *America's 'Exorbitant Privilege' Is Europe's Sin of Omission*, *Financial Times*, May 26, 2019, <https://www.ft.com/content/4a12d712-7e37-11e9-81d2-f785092ab560>.

⁷ Jonathan Stearns & Helene Fouquet, *US Threatens Europe That Its Iran Workaround Could Face Sanctions*, *Bloomberg*, May 29, 2019, <https://www.bloomberg.com/news/articles/2019-05-29/us-warns-europe-that-its-iran-workaround-could-face-sanctions>.

catastrophic scenario being blocked from the U.S. banking system—and, like it or not, digital currencies are a viable alternative. Again, the genie is out of the bottle—digital currencies will not be uninvented. The U.S. dollar would be better served by allowing our banking system to embrace digital currencies rather than shunning them, which is merely driving the innovators offshore.

- (c) **Roll back, not ratchet up, compliance requirements.** The last GAO study of criminal conviction rates involving the Bank Secrecy Act found that banks filed 16 million Suspicious Activity Reports (SARs) and the IRS achieved 296 convictions, for a paltry conviction rate of 0.002%.⁶ That study is admittedly old (from 2006), but it raises the same question I began asking as I observed the huge increase in compliance obligations before leaving Wall Street in 2016—what are these gigantic compliance costs achieving, really? And at what cost? Every compliance requirement is a barrier to both unlawful and lawful commerce, and should be weighed not only against its explicit costs but also against its unseen costs (e.g., lawful commerce that didn't happen, but would have happened if the artificial barriers did not exist). There's an easy way to block all money laundering, tax evasion and terrorism financing—simply block all financial transactions (!). But seriously, Congress should consider the appropriate balance. Moreover, while the Bank Secrecy Act was upheld as constitutional in 1976 by the Supreme Court in the *United States v. Miller* case,⁷ its massive expansion since then may not survive a more recent constitutional challenge. This is especially true in light of the *Carpenter v. United States* decision⁸ of 2018, in which the Supreme Court narrowed the “third-party doctrine” it initially created in the *Miller* case. There's nothing unconstitutional about Congress passing unconstitutional laws, but when such laws also impose gigantic compliance costs, achieve only a paltry 0.002% conviction rate and erect real barriers to economic growth, Congress should seriously reconsider the whole approach.

2. Digital currencies are the first major innovation in payment systems in nearly 50 years. It is imperative that the U.S. tread carefully. Fighting the trend will send innovation offshore, rather than kill it.

No one should be surprised that a new, more efficient type of payment system has garnered serious interest, because we can mail packages around the world faster than we can send money around the world (!). The status quo payment system coddles inefficient incumbents while imposing costs on businesses to retain “comfort deposits” in their bank accounts to fund their unsettled payments. Such comfort deposits trap massive amounts of capital and are a drag on economic growth that I estimate amounts to hundreds of billions of dollars of

⁶ *Bank Secrecy Act: FinCEN and IRS Need to Improve and Better Coordinate Compliance and Data Management Efforts*, Gov't Accountability Office, Dec. 15, 2006, <https://www.gao.gov/assets/260/254594.html> (last visited Jul. 15, 2019).

⁷ 425 U.S. 435 (1976).

⁸ 138 S. Ct. 2206 (2018).

GDP annually.¹¹ It makes zero sense that companies with a high cost of capital must trap their expensive capital in bank accounts, simply because cross-border payments take so long to settle. Such businesses have strong economic incentives to use the most efficient payment system and, if necessary, these businesses will go offshore to find it. Congress should stop allowing the Federal Reserve to protect the incumbent payment system and instead open it to healthy competition.

Many banks have tried to fix the slumbering payment system and some are attempting to create their own blockchain-based alternative systems, but regulatory barriers have slowed the progress of these projects to a crawl comparatively. One such example is "Enlity," formerly known as "Utility Settlement Coin," which is making progress but is already nearly four years old.

How does Facebook Libra fit into this?

The basic building blocks of Facebook's project are not new, with only one exception. The project is functionally akin to a money market fund (the Libra Association) plus a payment network (Calibra wallet), except that its transactions settle on a new type of payment system. The money market fund (Libra Association) invests in a basket of global currencies, government bonds and bank deposits. The payment network (Calibra wallet) is akin to a global version of PayPal or Venmo. The only difference, again, is that transactions in Libra settle on a new type of payment system—one that is far more efficient than any status quo payment system.

It should surprise no one that there's demand for a more efficient payment system. Already, the U.S. has lost the Libra Association to Switzerland, which has a more welcoming regulatory regime for blockchain projects than the U.S. This, too, should surprise no one.

Yet, regarding this payment innovation point, there is one aspect of the Libra project into which Congress should delve deeply. Facebook announced plans to keep Libra 100% backed by financial assets—therefore, it is not a source of hidden leverage in the financial system. This presumes, of course, that Libra retains 100% backing over time and does not succumb to the age-old temptation of most financial institutions, which is to start playing 'musical chairs' under the assumption that all customers would never want to withdraw funds at exactly the same time. Taking Facebook at its word that Libra will retain 100% backing, Libra would be "safer" (less leveraged) than traditional banks or money market funds because its risk of a run-on-the-bank is almost certainly very low. By contrast, both traditional banks and money market funds are exposed to such run-on-the-bank risk—for banks due to fractional-reserve banking, and for money market funds due to

¹¹ For more information on the "comfort deposits" topic, please refer to this June 30, 2016 interview with Dave Morton, then CFO of Seagate Technology, available here: <https://caillien-long.com/2016/06/30/blockchains-for-corporate-cfos-treasurers-interview-with-cfo-of-seagate-technology/>

rehypothecation of securities, which creates multiple owners of the same asset (i.e., selling something you don't already own, or pledging the same asset to different lenders). From a policy perspective, it may interest you to know that Wyoming law expressly prohibits rehypothecation of digital assets in a custodial setting, owing to a Wyoming Supreme Court case¹² that upheld the felony fraud conviction of a person who pledged the same asset to two different lenders. While this practice is rampant in both traditional banking and securities markets today, it is a clear violation of property rights and should not happen. Ever. The practice is the main cause of periodic instability in the traditional financial system. Since Facebook's project is in its infancy and could grow to enormous size, it is particularly important now to hold Facebook to its promise to keep Libra 100% backed, permanently.

3. Digital currencies, such as Libra, and other digital assets can fit within a modern regulatory compliant framework. Such a framework has already been built in Wyoming, which would almost certainly welcome Facebook's project.

Regulatory fears regarding the Libra project are overblown, both because existing laws (including FinCEN's May 9, 2019 guidance regarding digital currencies¹³) and recently-enacted laws in Wyoming demonstrate that these projects can fit within a regulatory compliant framework that promotes innovation, provides legal certainty for all parties and protects consumers.

Within the past two years, Wyoming has developed a world-class regulatory framework for digital currencies like Libra and other digital assets, with the help of some of America's top law firms and law professors. Here's what Wyoming has done:

(a) **Legal Framework for Digital Assets.** Classified digital currencies and similar assets under existing property and commercial law, thereby defining the rights and obligations of parties to a transaction, providing legal remedies and enabling secured lending of digital assets. Wyoming law also establishes a road map for judges to follow in legal disputes and bankruptcy.¹⁴

(b) **Custody.** Resolved many of the legal uncertainties and transactional issues relating to digital assets that arise within custodial services and the SEC's Custody Rule, by providing a legal framework for qualified custody of these assets by Wyoming banks, thereby promoting their financialization and adoption by institutional investors.¹⁵

¹² *Smith v. State*, 721 P.2d 1088 (Wyo. 1986).

¹³ *Advisory on Illicit Activity Involving Convertible Virtual Currency*, Financial Crimes Enforcement Network, Dep't of the Treasury, available at <https://www.fincen.gov/sites/default/files/advisory/2019-05-10/FinCEN%20Advisory%20CVC%20FINAL%20508.pdf>.

¹⁴ S.F. 125, 65th Wyo. Leg. (2019), available at <https://www.wyoleg.gov/Legislation/2019/SF0125>.

¹⁵ *Id.*

(c) Utility Tokens. Created a new kind of digital asset—utility tokens—which have a genuine consumptive purpose (the inspiration for the first Token Taxonomy Act, H.R. 7356 (2018)).¹⁸ It should be noted that the heavily-revised second Token Taxonomy Act, H.R. 2144 (2019), no longer contains a “token taxonomy.” Without such taxonomy, the bill doesn’t provide regulatory clarity (and, in fact, that the SEC has already stated key digital currencies (bitcoin and ether) are not securities in ordinary use cases.¹⁹) Moreover, the newly added federal preemption clause preempts meaningful State-level innovations and is likely to mire it in litigation with States for years. The second draft, H.R. 2144 (2019), needs to be revisited.

(d) Other Laws. Established a financial technology sandbox and amended Wyoming’s business entity formation and taxation statutes to create a welcoming hub for innovation.¹⁹

There appears to be a push in Washington, D.C. to require Facebook’s project to apply for a bank license. Were it not for the fact that Wyoming law authorizes a new type of bank charter,¹⁹ this would be the functional equivalent of killing Facebook’s project in the U.S. because the OCC and FDIC have not yet approved any banks to handle digital currencies. However, there is one type of bank charter—Wyoming’s new special-purpose depository institution (SPDI)—that would serve Facebook’s needs well, while allowing it to comply with any such requirement to have a bank license. By law, an SPDI (as a state-chartered bank) is authorized to custody digital assets pursuant to its trust powers. It would be required to comply with all federal anti-money laundering and related laws. It would also be required to hold 100% reserves and be prohibited from lending. The Federal Reserve will play an important role in ensuring the safety and soundness of Wyoming SPDIs through the Fed’s master account application process, and SPDIs are also likely to want to apply to become members of the Federal Reserve System. Wyoming SPDI charter applications open October 1, 2019.

4. While Congress should take an enabling regulatory approach to these new payment systems, Congress should fear the financial privacy implications of Facebook’s project—especially if Facebook ever shares financial data with governments. Congress should also use this as an opportunity to revisit the Fed’s IOER program.

¹⁸ H.B. 62, 65th Wyo. Leg. (2019), available at <https://www.wyoleg.gov/Legislation/2019/HB0062>.

¹⁹ Bob Pisani, *Bitcoin and Ether Are Not Securities, But Some Initial Coin Offerings May Be*, SEC Official Says, CNBC, Jun. 14, 2018, <https://www.cnbc.com/2018/06/14/bitcoin-and-ethereum-are-not-securities-but-some-cryptocurrencies-may-be-sec-official-says.html>.

¹⁹ H.B. 57 & 185, 65th Wyo. Leg. (2019), available at <https://www.wyoleg.gov/Legislation/2019/H.B. 126> and S.F. 111, 64th Wyo. Leg. (2018), available at <https://www.wyoleg.gov/Legislation/2018/SF0111>.

¹⁹ H.B. 74, 65th Wyo. Leg. (2019), available at <https://www.wyoleg.gov/Legislation/2019/HB0074>.

Privacy risks surrounding Facebook's Calibra wallet are well-documented. Of course that is a major concern, but what concerns me even more is that governments around the world will view Calibra as a surveillance tool. Congress should prevent governmental abuse of Calibra's data by prohibiting its admission as evidence in U.S. criminal cases, unless the government first obtained a valid warrant for the data. This would bolster the U.S. Supreme Court's narrowing of the "third party doctrine" in last year's *Carpenter*²⁰ decision, which required the government to obtain a warrant before obtaining data that Americans had voluntarily disclosed to a third party (cell phone site location data, in that instance). Additionally, since Facebook is a U.S.-domiciled corporation, Congress also has the power to block Facebook from similarly sharing data with governments outside the U.S. for purposes of criminal prosecutions.

Separately, Congress should also re-open discussions about the Federal Reserve's interest on excess reserves (IOER) program—not just for Facebook, but also generally. The Fed is projected to pay \$35 billion²¹ to banks this year under this program, without banks doing anything to earn that money. Incredibly, that amounts to almost half of the U.S. budget for food stamps²². It is important for Congress to consider whether it is appropriate for Facebook's project to share in such payments, whether directly or indirectly. In a related move, Bank of England Governor Mark Carney announced plans²³ on June 20, 2019 to open the Bank of England's overnight interest-bearing deposit program to payment technology providers (such as Libra, among others), rather than restricting the program only to banks. Since Facebook does not plan to pay interest to the holders of Libra, Facebook and its project partners would pocket these interest payments as profits, risk-free. Should Facebook benefit from central bank largesse in this way, at the cost of diluting every holder of U.S. dollars? Should banks benefit in this way too? As this practice becomes better understood by voters, calls of both "where's my bailout?" on the one hand, and "end the Fed" on the other, will inevitably become louder.

The Bank of England's move to expand its interest-bearing deposit program to Facebook (and other tech companies) illustrates that the U.S. must tread carefully, as other countries will be courting Facebook to redomicile if U.S. regulation is too heavy-handed.

To summarize, the Facebook Libra project is aimed at satisfying demand for a much more efficient payment system relative to the status quo. Congress should recognize that the U.S. is already playing catch-up. Our bad regulations caused the invention of stablecoins in the

²⁰ 138 S. Ct. 2206 (2018).

²¹ Elliott Middleton, *A Partial Equilibrium Analysis of Current US Monetary Policy With a Prediction*, at *3, available at <https://osf.io/preprints/socarxiv/v63uwl>.

²² *Federal Spending for Means-Tested Programs, 2007 to 2027*. Cong. Budget Office, February 2017, available at <https://www.cbo.gov/sites/default/files/115th-congress-2017-2018/reports/52405-means-tested-programs.pdf>.

²³ Chris Giles, *Bank of England Intends to Open Its Vaults to Tech Companies*, Financial Times, Jun. 21, 2019, <https://www.ft.com/content/148c3724-9376-11e9-b7ea-60e35ef678d2>.

first place, which is what brought us here today. And Facebook already chose a non-U.S. location (Switzerland) for the Libra Association, in what should be recognized as a “shot across the bow” to the U.S. Rather than fight the first real innovation in payment systems in decades, the U.S. should embrace it. Wyoming’s suite of innovative blockchain laws shows that such an embrace can be done largely within the existing regulatory regime, in a manner that provides legal certainty, protects consumers and promotes innovation.

I would be happy to answer questions as the Committee sees fit.

Best regards,

A handwritten signature in blue ink, appearing to read "Caitlin", with a stylized flourish at the end.

Caitlin Long