

# Is Facebook a bank? Congress pushes for answers on crypto foray

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After surviving a two-day battering on Capitol Hill, now comes the hard part for Facebook Inc.: turning its 12-page white paper into a legitimate cryptocurrency in the face of deep skepticism from central banks, regulators and politicians of all stripes.

David Marcus, the Facebook executive leading its blockchain efforts, spent much of his time at congressional hearings this week apologizing for the past mistakes of his employer. When he wasn't defending Facebook, Marcus tried to explain how Libra—the proposed currency—would actually work. He said repeatedly that he wants to work with Congress and regulators to get Libra off the ground, and has no plans to debut the new currency before regulatory bodies are satisfied.

"Nothing is launched and nothing will launch until all concerns are addressed," Marcus said Wednesday. He reiterated a version of that promise over and over during more than six hours of testimony in Washington this week before members of the House Financial Services Committee and the Senate Banking Committee.

Still, large existential questions remain about the project, including who or what will be regulating Libra. Marcus said it was not his place to decide who Libra's regulator would be, though he appeared to reject the idea that Facebook should be treated like a bank. Marcus denied that the company would offer banking services, and also argued that he doesn't believe Libra is a security that should fall under the Securities and

Exchange Commission.

Those issues are unlikely to be resolved soon, since the Libra currency doesn't yet exist; and the Libra Association, the governing body made up of Facebook and other institutional partners that will be charged with overseeing the currency, has yet to be fully formed.

The 28 companies that currently make up the association have not yet drafted a charter, and still must appoint a board and a general manager. Libra will also face additional concerns from international regulators and lawmakers, which could further delay its progress.

In the meantime, two people familiar with Facebook's [cryptocurrency](#) plans say the hearings did not give the company any immediate reason to change course.

The people, who asked not to be identified because the planning is private, also said that Facebook's team hoped that other members of the Libra Association would be more active in conversations with the media and with regulators. Of the group's 28 "founding" members, including PayPal Holdings Inc., Visa Inc. and Uber Technologies Inc., Facebook is the only one that testified before Congress, and is by far the company most closely associated with the effort.

Over the course of the hearings, a few central questions emerged. Here's what we know now about how Facebook and the Libra Association will try to answer them in the coming months.

## **1. What is Libra, exactly?**

The coin's legal classification remains murky, which could pose challenges for federal watchdogs eager to slide the token into the U.S.'s existing regulatory regime.

Some observers have argued that Libra resembles a mutual fund or exchange-traded fund that is based on an index, an investment that would be regulated by the SEC. Labeling Libra a similar product could provide policy makers the hook they need to police the coin, while also giving regulators a mechanism to slow the project down as Facebook goes through a lengthy SEC approval process.

At Wednesday's hearing, Marcus insisted the coin is a just "payment tool" or maybe a commodity that shouldn't be subject to the SEC's rules.

## **2. Is Facebook getting into banking?**

Marcus went to great lengths in his Senate and House testimony to insist that the company was not. There won't be bank accounts; holders of Libra won't be earning interest; and Facebook won't be taking deposits, he told lawmakers.

"It's like digital cash," Marcus said. One reason Facebook wants to stay away from these activities is that they would require a federal banking charter. That would open the company up to much stricter oversight, likely by the Office of the Comptroller of the Currency and the Federal Reserve. The company would face many new, costly regulatory requirements like capital standards and stepped-up disclosures. It would also be subject to monitoring by government examiners.

## **3. Why is the Libra Association headquartered in Switzerland?**

This was a very popular question from members of both the House and Senate. Lawmakers raised concerns that Facebook set up the Libra Association in Switzerland to avoid U.S. regulations. Marcus said that was not the case, and said that the location of Libra's headquarters had

"nothing to do with us evading our responsibilities."

Marcus said that Switzerland offered Libra an "international platform" so that it would be recognized globally, and noted that Switzerland is home to other global institutions, like the World Trade Organization.

#### **4. How will Facebook make money from this?**

In the short term, Marcus says Libra will improve Facebook's advertising business by increasing the amount of commerce that happens through Facebook's products. If more people have digital wallets, they may be more likely to make purchases through Facebook or its other properties, like Instagram or Messenger. That, Marcus says, makes Facebook's ads more valuable because it gives marketers more incentive to reach users with money at their disposal.

Marcus also said that it's possible Facebook could one day offer financial services, including, potentially, loans, but that those products would be done through partnerships with an existing bank, allowing the company to avoid opening a bank of its own.

#### **5. What, if anything, can Congress actually do to stop Libra?**

While both chambers of Congress are clearly concerned, whether or not they will pass any legislation that would affect the project is less clear. House Financial Services Committee Chairwoman Maxine Waters, a California Democrat, discussed a bill that would bar large tech platforms from being financial institutions—possibly blocking Libra—though it's unclear how much support such a proposal would garner.

Other lawmakers discussed creating a regulator just for digital currencies

or using broader data privacy legislation to address Libra. But so far, there's no consensus on a resolution. As Congress nears its August recess, it's unlikely any of those issues will be addressed quickly.

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