

A Critic Research on Stablecoins

Yung-Cheng Chuang^{*}

Abstract

Stablecoins are emerging financial instruments derived from cryptocurrency which attempt to address the price volatility of cryptocurrency. For low volatility, stablecoins develop their stabilization mechanism which is linked to comparable assets (mostly fiat currency), thereby becoming payment instruments in the crypto market. Hence, the types of stablecoins can also be divided into four by their backed asset: capital tokenized stablecoins, off-chain backed stablecoins, on-chain backed stablecoins, and algorithmic stablecoins. As for the nature of stablecoins, commentators argue that stablecoins are classified as demand deposits and therefore should be regulated by deposit insurance regulations. Nevertheless, this article is at odds with that because stablecoins meet the requirements of investment contracts and should be securities, also, the previous view will lead to the paradox that the issuer of stablecoins becomes a bank (causing regulatory arbitrage) and the misevaluation of systemic risk. In addition to the above, commentators also argue that the issue of stablecoins accords with the requirements of the Banking Act of The Republic of China §29-1, accordingly FSC can regulate stablecoins by that. However, this article disagrees because of the line between depositor and investor and the one between direct finance and indirect finance. As stablecoins should be securities, they must be regulated by the Securities and Exchange Act,

^{*} S.J.D., Indiana University, Bloomington, Professor, Department of Law, Soochow University.

E-mail: ychuang@scu.edu.tw

thus, this article explores the regulation of stablecoins through STO regulations. Additionally, despite the criticism of the current STO regulations, we are aware that stablecoins are cryptocurrencies with more distinctive features than typical securities, as a result, they should be treated far from the way traditional securities are regulated under the Securities and Exchange Act to avoid stifling innovation while protecting investors. Overall, the proposal of rule 195 which was suggested by the SEC commissioner is most in line with our vision for the regulation of stablecoins. It is looking forward to realizing inclusive finance and creating a unique financial market where currency and cryptocurrency live long and prosper through this tailored regulation arrangement.

Keywords: Stablecoins, Warranty, Cryptocurrency, Run on Banks, Deposits, Investment Contract, Howey Test, Reves Test, Systemic Dangers