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2023/0212 (COD)**

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**WORKING DOCUMENT**

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**From:** Presidency  
**To:** Working Party on Financial Services and the Banking Union (Digital Euro Package)  
Financial Services Attachés

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**Subject:** Digital euro package  
COM proposal - Regulation on the establishment of the digital euro  
- Comments from 18 MS

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Commission proposal	Drafting Suggestions Comments
<p align="center"><b>2023/0212 (COD)</b></p> <p align="center"><b>Proposal for a</b></p> <p align="center"><b>REGULATION OF THE EUROPEAN</b></p> <p align="center"><b>PARLIAMENT AND OF THE COUNCIL</b></p> <p align="center"><b>on the establishment of the digital euro</b></p>	<p>NL: (Comments):</p> <p><b><u>GENERAL COMMENTS FROM NL:</u></b></p> <p><i>Please note that all input from NL is subject to parliamentary scrutiny, since the proposals have not yet been discussed with the national parliament.</i></p> <p>The Netherlands welcomes the proposals and the attention given by the European Commission to questions and concerns raised in the Eurogroup statement of 16 January 2023. We are happy that the European Commission seems to have taken these into account.</p> <p>The Netherlands sees the benefits and the potential of a digital euro as means of payment for both retail and corporate transactions, as established by this regulation. The possibility to use this public means of payment both for online and offline transactions, is a novelty and relevant addition to the field of <i>digital</i> payments. However, we do have some areas of concern as well. These concerns mainly relate to (i) the compensation model in relation to mandatory distribution, (ii) the tension between important safeguards for data protection and privacy on the one hand and AML/CFT-measures on the other hand; (iii) the room for exceptions to the mandatory acceptance. These concerns, and other questions, will be addressed in our comments included in this table. In addition, we are missing in the proposals if and how the sector will be involved in the technical development (e.g. rulebook) of the digital euro and we would like to discuss this in one of the upcoming working parties. Furthermore, the proposals allow PSPs that are authorised under the European PSD-framework to distribute the digital euro and perform digital euro payment services. The proposal itself does not go into detail as to which requirements apply to the digital euro in terms of European technology, dependency on non-EU infrastructure and e.g. keeping data within the EU. This relates to a broader question of</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>European autonomy, but we think the possibility and desirability should be considered and discussed as well in this context.</p> <p>AT: (Comments): <b>AT – General remarks:</b> First of all, we would like to note that our comments are preliminary and subject to changes, as we are still scrutinizing the proposal at national level and our coordination process has not yet been completed.</p> <p>(We will provide comments and drafting suggestions on the recitals at a later stage).</p> <p>We would like to thank the Commission for publishing this proposal for a regulation on the establishment of the digital euro that swiftly and the hard work that has been put into this piece of legislation.</p> <p>We share the overarching objectives of the proposal, in particular with respect to promoting innovation in digital payments, consumer protection and financial stability. Moreover, we strongly support the principle that the digital euro should only complement cash but not replace it.</p> <p>However, we have already identified major issues in this proposal that need to be addressed and solved. The following points must be tackled:</p> <p>1. Given the significant impact that an introduction of the digital euro would have - both on EU citizens and the European financial sector - all <b>fundamental decisions on the design</b> of the digital euro should be taken via the <b>ordinary legislative procedure</b> (Art. 289 &amp; 294 TFEU).</p>

**COM proposal of 28.06.23**

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>The current proposal does not take this requirement sufficiently into account and delegates key decisions as regards the design of the digital euro to the ECB (<b>in particular the determination of holding limits</b>). In order for the digital euro to be a success story, it is pivotal that the introduction and design are broadly discussed and a democratically legitimized process is conducted.</p> <p>2. On substance we would like to take a closer look at the <b>financial stability dimension</b> and <b>highlight the following point</b> which is of <b>major importance to us</b>: We side with those urging for <b>binding personal holding limits</b> adding that these limits need to be <b>set at level 1</b>. We share the view that binding holding limits for the digital euro could be a proper measure to avoid massive shifts of bank deposits into the digital euro jeopardizing the financing of the economy and destabilizing financial markets. In crisis situations in particular, an outflow of deposits into the digital euro could exacerbate the respective crisis. <b>Thus, the European legislators must set personal holding limits at level 1</b>. Different ways for setting the holding limits at level 1 could be considered. Among others, there could be a fixed amount in the level 1 text or a range in the level 1 text for determining a fixed amount in an additional legal act. In any case, the <b>limits</b> shall be <b>set and changed</b> by the <b>EU legislators</b> and <b>not</b> by the <b>ECB alone</b>.</p> <p>3. It is vital that the digital euro - like cash - <b>is and remains interest-free</b> and should not be used to enforce monetary policy in the Eurosystem in the future either. Hence, we would like to ask for more legal clarity, e.g. in Article 16 paragraph 8 by emphasizing that the digital euro does not bear interest at any time.</p> <p>4. The digital euro must also bring <b>added value to retailers</b> (besides customers) in order to ensure that retailers accept the digital euro and adapt their systems accordingly.</p> <p>5. We supportt that <b>payment service providers shall not charge fees to natural persons</b> for</p>

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Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>the provision of basic digital euro payment services. However, we ask for <b>clarification</b> of the <b>concept of costs</b> associated with the digital euro including more precise rules on the determination of the limits for merchant service charges and inter-PSP fees.</p> <p>6. We encourage a <b>discussion</b> on the <b>range of basic digital euro services</b> specified in <b>Annex II</b> of this proposal, in particular whether the <b>scope</b> of these <b>services</b> is sufficiently clear, whether there really is a <b>need</b> that <b>payment service providers</b> provide <b>all</b> of these <b>services</b> or conversely, whether there are <b>any basic services</b> which are <b>missing</b> in <b>Annex II</b> but could be essential for the take-up of the digital euro.</p> <p>7. In principle, we are <b>sceptical</b> of the digital euro users' <b>possibilities</b> to have <b>several</b> digital euro payment <b>accounts</b> or <b>use one</b> digital euro payment <b>account together</b> with <b>another user</b>, as the <b>technical</b> and <b>legal complexity</b> associated with such possibilities could hinder the take-up of the digital euro. We would therefore favour a <b>transfer</b> of these <b>possibilities</b> from the <b>prescriptive part</b> of the proposal to the <b>review clause</b> (Art 41).</p> <p>8. The protection of <b>users' privacy</b> is a very <b>sensitive issue</b>. In order to gain public trust, it is key that the <b>ECB &amp; Eurosystem</b> does <b>not have access</b> to users' <b>personal data</b>. At the same time, it is crucial that the integrated or intermediary banks have access to the payment transaction data in digital euros that is necessary to be able to meet their legal obligations (in particular data protection, PSD and money laundering prevention).</p> <p>9. It is of <b>utmost importance</b> that the digital euro is secure and the risk of being stolen by <b>fraudsters</b> is eliminated. For that reason, it must be ensured that both the ECB and the Eurosystem put in place appropriate risk management mechanisms to ensure the digital operational resilience of the ecosystem, in particular to protect themselves against large-scale cyber-attacks and cyber fraud.</p>

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Besides that, clear rules for <b>liability in cases of fraud</b> need to be stipulated in Level 1 text (e.g. in Article 13 of the Regulation). In this regard, we would like to emphasize that a clear allocation of liability is missing. Crucially, such rules should not incorporate a mechanism that holds intermediaries accountable for any disruptions or losses caused by fraud irrespective of the nature of the intermediary's behaviour. Liability rules should instead be based on the principle of fault, meaning that intermediaries are only liable, if they are at fault.</p> <p>FI: (Comments): General comments: At the moment, we have no final position on the regulation proposal. For this reason, our comments are preliminary and they might change and be amended in the future as the parliamentary process is currently ongoing.</p> <p>At the general level Finland supports objectives of increasing competition in retail payment markets and clarifying the role of possible digital euro in legislation. European consumers and general public should have access to central bank money in the digitalizing world. Digital euro in its core design and in legislation should provide benefits for general public, merchants and payment services providers to foster competitiveness in digitalization and development of data economy. Regulation should be appropriately aligned with regulation for private means of payments.</p> <p>We find it crucial that central bank money in its different forms (both digital and "physical") should be regulated according to the same principles and naturally recognising their inherent differences.</p> <p>We have strong reservations for the distribution model, which might comprise a need for</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>substantial public investments and therefore we propose wordings, which could take differences between euro area Member States in to account.</p> <p>DE: (Comments): The German government welcomes the fact that with this legislative proposal, the Commission enables to co-legislators to thoroughly discuss and decide major design questions for a potential digital euro.</p> <p>In light of the complexity of the subject, we are still discussing all aspects of this proposal within our government and with our political principals. These comments, therefore, are preliminary. We may complement, amend or withdraw our comments at some point during the upcoming negotiations.</p> <p>In particular, we reserve further comments on some of the likely most complex political issues, including (but not limited to) legal tender (incl. obligations to accept and exemptions), privacy, instruments for limiting the store of value, the ECB plans for a digital euro scheme, the distribution model and the compensation model.</p> <p>As written in our follow-up comments to the CWG on 26 July 2023, we strongly believe that at the beginning of our discussions we need to address fundamental legal questions. In particular, this includes the legal nature of the digital euro and the legal structure of the relationships between the various players in the digital euro ecosystem, most notably between digital euro users and PSPs (please cf. our comprehensive comment below at Recital (9) on this matter).</p> <p>We also want to reiterate the crucial necessity to discuss some of the basic technological choices and design options that the Eurosystem is considering for a digital euro within the council. For</p>

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Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>example, the basic legal distinction of whether the digital euro might be regarded as account-based or token-based – including the various legal consequences as described above – might to a certain extent also be influenced by technology choices (even though these are separate questions and may be answered separately). This might (or might not – we would like to better understand the Commission’s and ECB’s views on this) include the question of whether the ECB’s digital euro ledger uses a unit-based or balance-based data model. In any case, technology choices (including the question of whether the digital euro will use a unit-based or balance-based data model) could have substantial implications for the credibility of the privacy concept, cyber security and the potential of a digital euro to serve as a catalyst for innovation.</p> <p>Finally, we would like to express our appreciation for the impact assessment and, in particular, the analyses provided in Annex 11 as well as two papers by the JRC on potential impacts of a digital euro on the profitability of the financial sector, the ability of the financial sector to provide credit to the real economy, and to the economy more widely. That said, after carefully analysis, we would be grateful for additional clarifications and (potentially comprehensive) additions:</p> <p>The JRC report on EU banks’ balance sheets shows considerable heterogeneity within the euro area with regard to the 3k scenario.</p> <ul style="list-style-type: none"> <li>• For example, the report states that for the 3k scenario, only 10% of banks would face a shock equal to at least 5% of liabilities. How big would the shock be for banks above this threshold? <b>Could you please show us the full liability shock distribution function?</b> Are there individual member states that have a particular concentration of these outliers? <b>Could you also name which ones that would be? Are the chosen samples representative for each member state’s banking system?</b></li> <li>• Another example is that in the 3k cap scenario, some national banking systems would face a demand for deposit conversion above 20%. Can you provide a breakdown for the</li> </ul>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>effects of the individual national banking <b>systems in detail?</b></p> <p>Furthermore, the report mentions the shock absorber channels. It concludes that “at an aggregate level, the three channels considered would be able to allow the banking sector to absorb shocks to deposits in the 2-5k per capital demand range. The analysis nonetheless points to heterogeneity that increases along the range across institutions, bank size classes and countries”.</p> <p><b>Could you please provide a detailed breakdown of your results? How does the type of institution and the size of the bank affect your results in each member state?</b></p> <p>The JRC Report on EU banks’ balance sheets provides only a discussion of potential effects based on descriptive statistics. As a result, the report cannot make any reliable conclusions regarding the actual significance of these channels nor can it make any predictions regarding the actual behaviour of banks. <b>Could you please provide an econometric analysis based on historical data of banks responding to liquidity shocks?</b></p> <p>The results presented in the impact analysis with regard to macroeconomic effects (DSGE-model) remain vague and opaque, as fundamental information on the structure of the model used and the assumptions made is missing. In addition, the only result mentioned is not discussed on the basis of economic intuition. <b>Could you please provide the full model structure, all results and a comprehensive discussion of results? Is the model using liquidity shocks or banks’ balance sheet changes in response to the introduction of the digital euro as an input to the DSGE model? If not, could you please extend the analysis?</b></p> <p>We would kindly ask the Commission to address these issues in the very near term. A comprehensive analysis of potential impacts of introducing a digital euro can be crucial for political support of the project.</p> <p>We will need some additional time to fully reflect on the impact assessment, but expect that we might have additional questions on this as well. The question of how much value a digital euro</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>will add vis-à-vis the consequences it might have for the private financial sector in particular is something that will be closely scrutinized in the debate, at least in Germany.</p> <p>As you will see, our comments below also contain “smaller”, technical, politically less important issues. We submit these in the spirit of trying to improve the quality of the text from the beginning. <u>However, we want to once again underline that we do not think we should start negotiations with detailed, technical discussions, but rather attempt to tackle the “big”, fundamental questions first.</u></p> <p>In the CWG, the Commission has metaphorically linked the work on this legislative proposal to the drafting and negotiating of a contract. We would like to respectfully deviate from this picture. While we agree that, eventually, we will need to negotiate technical details in the language of this proposal (similar to the details a contract and its language), we first have to agree on a “term sheet” as a basis for the “contract”. The Eurosystem, through its work during the investigation phase, has proposed a design for the digital euro, which – with some notable exceptions – has been the basis for this legislative proposal. We are grateful for this work and consider it a good starting point for our discussions on a “term sheet”. However, it is the public’s expectation that these proposals are not “pre-set”, but that the Council and the European Parliament carefully review these terms.</p> <p>BE: (Drafting): <b>2023/0212 (COD)</b> <b>Proposal for a</b> <b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b> <b>on <del>the establishment of</del> the digital euro</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Comments): See our comment on Recital 3: rather than establishing the digital euro, this Regulation should recognise the possibility for the Eurosystem to issue a digital euro and lay down the main characteristics thereof.</p> <p>EE: (Comments): <b>EE: The comments are preliminary and under scrutiny reservation.</b> In general, we support the digital euro, which increases competition, supports strategic autonomy (the creation of a pan-European interoperable payment solution whose standards can also be used by the private sector), and improves the operational resilience of the payment environment.</p> <p>Main issues identified in the proposal:</p> <ul style="list-style-type: none"> <li>• the absence of a thorough impact analysis, including a very limited risk assessment of the money laundering and terrorist financing threats, vulnerabilities and risks of the digital euro when funding and defunding their payment instrument;</li> <li>• the competence of the ECB to intervene in fees on digital euro payment services</li> <li>• reducing incentives of payment intermediaries (insufficient compensation can lead to a general increase in the cost of services or even financing of the economy)</li> </ul> <p>PT: (Comments): <u>Please note that our comments are preliminary and we have a <b>scrutiny reservation</b>, in this regard.</u></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>DK: (Comments): <u>General comment:</u> <i>Denmark appreciates the opportunity to provide comments on the Commission’s proposal. Denmark has a government and parliamentary scrutiny reserve regarding the proposal and written comments in this document. Furthermore, these are our initial comments and we will be looking further into the proposal going forward.</i></p> <p>FR: (Comments): <b><u>General comment : at this stage, the drafting suggestions and comments shall be considered as preliminary. These are technical comments that still require political approval and that might be subject to further changes.</u></b></p> <p>LU: (Comments): LU generally welcomes the proposal on the establishing of the digital euro as a complement to cash, with the aim to adapt the official form of the single currency to technological changes and to new payment behaviours. On a preliminary basis, we have identified the following non-exhaustive list of issues that need particular attention: <u>Safeguarding financial stability</u></p> <p>Avoiding negative impacts on banks’ ability to finance the economy as well as safeguarding financial stability are of essence. In that regard, the proposal mandates the ECB to ensure financial stability through the use of adequate measure to prevent store of value usages of the digital euro. LU is of the view that the legal framework should more clearly establish the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>obligation of a holding limit and considers the introduction of a firm cap. This cap should be properly calibrated at a level that prevents financial stability risks and limits a shift of significant funds held as bank deposits to digital euro accounts, while not hampering the usability of the digital euro.</p> <p><u>Ensuring a fair distribution and compensation model</u></p> <p>The design of a sustainable and fair business model for the distribution of the digital euro is vital. The distribution of the digital euro by financial intermediaries should not only be feasible from a technical perspective, but also from a cost-benefit standpoint, independently of the size and current business model of the financial intermediary. LU calls for ensuring a level-playing field. The compensation model is key in this regard and should take into account the implementation costs (technology, human resources, compliance to adapt and adjust existing interfaces and systems, etc.) of the digital euro initiative for financial intermediaries.</p> <p><u>Preserving the institutional balance</u></p> <p>In order to promote the democratic legitimacy of the digital euro project, LU calls for an in-depth discussion on the level 2 measures (delegated acts) and the framing/calibration envisaged in the proposal.</p> <p><u>Ensuring a smooth interplay with existing regulations</u></p> <p>It is key to ensure that mandatory provisions are consistent with the existing legal framework, notably GDPR, AML, PSD, etc.</p> <p>Please note that these comments are preliminary only and will be complemented during the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	upcoming negotiations.
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 133 thereof,	<p>NL: (Comments): <u>NL Comment:</u> We understand the Commission's choice for article 133 TFEU as a legal basis. We share the question of other member states on the ability for the ECB to issue a digital euro solely on the basis of this Regulation. Should Article 17 of the Protocol (No 4) on the statute of the European System of Central Banks and of the European Central Bank be amended to allow accounts for digital euro users and not just institutions? This requires further analysis and attention. Article 17 of the ESCB Statute can be amended by way of the simplified procedure on the basis of Article 40 of the ESCB Statute.</p>
Having regard to the proposal from the European Commission,	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
After transmission of the draft legislative act to the national parliaments,	
Having regard to the opinion of the European Central Bank <sup>1</sup> ,	
Having regard to the opinion of the European Economic and Social Committee <sup>2</sup> ,	
Acting in accordance with the ordinary legislative procedure,	
Whereas:	
(1) The Commission emphasised in the	PL:

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

**COM proposal of 28.06.23**

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Updated: 09/10/2023 15:56

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<p>Digital Finance and Retail Payment Strategies<sup>3</sup> of September 2020 that a digital euro, as a retail central bank digital currency, would act as a catalyst for innovation in payments, finance and commerce in the context of ongoing efforts to reduce the fragmentation of the Union retail payments market. The Eurosummit of March 2021 called for a stronger and more innovative digital finance sector and more efficient and resilient payment systems. The Eurogroup also acknowledged, in its statement of 25 February, the potential of a digital euro to foster innovation in the financial system. In that context, both the European Parliament<sup>4</sup> and</p>	<p>(Drafting):            PL: (1) The Commission emphasised in the Digital Finance and Retail Payment Strategies of September 2020 that a digital euro, as a retail central bank digital currency, would act as a catalyst for innovation in payments, finance and commerce in the context of ongoing efforts to reduce the fragmentation of the Union retail payments market. The Eurosummit of March 2021 called for a stronger and more innovative digital finance sector and more efficient and resilient payment systems. The Eurogroup also acknowledged, in its statement of 25 February 2022, the potential of a digital euro to foster innovation in the financial system. In that context, both the European Parliament and ECOFIN Council welcomed in February and March 2022 the European Central Bank’s decision to launch a two-year investigation phase of a digital euro project, starting from October 2021.</p> <p>PL:            (Comments):            PL: Re-drafting proposals, technical, non-material</p>

<sup>3</sup> Communication from the Commission to the European Parliament, the Council and the Committee of the Regions on a Digital Finance Strategy for the EU (COM/2020/591 final)

<sup>4</sup> European Parliament’s resolution of 16 February 2022 on the European Central Bank – annual report 2021/2021/2063(INI)



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>ECOFIN Council<sup>5</sup> welcomed in February and March 2022 the European Central Bank's decision to launch a two-year investigation phase of a digital euro project, starting from October 2021.</p>	
<p>(2) On 2 October 2020, the European Central Bank published its “Report on a digital euro”<sup>6</sup>. The report formed the basis for seeking views on the benefits and challenges of issuing a digital euro and on its possible design.</p>	
<p>(3) Central bank money in the form of banknotes and coins cannot be used for online payments. Today, online payments rely entirely on commercial bank money. The acceptability</p>	<p>NL: (Comments): <u>NL Comment</u>: We recognise the need to create a <u>future proof digital</u> alternative central bank money with legal tender status, <u>in addition</u> to cash, to serve as a monetary anchor in the digital economy and digital payment landscape. An efficient and stable payment system benefits the</p>

<sup>5</sup> <https://data.consilium.europa.eu/doc/document/ST-6301-2022-INIT/en/pdf>

<sup>6</sup> European Central Bank, [Report on a digital euro](#), October 2020.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>and fungibility of commercial bank money rely on its convertibility on a one-to-one basis to central bank money with legal tender, which serves as a monetary anchor. That monetary anchor is at the core of the functioning of monetary and financial systems. It underpins users' confidence in commercial bank money and in the euro as a currency and is therefore essential to safeguard the stability of the monetary system in a digitalised economy and society. As central bank money in physical form alone cannot address the needs of a rapidly digitalising economy, this could gradually remove the monetary anchor for commercial bank money. It is therefore necessary to introduce a new form of official currency with legal tender which is risk free and helps visualise the convertibility at par of the money</p>	<p>European economy.</p> <p>BE: (Drafting): (3) Central bank money in the form of banknotes and coins cannot be used for online payments. Today, online payments rely entirely on commercial bank money. The acceptability and fungibility of commercial bank money rely on its convertibility on a one-to-one basis to central bank money with legal tender, which serves as a monetary anchor. That monetary anchor is at the core of the functioning of monetary and financial systems. It underpins users' confidence in commercial bank money and in the euro as a currency and is therefore essential to safeguard the stability of the monetary system in a digitalised economy and society. As central bank money in physical form alone cannot address the needs of a rapidly digitalising economy, this could gradually remove the monetary anchor for commercial bank money. It is therefore necessary to <del>introduce a new form of</del> <b>confirm that the Eurosystem can issue the euro, as the risk free official currency of the participating Member States , in a digital form vested with legal tender which is risk free.</b> and <del>helps visualise supporting</del> the convertibility at par of the money issued by various commercial banks.</p> <p>BE: (Comments): The current draft Regulation, as an act of secondary law, cannot attribute a new competence to the Eurosystem since new competences can only be attributed by modification of the Treaties themselves. It is therefore important to avoid any wording which could be interpreted as attributing a new competence to the Eurosystem. As correctly indicated in Article 4 of the draft Regulation, the Eurosystem may issue the digital euro "in accordance with the Treaties". The draft Regulation should therefore merely confirm that the Eurosystem's competence to issue a means of payment as the official currency of the participating Member States (see Article 2 of</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
issued by various commercial banks.	<p>Regulation 974/98), can also be vested with legal tender when it takes a digital form.</p> <p>PT: (Comments): While we understand that, from a user perspective, the digital euro can be considered “risk free” - due to its legal tender status and the fact that it represents a direct liability of the ECB and the NCB -, we are of the opinion that the statement that digital euro is “risk free” may be wrongfully interpreted in a broader sense. That is, it may give the idea that the digital euro is all around risk free, namely from an ML/FT perspective, which is not the case. Therefore, the last sentence of this recital should be amended in order to specifically mention what “risk free” in this context exactly means.</p> <p>FR: (Drafting): “Today, online payments rely entirely on commercial bank money. <b>Further, the use of cash at the point of sale has also declined because of changing consumer behaviours, as highlighted by the outcome of SUCH (2016) and SPACE (2019, 2022) studies.</b>”</p> <p>FR: (Comments): In this recital, reference could also be made to the results of SUCH (2016) and SPACE (2019, 2022), which highlight that the use of cash at the point of sale has been experiencing a steady decline over the past decade.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>(4) To address the need of a rapidly digitalising economy, the digital euro should support a variety of use cases of retail payments. Those use case include person to person, person to business, person to government, business to person, business to business, business to government, government to person, government to business, and government to government payments. In addition, the digital euro should also be able to fulfil future payments needs, and in particular machine to machine payment in the context of Industry 4.0 and payments in the decentralised internet (web3). The digital euro should not cater for payments between financial intermediaries, payment service providers and other market participants (that is to say wholesale payments), for which settlement</p>	<p>SE: (Comments): It is stated that the digital euro “should not cater for payments between financial intermediaries”- how would that be achieved in practise? By checking institutional set up, by limits or something else?</p> <p>NL: (Comments): <u>NL Question</u>: Does the mandatory acceptance apply to all governmental organisations without any exception? For example, to what extent should it be mandatory for national tax authorities to accept tax payments in digital euro’s and how would this work in practice?</p> <p>DE: (Comments): We welcome that the proposal is open for the digital euro to potentially fulfil future corporate payment needs, such as machine to machine payments in the context of Industry 4.0. The added value of a digital euro, which is sometimes questioned by some stakeholders, can be presented much more easily if it covers not only consumer payments but also industry and business applications. However, we wonder how the Commission intends to operationalize such use cases? We will need a concept – ideally by the Eurosystem – to target such use cases (including how risks of disintermediation of the financial sector could be mitigated in the context of such use cases) and that concept will then likely have legislative repercussions for the Digital Euro Regulation.</p> <p>We also wonder to what extent the Commission has considered necessary amendments in other legal acts to support M2M-payments (e.g. Art. 49 PSR)?</p>

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>systems in central bank money exist and where the use of different technologies is being further investigated by the Eurosystem.</p>	<p>Also, we wonder wether we need to clarify in the legal text that the digital euro may not be used for payments between financial intermediaries, PSPs, etc.?</p> <p>PT: (Drafting): (4) To address the need of a rapidly digitalising economy, the digital euro should support a variety of use cases of retail payments. Those use cases include person to person, person to business, person to government, business to person, business to business, business to government, government to person, government to business, and government to government payments. In addition, the digital euro should also be able to fulfil future payments needs, and in particular machine to machine payment in the context of Industry 4.0 and payments in the decentralised internet (web3). The digital euro should not cater for payments between financial intermediaries, payment service providers and other market participants (that is to say wholesale payments), for which settlement systems in central bank money exist and where the use of different technologies is being further investigated by the Eurosystem.</p> <p>PT: (Comments): Correction of typo.</p> <p>FR: (Comments): Regarding the scope of the digital euro project, the choice has been made to limit it to retail use cases in the Commission's proposal. <b><u>As France said in many instances, including in Eurogroup format, innovative use cases, specifically for wholesale financial and cross-border transactions, shall not be left aside (see comments on Article 1).</u></b></p>

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>It is proposed to amend the recitals to insist on these dimensions regarding especially what is directly linked with the retail digital euro (e.g. international interoperability and payment between corporates).</p>
<p>(5) In a context where cash alone cannot answer the needs of a digitalised economy, it is essential to support financial inclusion by ensuring universal, affordable and easy access to the digital euro to individuals in the euro area, as well as its wide acceptance in payments.</p> <p>Financial exclusion in the digitalised economy may increase as private digital means of payments may not specifically cater for vulnerable groups of the society or may not be suitable in some rural or remote areas without a (stable) communication network. According to the World Bank and the Bank for International</p>	<p>NL: (Comments): <u>NL Comment</u>: We agree that it is important that a digital euro is accessible, inclusive and user-friendly, also for people in more vulnerable positions or who have difficulty with the digitalisation of the economy. We wonder how the inclusiveness of the digital euro will be concretely substantiated and to what extent the Regulation should include more explicit provisions for alternative designs than digital euro accounts – of any – in Chapter VII.</p> <p>IT: (Drafting): <b>IT - (5)</b> In a context where cash alone cannot answer the needs of a digitalised economy, it is essential to support financial inclusion by ensuring universal, affordable and easy access to the digital euro to individuals in the euro area, <del>as well as</del> its wide acceptance in payments <b><u>as well as adequate measures to protect customer.</u></b></p> <p>IT: (Comments): <b>IT -</b> We think that consumer protection is extremely relevant to foster financial inclusion when digital euro payments are concerned. Universal, affordable and easy access (plus wide</p>

**COM proposal of 28.06.23**

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Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>Settlements, “efficient, accessible and safe retail payment systems and services are critical for greater financial inclusion”.<sup>7</sup> That finding was further substantiated by the study on new Digital Payment Methods commissioned by the European Central Bank, which concluded that for the unbanked/underbanked/offline population, the most important features of a new payment method are easiness of use, not requiring technological skills, and to be secure and free of charge.<sup>8</sup> A digital euro would offer a public alternative to private digital means of payments and support financial inclusion as it would be designed along these objectives, thus catering for free access, easiness of use and</p>	<p>acceptance) are not enough to ensure that users feel protected and ths are more inclined to use the digital euro.</p> <p>PT: (Comments): Please consider moving the sentence "According to theWorld Bank, financial inclusion means that individuals have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance” to footnote 7, following the WB document.</p>

<sup>7</sup> <https://documents1.worldbank.org/curated/en/806481470154477031/pdf/Payment-Aspects-of-Financial-Inclusion.pdf>

<sup>8</sup> [Study on New Digital Payment Methods \(europa.eu\)](#), March 2022. According to the World Bank, financial inclusion means that individuals have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance”.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
wide accessibility and acceptance.	
<p>(6) The digital euro should complement euro banknotes and coins and should not replace the physical forms of the single currency. As legal tender instruments, both cash and digital euro are equally important. Regulation (EU) <i>[please insert reference – proposal for a Regulation on the legal tender of euro banknotes and coins - COM/2023/364]</i> would harmonise legal tender for cash and ensure that cash is widely distributed and effectively used.</p>	<p>NL: (Comments): <u>NL Comment</u>: We agree that a digital euro should complement euro banknotes and coins and not replace them. This should also be explicitly communicated.</p>
<p>(7) Future developments in digital payments may affect the role of the euro in retail payment markets both in the European Union and internationally. Many central banks around the world are currently exploring the issuance of</p>	<p>BE: (Drafting): (7) Future developments in digital payments may affect the role of the euro in retail payment markets both in the European Union and internationally. Many central banks around the world are currently exploring the issuance of central bank digital currencies ('CBDCs') and some countries have already issued a CBDC. In addition, so-called third country stablecoins not denominated in euro, could, if widely used for payments, displace euro denominated payments</p>



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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>central bank digital currencies ('CBDCs') and some countries have already issued a CBDC. In addition, so-called third country stablecoins not denominated in euro, could, if widely used for payments, displace euro denominated payments in the Union's economy by satisfying demand for programmable payments (which are referred as conditional payments in the context of this Regulation), including in e-commerce, capital markets or industry 4.0. A digital euro would therefore be important to maintain the role of the euro in the digital age.</p>	<p>in the Union's economy by satisfying demand for programmable payments (which are referred to as <b>conditional conditioned</b> payments in the context of this Regulation), including in e-commerce, capital markets or industry 4.0. A digital euro would therefore be important to maintain the role of the euro in the digital age.</p> <p>BE: (Comments): A conditional payment can be understood as a payment which has been executed but either (a) the final discharge of the underlying debt would be conditional upon the later occurrence or non-occurrence of an event (condition suspensive) or (b) the payment can be unwound upon the later occurrence or non-occurrence of an event (condition résolutoire). In order to avoid any confusion, we propose to consistently use the term "conditioned payments".</p> <p>PT: (Drafting): (7) Future developments in digital payments may affect the role of the euro in retail payment markets both in the European Union and internationally. Many central banks around the world are currently exploring the issuance of central bank digital currencies ('CBDCs') and some countries have already issued a CBDC. In addition, so-called third country stablecoins not denominated in euro, could, if widely used for payments, displace euro denominated payments in the Union's economy by satisfying demand for <del>programmable payments (which are referred as conditional payments</del> <b>in the context of this Regulation</b>), including in e-commerce, capital markets or industry 4.0. A digital euro would therefore be important to maintain the role of the euro in the digital age.</p> <p>PT: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	We propose to delete the reference to “programmable payments”, as it may be confused with “programmable money”.
<p>(8) It is therefore necessary to lay down a legal framework for establishing a digital form of the euro with the status of legal tender, for use by people, businesses and public authorities in the euro area. As a new form of the euro available to the general public, the digital euro should have important societal and economic consequences. It is therefore necessary to establish the digital euro and to regulate its main characteristics, as a measure of monetary law. The European Central Bank is competent to issue and to authorise the issuance of the digital euro by national central banks of the Member States whose currency is the euro, exercising its powers under the Treaties. On the basis of those</p>	<p>NL: (Comments): <u>NL Comment</u>: We support the use case for business to business payments, because it will increase the chance of the digital euro being embraced by society.</p> <p>BE: (Drafting): (8) It is therefore necessary to lay down a legal framework <del>for establishing</del> <b>recognising</b> a digital form of the euro with the status of legal tender, for use by people, businesses and public authorities in the euro area. As an <del>new form</del> <b>evolution</b> of the euro available to the general public, the digital euro should have important societal and economic consequences. It is therefore necessary to <del>establish the digital euro and to</del> regulate its main characteristics, as a measure of monetary law. The European Central Bank is competent to issue and to authorise the issuance of the digital euro by national central banks of the Member States whose currency is the euro, <b>thereby notably</b> exercising its powers under the Treaties <b>to issue a generally accessible means of payment vested with legal tender</b>. On the basis of those powers and in accordance with the legal framework set out in this Regulation, the European Central Bank <del>should thus be</del> <b>is</b> able to decide whether to issue the digital euro, at which times and in what amounts, and other particular measures that are intrinsically connected to its issuance, in <del>addition</del> <b>the same way it is competent to take such decisions with regards</b> to banknotes and coins.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>powers and in accordance with the legal framework set out in this Regulation, the European Central Bank should thus be able to decide whether to issue the digital euro, at which times and in what amounts, and other particular measures that are intrinsically connected to its issuance, in addition to banknotes and coins.</p>	<p>BE: (Comments): See our comment on Recital 3. The draft Regulation should stress that the digital euro is an evolution of the legal tender retail means of payment that the Eurosystem currently already issues, notably of euro banknotes.</p> <p>PT: (Comments): This Recital touches upon an aspect of significant importance, i.e., the right balance between the recognition of the European Central Bank (ECB) competences and statute of independence, under the Treaties (Article 128(1) and Article 130 of TFUE), and the importance of creating a framework for the establishment of a digital euro, as a new form of central bank digital currency with legal tender status. The use of the digital euro as a store of value and as a means of payment is one of the most important chapters of this Regulation and should be subject to carefull and intensive discussion between MS, in this negotiation.</p>
<p>(9) Like euro banknotes and coins, the digital euro should be a direct liability of the European Central Bank or of the national central</p>	<p>SE: (Comments): It is somewhat unclear to us what the practical implications are for the ECB and the euro area central banks in case of an intermediary's insolvency. Clarification in the relevant articles might</p>

**COM proposal of 28.06.23**

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>banks of the Member States whose currency is the euro towards digital euro users. The digital euro should be issued for an amount equal to the face value of the corresponding liability on the consolidated balance sheet of the European Central Bank and the national central banks of the Member States whose currency is the euro, in particular by converting payment service providers' central bank reserves into digital euro holdings, to satisfy demand from digital euro users. To hold and use digital euros, digital euro users should only need to establish a contractual relationship with payment service providers distributing the digital euro to open digital euro payment accounts. No account or other contractual relationship would be established between the digital euro user and the European Central Bank or the national central banks.</p>	<p>be beneficial, in order to avoid uncertainties, e.g. Art 4(2)</p> <p>SI: (Drafting): Like euro banknotes and coins, the digital euro should be a direct liability of the European Central Bank or of the national central banks of the Member States whose currency is the euro towards digital euro users. The digital euro should be issued for an amount equal to the face value of the corresponding liability on the consolidated balance sheet of the European Central Bank and the national central banks of the Member States whose currency is the euro, in particular by converting payment service providers' central bank reserves into digital euro holdings, to satisfy <b>reasonable</b> demand from digital euro users. To hold and use digital euros, digital euro users should only need to establish a contractual relationship with payment service providers distributing the digital euro to open digital euro payment accounts. No account or other contractual relationship would be established between the digital euro user and the European Central Bank or the national central banks. Payment service providers should manage the digital euro accounts of digital euro users on their behalf and provide them with digital euro payment services. Since payment service providers are not a party to the direct liability held by digital euro users towards the European Central Bank and the national central banks of the Member States whose currency is the euro, and are acting on behalf of digital euro users, the insolvency of payment service providers would not affect digital euro users.</p> <p>SI: (Comments): Please consider that the amount of the digital euro should be limited.</p> <p>DE: (Comments):</p>

**COM proposal of 28.06.23**

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Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>Payment service providers should manage the digital euro accounts of digital euro users on their behalf and provide them with digital euro payment services. Since payment service providers are not a party to the direct liability held by digital euro users towards the European Central Bank and the national central banks of the Member States whose currency is the euro, and are acting on behalf of digital euro users, the insolvency of payment service providers would not affect digital euro users.</p>	<p>As we have written in our follow-up submission to the CWG on 26 July 2023, it will be of paramount importance to clarify the legal nature of a digital euro. In particular, we need to answer the question whether the digital euro is supposed to be account-based or token based CBDC in the <u>legal sense</u> of the distinction (not the technological distinction). We are referring to the distinction as drawn by the IMF in “Legal Aspects of Central Bank Digital Currency: Central Bank and Monetary Law Considerations”, IMF Working Paper, WP/20/254, November 2020 (<a href="https://www.imf.org/-/media/Files/Publications/WP/2020/English/wpiea2020254-print-pdf.ashx">https://www.imf.org/-/media/Files/Publications/WP/2020/English/wpiea2020254-print-pdf.ashx</a>) as well the more recent “Private Law Aspects of Token-Based CBDC”, Draft, which has not yet been published. Closely related is the question of what the private law nature of a digital euro is supposed to be, including what the root of title for any digital euro holdings of end users is for both, the online and the offline version.</p> <p>The answers to these questions (again please refer to our submission from 26 July 2023) will have great influence on all further discussions, including on the question of what the legal nature of the relationship between digital euro users and PSPs is, the interplay of the Digital Euro Regulation with PSD2 (or PSD3/PSR, respectively), the question of whether the establishment of a digital euro would be legally feasible without amending Article 17 of the ECB statutes and the extent to which Member States will need to adapt their national private law to make sure their property law is equipped to properly govern the digital euro. We would strongly encourage to clarify these questions first, before starting negotiations on any of the substantive political issues in this proposal.</p> <p>That said, from our understanding, the main components of Recital 9 (and Articles 4 (2) and 13 (6), respectively) intend to establish the digital euro as “token-based CBDC with an indirect holding structure” (as contemplated by the “Private Law Aspects of Token-Based CBDC” draft paper of the IMF). In line with such a structure, Recital 9 qualifies the digital euro as “direct liability” of the Eurosystem towards digital euro users (as subsequently Article 4 (2) repeats) without entailing a contractual relationship (“No account or other contractual relationship would</p>

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>be established between the digital euro user and the European Central Bank (..)”). In addition, Article 2 (5) defines a “digital euro payment account” to be “an account held by one or more digital euro users with a payment service provider to <b>access</b> digital euro recorded in the digital euro settlement infrastructure or in an offline digital euro device and to initiate or receive digital euro payment transactions, whether offline or online, and irrespective of technology and data structure;” (emphasis added). The “settlement” (i.e. the transfer between digital euro users) shall be performed by the Eurosystem in the settlement core. <u>We would be grateful, if the Commission could kindly confirm that these elements are, indeed, supposed to establish the digital euro as “token-based CBDC with an indirect holding structure”.</u></p> <p>From a private law perspective, such a set up of the digital euro could be legally conceivable as a “non physical <i>in rem</i> asset” (or a similar <i>hybrid</i> category of property rights, depending on the jurisdiction) owned by digital euro users, accessed through intermediaries, held at the Eurosystem and circulating similar to e.g. book entry securities. Politically, Germany has advocated for a digital euro that is similar to cash. In line with this paradigm, we would be open to further exploring and – as a tendency – support a token-based design along the lines as outlined above.</p> <p>That said, the draft regulation does not develop any further on this concept nor on the necessary legal corollary. If our understanding is correct and the intention is to create the digital euro as described above, we feel that additional clarifications and (potentially comprehensive) additions are necessary in the text to more precisely describe the various legal relationships between the different actors. This will be crucial for Member States to start working on integrating this novel concept with their existing private law, insolvency law, etc.</p> <p>Even more strikingly, according to Articles 5 (3) and 6 (2), PSD 2 (in the future PSD3/PSR) is supposed to apply to the digital euro. Upon first sight, this seems to somewhat contradict the legal nature of a digital euro as described in Recital (9) and outlined above. Under PSD 2, the</p>

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Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>legal relationship between account servicing PSPs and consumers in many cases is very different from the relationship envisaged by Recital (9) between digital euro users and PSPs:</p> <p>Under PSD 2, a positive credit balance in a payment account typically is a claim of the account holder against the PSP founded in the law of obligations. Consequently, it would fall into the insolvency estate of the PSP in case of the account managing PSP's insolvency (thus the need for deposit insurance). Account balances can be directly "credited" and "debited" under PSD 2. The account balance is the root of title (of the claim of the account holder against the account servicing PSP); when it is changed (through credits or debits), the amount "owned" by the account holder changes.</p> <p>By contrast it appears to us that the services by PSPs as envisaged by this draft Regulation seem to be similar to offering custodial wallets rather than traditional payment accounts in the sense of PSD 2. The settlement appears to take place in the central ledger operated by the ECB (for online transactions, see Article 30 (2)) or in the local storage devices of the payer and payee (for offline transactions, see Article 30 (3)). The insolvency of a PSP would not affect digital euro holders (as stated at the end of recital (9)).</p> <p>Given these considerable conceptual differences, we are sceptic to what extent a direct application of PSD 2 rules to the digital euro would be appropriate. For example:</p> <ul style="list-style-type: none"> <li>• Is the regime of prudential regulation under PSD 2 appropriate for the digital euro, if in case of the digital euro, digital euro users are not exposed to insolvency risk from a PSP?</li> <li>• Are modifications to the liability regime under PSD 2 (e.g. Artt. 73, 74 PSD 2) necessary in light of the fact that the ECB performs the settlement of digital euro payment transactions; e.g. what consequences will mistakes at ECB level have?</li> </ul> <p><u>We would kindly ask for a comprehensive analysis by the Commission on (1) how all the different rules of PSD 2 would apply to the digital euro, (2) whether modifications would be necessary and (3) to what extent such modifications have already been proposed in the PSD3/PSR proposal.</u></p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Drafting): (9) Like euro banknotes and coins, the digital euro should be a direct liability of the European Central Bank or of the national central banks of the Member States whose currency is the euro towards digital euro users. The digital euro should be issued for an amount equal to the face value of the corresponding liability on the consolidated balance sheet of the European Central Bank and the national central banks of the Member States whose currency is the euro, in particular by converting payment service providers' central bank reserves into digital euro holdings, to satisfy demand from digital euro users. To hold and use digital euros, digital euro users should <del>only need to</del> establish a contractual relationship with payment service providers <b>who distribute the digital euro to open through digital euro payment accounts which provide access to digital euros recorded in the Eurosystem digital euro settlement infrastructure.</b> No <del>account or other</del> contractual relationship would be established between the digital euro user and the European Central Bank or the national central banks. Payment service providers should manage the digital euro accounts of digital euro users on their behalf and provide them with digital euro payment services. Since payment service providers are not a party to the direct liability held by digital euro users towards the European Central Bank and the national central banks of the Member States whose currency is the euro, and are acting on behalf of digital euro users, the insolvency of payment service providers would not affect digital euro users <b>and the entitlement to their digital euros which are recorded in the Eurosystem digital euro settlement infrastructure.</b></p> <p>BE: (Comments): We propose to clarify here the main function of digital euro accounts, as defined in Article 2, 5., i.e. to provide access to digital euros recorded in the Eurosystem settlement infrastructure. This is important to clarify that payment service providers (PSPs) do not provide the entire range of</p>



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Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>services typically associated with payment accounts as defined in PSD2. Notably, the digital euros are not held in the ledgers of the the PSPs but only in the ledgers of the Eurosystem. As a result, PSPs do not provide settlement services and they should rather be considered as payment initiation service providers (PISPs) and account information service providers (AISPs) within the meaning of PSD2.</p> <p>PT: (Drafting): (9) Like euro banknotes and coins, the digital euro should be a direct liability of the European Central Bank or of the national central banks of the Member States whose currency is the euro towards digital euro users. The digital euro should be issued for an amount equal to the face value of the corresponding liability on the consolidated balance sheet of the European Central Bank and the national central banks of the Member States whose currency is the euro, in particular by converting payment service providers’ central bank reserves into digital euro holdings, to satisfy demand from digital euro users.</p> <p>PT: (Comments): While we agree that the digital euro should involve distribution by PSPs, we believe it is essential to clarify the role of these intermediaries, including the aspects relating to the application of PSD2 (currently being reviewed). We believe this is a critical part of the proposal since the rules, as currently presented, are not sufficiently clear and present risks, in our view. Additionally, we consider this recital touches on several issues of importance. We propose to separate this recital in more than one recital, while possibly developing parts which are still unclear or that could be further clarified, as also highlighted in our comments. Please see further comments below.</p>

**COM proposal of 28.06.23**

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Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>FR: (Comments): The fact that the digital euro would be a direct liability of the Eurosystem (i.e. recorded on its balance sheet) is undisputed. However, the mention that the digital euro would be a direct liability “toward end users” introduces confusion on the legal nature of the digital euro as this could be interpreted as implying that there would be a claim of end users towards the Eurosystem, and hence a direct legal relationship, which is ruled out in other sections of the legislative proposal. <u>See general comments in comments for Article 1</u></p> <p>This recital seems to imply that PSP all have access to central bank reserves. As of today, this is only true for credit institutions, as other PSPs only have indirect access to central bank reserves (see recital 24 below). We thus suggest deleting any reference to PSP’s central bank reserves.</p>
	<p>PT: (Drafting): <i>(9a) To hold and use digital euros, digital euro users should only need to establish a contractual relationship with payment service providers distributing the digital euro to open digital euro payment accounts. No account or other contractual relationship would be established between the digital euro user and the European Central Bank or the national central banks. <b>In their role of intermediaries</b>, payment service providers should manage the digital euro accounts of digital euro users on <del>their behalf</del> and provide them with digital euro payment services. Since payment service providers are not a party to the direct liability held by digital euro users towards the European Central Bank and the national central banks of the Member States whose currency is the euro, the insolvency of payment service providers would not affect digital euro users.</i></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>PT: (Comments): In line with our previous comments, we have some concerns regarding the way this Recital is drafted. We note that the part of the sentence that states that the PSP “are acting on behalf of the end users” might create doubts as to the role played by PSP considering the relationships between the user, the Central Bank and the PSP, and therefore we propose to delete it. Moreover, the final reference inserted in this Recital (“[s]ince payment service providers are not a party to the direct liability held by digital euro users towards the European Central Bank and the national central banks of the Member States whose currency is the euro, and are acting on behalf of digital euro users, the insolvency of payment service providers would not affect digital euro users”) is critically important and so it should not be left to a recital alone. Hence a similar rule should be introduced (and possibly developed) in the legal text.</p>
<p>(10) The digital euro should be governed by the provisions of this Regulation. They may be supplemented by the delegated acts that the Commission is empowered to adopt pursuant to Articles 11, 34, 35, 36 and 38, and by the implementing acts that the Commission is</p>	<p>IT: (Comments): IT – Whenever in this Regulation references is made to the old TFR - Regulation (EU) 2015/847, it should be replaced with reference to the new TFR - Regulation (EU) 2023/1113</p> <p>BE: (Drafting): (10) The digital euro should be governed by the provisions of this Regulation. They may be</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>empowered to adopt pursuant to Article 37. In addition, within the framework of this Regulation and its delegated acts, the European Central Bank may adopt detailed measures, rules and standards pursuant to its own competences. Where such measures, rules and standards have an impact on the protection of individual's rights and freedoms with regard to the processing of personal data, the European Central Bank should consult the European Data Protection Supervisor. To ensure legal certainty, the Regulation also clarifies that the digital euro is subject to Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and to Regulation (EU) 2015/847 of the European</p>	<p>supplemented by the delegated acts that the Commission is empowered to adopt pursuant to Articles 11, 34, 35, 36 and 38, and by the implementing acts that the Commission is empowered to adopt pursuant to Article 37. In addition, <b>within taking account of</b> the framework of this Regulation and its delegated acts, the European Central Bank may adopt detailed measures, rules and standards pursuant to its own competences. Where such measures, rules and standards have an impact on the protection of individual's rights and freedoms with regard to the processing of personal data, the European Central Bank should consult the European Data Protection Supervisor. To ensure legal certainty, the Regulation also clarifies that the digital euro is subject to Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and to Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds, without prejudice to the adjusted anti-money laundering and counter terrorist financing framework laid down in this regulation for offline digital euro payment transactions. Digital euro payment transactions and the related payment services are also subject to Directive (EU) 2015/2366 of the European Parliament and of the Council, of 25 November 2015, on payment services in the internal market, as amended by Directive [please insert reference - proposal for a Directive of the European Parliament and of the Council on payment services and electronic money services in the internal market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC - COM(2023) 366 final] which has provided that 'funds' include central bank money issued for retail use (i.e. banknotes, coins and central bank digital currencies), and to Regulation (EU) 2021/1230 on cross border payments.</p> <p>BE: (Comments): It should be clarified that the Eurosystem's competences with regards to the digital euro are not limited to acting within the framework of this Regulation: the Eurosystem can exercise all its</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds, without prejudice to the adjusted anti-money laundering and counter terrorist financing framework laid down in this regulation for offline digital euro payment transactions. Digital euro payment transactions and the related payment services are also subject to Directive (EU) 2015/2366 of the European Parliament and of the Council, of 25 November 2015, on payment services in the internal market, as amended by Directive <i>[please insert reference - proposal for a Directive of the European Parliament and of the Council on payment services and electronic money services in the internal market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC - COM(2023)</i></p>	<p>competences in accordance with the Treaties, albeit where necessary taking account of the framework laid down in this Regulation.</p> <p>PT: (Comments): <b><u>General comment regarding all the references in this proposal to Directive (UE) 2015/849 and Regulation (UE) 2015/847</u></b> When this regulation enters into force, all the pieces of legislation in the AML package will apply. This is, in fact, recognised at various points in this proposal – for example in the references to AMLA (the future AML authority). Therefore, all references to the AML/CFT legal framework in this diploma should be made to the legislative proposals in the AML package (Regulation AML/CFT, 6<sup>th</sup> AMLD, etc.). As for the reference of this Recital to “<i>without prejudice to the adjusted anti-money laundering and counter terrorist financing framework laid down in this regulation for offline digital euro payment transactions</i>”, please refer to our comments to Recital (78) and Article 37.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
366 final] which has provided that ‘funds’ include central bank money issued for retail use (i.e. banknotes, coins and central bank digital currencies), and to Regulation (EU) 2021/1230 on cross border payments.	
(11) To ensure the effective protection of the legal tender status of the digital euro as a single currency throughout the euro area, and the acceptance of payments in digital euro, rules on sanctions for infringements should be introduced and applied in the Member States.	<p>NL: (Comments): <u>NL Question:</u> How does the Commission envisage the monitoring and verification by Member States whether PSPs and merchants comply with the legal tender provisions and mandatory acceptance.</p> <p>PL: (Drafting): PL: (11) To ensure the effective protection of the legal tender status of the digital euro as a single currency throughout the euro area, and the acceptance of payments in digital euro, rules on sanctions for infringements should be introduced and applied in the Member States whose currency is the euro.</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>DE: (Drafting): <b><del>To ensure the effective protection of the legal tender status of the digital euro as a single currency throughout the euro area, and the acceptance of payments in digital euro, rules on sanctions for infringements should be introduced and applied in the Member States.</del></b></p> <p>DE: (Comments): We have reservations against the idea of obliging Member States to introduce administrative penalties applicable to the non-acceptance of a digital euro. According to the principle of freedom of contract, traders and retailers are in principle free to decide on what terms they wish to conclude a contract. A refusal to accept digital euro, if no other means of payment is agreed upon by the parties, may lead to a breach of contract/incurrence in default of acceptance, and thus be rectified by sanctions according to the private law of Member States as enforced by Member States' civil courts. In addition, there is no empirical evidence as to what extent penalties applicable to the non-acceptance of digital euro by individual retailers or merchants would serve the goals of this Regulation. To the contrary, in the context of ELTEG's work on the role of euro banknotes and coins, six Member States reported that they already have national provisions penalising refusal of payment with legal tender notes/coins without significant differences in terms of cash acceptance when compared to Member States without such sanctions.</p> <p>BE: (Comments): While supporting an effective sanctioning regime, the Regulation should contain further provisions ensuring a minimum level of harmonisation in this regard. We do not provide</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	concrete drafting suggestions as this stage, but this topic should be further elaborated on.
<p>(12) The relevant provisions of Directive (EU) 2015/2366 as replaced by Directive (EU) <i>[please insert reference – proposal for a Directive on payment services and electronic money services in the internal market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC - COM(2023) 366 final]</i>, Directive (EU) 2015/849 as replaced by Directive (EU) <i>[please insert reference – proposal for Anti-Money Laundering Directive - COM/2021/423 final]</i> and Regulation (EU) 2016/679 should govern the supervision by competent authorities and the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States,</p>	<p>PL: (Drafting): PL: (12) The relevant provisions of Directive (EU) 2015/2366 as replaced by Directive (EU) <i>[please insert reference – proposal for a Directive on payment services and electronic money services in the internal market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC - COM(2023) 366 final]</i>, Directive (EU) 2015/849 as replaced by Directive (EU) <i>[please insert reference – proposal for Anti-Money Laundering Directive - COM/2021/423 final]</i> and Regulation (EU) 2016/679 should govern the supervision by competent authorities and the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States, concerning the activities of payment service providers established in Member States whose currency is not the euro. To ensure an efficient supervision of payment service providers distributing the digital euro, the competent authorities responsible under Directive (EU) 2015/2366 for supervising the provision of payment service should also cooperate with the European Central Bank for the purposes of supervising the application of payment-related obligations laid down in this Regulation. Any personal data processing under the present Regulation must comply with Regulation (EU) 2016/679 and Regulation (EU) 2017/1725 insofar as they fall within their respective scope of application. Therefore, the supervisory authorities under Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 are responsible for the supervision of processing of personal data carried out in the context of this Regulation.</p> <p>PL: (Comments):</p>



**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>concerning the activities of Payment Services Providers established in Member States whose currency is not the euro. To ensure an efficient supervision of payment services providers distributing the digital euro, the competent authorities responsible under Directive (EU) 2015/2366 for supervising the provision of payment services should also cooperate with the European Central Bank for the purposes of supervising the application of payment-related obligations laid down in Regulation (EU) No XXX on the establishment of the digital euro. Any personal data processing under the present Regulation must comply with Regulation (EU) 2016/679 and Regulation (EU) 2017/1725 insofar as they fall within their respective scope of application. Therefore, the supervisory authorities under Regulation (EU) 2016/679 and</p>	<p>PL: We suggest to use the form “payment service providers” (as used in PSD2) all across the text (for consistency in the legal text). Re-drafting proposals, technical, non-material</p> <p>BE: (Comments): More clarification would be needed on how such services would be treated under e.g. passporting rules (prudential), liability rules in case of loss of bearer instrument, etc. We do not provide concrete drafting suggestions as this stage, but this topic should be further elaborated on.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Regulation (EU) 2018/1725 are responsible for the supervision of processing of personal data carried out in the context of this Regulation.</p>	
<p>(13) Member States, their relevant authorities and payment service providers should deploy information and educational measures to ensure the necessary level of awareness and knowledge of the different aspects of the digital euro.</p>	<p>NL: (Comments): <u>NL Question:</u> What is exactly meant by the Commission with “educational measures”? In other words, will there be more guidance on what is expected exactly from member states and PSPs?</p> <p>PL: (Drafting): PL: (13) Member States whose currency is the euro, their relevant authorities and payment service providers should deploy information and educational measures to ensure the necessary level of awareness and knowledge of the different aspects of the digital euro.</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation. Additionally, it should be discussed whether this obligation should apply also to Member States which have signed an arrangement pursuant to the Article 18.</p> <p>IT: (Drafting): <b>IT - (13)</b> Member States, their relevant authorities and payment service providers should deploy</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><del>information and financial educational measures</del> <b><u>initiatives</u></b> to ensure the necessary level of awareness and knowledge of the digital euro <b><u>of the characteristics of the digital euro, its use and the existence of protection measures, also with the aim of fostering financial inclusion</u></b> of the different aspects of the digital euro. <b><u>Specific digital financial literacy initiatives should target people with disabilities, functional limitations, or limited digital skills, as well as the elderly.</u></b></p> <p>IT: (Comments): <b>IT</b> - We believe that referring specifically to financial education initiatives is more clear in order to avoid any type of confusion with transparency rules. We also believe that more vulnerable groups should be specifically targeted with digital financial education initiatives.</p> <p>LU: (Comments): While we acknowledge the mission of competent authorities in awareness raising and improving financial literacy, we highlight that NCAs and other stakeholders must remain neutral and cannot extensively and unilaterally promote one specific payment instrument (in this case the digital euro).</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
(14) According to the case-law of the Court of Justice of the European Union <sup>9</sup> , the concept of ‘legal tender’ of a means of payment denominated in a currency unit signifies, in its ordinary sense, that that means of payment cannot generally be refused in settlement of a debt denominated in the same currency unit, at its full-face value, with the effect of discharging the debt.	
(15) Legal tender status is a defining characteristic of central bank money. In the euro area, until now euro banknotes and coins are the only means of payment that have the status of legal tender, pursuant to Article 128(1) of the Treaty on the Functioning of the European	BE: (Drafting): (15) Legal tender status is a defining characteristic of <b>generally accessible</b> central bank money. In the euro area, until now euro banknotes and coins are the only <b>generally accessible</b> means of payment that have the status of legal tender, pursuant to Article 128(1) of the Treaty on the Functioning of the European Union (‘TFEU’) and Article 10 and 11 of Council Regulation (EC) No 974/98 <sup>12</sup> on the introduction of the euro <sup>13</sup> .

<sup>9</sup> See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63 point 46.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
Union ('TFEU') and Article 10 and 11 of Council Regulation (EC) No 974/98 <sup>10</sup> on the introduction of the euro <sup>11</sup> .	BE: (Comments): While reserves held by financial institutions with the Eurosystem are also central bank money, they are not generally accessible and not vested with legal tender.
(16) The digital euro, as a digital currency with the status of legal tender denominated in euro issued by the European Central Bank and national central banks of the Member States whose currency is the euro, as part of the Eurosystem, should be widely accessible, usable and accepted as a means of payment. Granting legal tender status to the digital euro should support its usability in payments across the euro area and thus also support the efforts to ensure	NL: (Comments): <u>NL Comment</u> : We understand and support the legal tender status for the digital euro, both for offline and online digital payments. Please also refer to our comments to recital 18 and Article 7 <i>et seq.</i>  IT: (Drafting): <b>IT - (...)</b> In addition, the mandatory acceptance of payments in digital euro as one of the main conditions of the legal tender status ensures that people and businesses benefit from a wide acceptance and have a real choice to pay with central bank money in a digital way and in a uniform manner throughout the euro area. <b><u>The digital euro and its interoperability – to the extent possible - within the wider financial system may foster the digital financial inclusion of european citizens, also those who still rely on cash alone.</u></b>

<sup>12</sup> Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1).

<sup>13</sup> OJ L139, 11.5.1998, p.1.

<sup>10</sup> Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1).

<sup>11</sup> OJ L139, 11.5.1998, p.1.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>the continued availability and accessibility of central bank money in its role of monetary anchor, as cash alone cannot address the needs of a rapidly digitalising economy. In addition, the mandatory acceptance of payments in digital euro as one of the main conditions of the legal tender status ensures that people and businesses benefit from a wide acceptance and have a real choice to pay with central bank money in a digital way and in a uniform manner throughout the euro area.</p>	<p>IT: (Comments): <b>IT</b> We believe that if all european citizens, especially those who still rely on cash alone, get accustomed to use digital payment means (instead of only cash or coins), they could be willing to reap the benefits of all types of digital financial services.</p> <p>BE: (Drafting): (16) The digital euro, as <b>a the digital currency of the Participating Member States</b> with the status of legal tender <del>denominated in euro issued by the European Central Bank and national central banks of the Member States whose currency is the euro, as part of the Eurosystem,</del> should be widely accessible, usable and accepted as a means of payment. Granting legal tender status to the digital euro should support its usability in payments across the euro area and thus also support the efforts to ensure the continued availability and accessibility of central bank money in its role of monetary anchor, as cash alone cannot address the needs of a rapidly digitalising economy. In addition, the mandatory acceptance of payments in digital euro as one of the main <b>conditions characteristics</b> of the legal tender status ensures that people and businesses benefit from a wide acceptance and have a real choice to pay with central bank money in a digital way and in a uniform manner throughout the euro area.</p> <p>BE: (Comments): With regards to legal tender, it seems more pertinent to stress that the digital euro is the digital currency of the Participating Member States, rather than that it is issued by the Eurosystem.</p> <p>PT:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): As a preliminary comment, we believe the digital euro should have legal tender status since it is a defining characteristic of central bank money. This approach also ensures systematic coherence with the status conferred to euro banknotes and coins. Please see our comments to Chapter III (Legal Tender).</p>
<p>(17) The digital euro should have legal tender status for offline digital euro payment transactions occurring within in the euro area, similarly to euro banknotes and coins which have legal tender status in the euro area. The digital euro should also have legal tender status for online digital euro payment transactions made to a payee residing or established in the euro area, where the payer is also residing or established in the euro area. Similarly, the digital euro should have legal tender status for online digital euro payment transactions made to a payee residing or established in the euro area,</p>	<p>PL: (Drafting): PL: (17) The digital euro should have legal tender status for offline digital euro payment transactions occurring within the euro area, similarly to euro banknotes and coins which have legal tender status in the euro area. The digital euro should also have legal tender status for online digital euro payment transactions made to a payee residing or established in the euro area, where the payer is also residing or established in the euro area. Similarly, the digital euro should have legal tender status for online digital euro payment transactions made to a payee residing or established in the euro area, where the payer is not residing or established in the euro area.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>IT: (Comments): IT – We would make a scrutiny reservation on this recital and on Art. 8. Firstly, we do not see the underlying concept (banknotes and coins not having legal tender status out of the euro area)</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>where the payer is not residing or established in the euro area.</p>	<p>being confirmed in the proposal for a Regulation on the legal tender status of banknotes and coins or in other european law. Secondly, we are afraid that these provisions, especially the ones on offline payments, could create legal uncertainty; for example, would such provision be applicable even for offline digital euro payments (taking place out of the euro area) where both the payer and the payee are citizens of a Member State of the euro area?</p> <p>BE: (Drafting): (17) The digital euro should have legal tender status for offline digital euro payment transactions occurring within <del>in</del> the euro area, similarly to euro banknotes and coins which have legal tender status in the euro area. The digital euro should also have legal tender status for online digital euro payment transactions made to a payee residing or established in the euro area, where the payer is <del>also residing or established in the euro area. Similarly, the digital euro should have legal tender status for online digital euro payment transactions made to a payee residing or established in the euro area, where the payer is not residing or established in the euro area</del> entitled to hold digital euro and to open a digital euro account.</p> <p>BE: (Comments): Since it appears irrelevant whether the payer resides in the euro area or not, online digital euro payments should be accepted by the payee in case he or she resides in the euro area. What appears relevant, is that the payer is entitled to hold digital euros and to open a digital euro account through a PSP. Furthermore, it should be clarified under which conditions an offline digital euro payment is considered to occur within the euro area; for the time being, we do not propose concrete drafting suggestions in this respect.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PT: (Comments): This Recital adequately complements Article 8 of the proposal, on the territorial scope of the digital euro's legal tender, which, in our view, is particularly well-achieved in relation to the offline functionality namely by replicating the legal tender status, and the principle of mandatory acceptance, of cash payments (i.e., for euro banknotes and coins).</p>
<p>(18) Since the digital euro requires the capacity to accept digital means of payment, imposing an obligation of mandatory acceptance of payments in digital euro on all payees could be disproportionate. To this end, exceptions to the mandatory acceptance of payments in digital euro should be provided for natural persons acting in the course of a purely personal or household activity. Exceptions to mandatory acceptance should also be provided for microenterprises, which are particularly important in the euro area for the development</p>	<p>NL: (Comments): <u>NL Comment</u>: The Netherlands understand the decision of the Commission to give the digital euro legal tender status with mandatory acceptance for both online and offline payments, but has concerns about the very limited exceptions to the mandatory acceptance. Please refer to our comments to Articles 7(2) below.</p> <p>BE: (Drafting): (18) Since the digital euro requires the capacity to accept digital means of payment, <b>it would be disproportionate to imposing impose</b> an obligation of mandatory acceptance of payments in digital euro on all payees <b>residing or established in the euro area could be disproportionate</b>. To this end, exceptions to the mandatory acceptance of payments in digital euro should be provided for natural persons acting in the course of a purely personal or household activity. Exceptions to mandatory acceptance should also be provided for microenterprises, which are particularly important in the euro area for the development of entrepreneurship, job creation and innovation, playing a vital role in shaping the economy.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>of entrepreneurship job creation and innovation, playing a vital role in shaping the economy.</p> <p>Union policies and actions should reduce regulatory burdens for enterprises of this size.</p> <p>Exceptions to mandatory acceptance should also be provided for non-profit legal entities which promote the public interest and serve the public good performing a variety of goals of societal interest, including equity, education, health, environmental protection and human rights. For microenterprises and non-profit legal entities, the acquisition of the required infrastructure and the acceptance costs would be disproportionate. They should therefore be exempted from the obligation to accept payments in digital euro. In such cases, other means for the settlement of monetary debts should remain available.</p> <p>Nevertheless, microenterprises and non-profit</p>	<p>Union policies and actions should reduce regulatory burdens for enterprises of this size. Exceptions to mandatory acceptance should also be provided for non-profit legal entities which promote the public interest and serve the public good performing a variety of goals of societal interest, including equity, education, health, environmental protection and human rights. For microenterprises and non-profit legal entities, the acquisition of the required infrastructure and the acceptance costs would be disproportionate. They should therefore be exempted from the obligation to accept payments in digital euro. In such cases, other means for the settlement of monetary debts should remain available. Nevertheless, microenterprises and non-profit legal entities that accept comparable digital means of payment from payers should be subject to the mandatory acceptance of payments in digital euro. Comparable digital means of payment should include debit card payment or instant payment or other future technological solutions used at the point of interaction, but should exclude credit transfer and direct debit that are not initiated at the point of interaction. Microenterprises and non-profit legal entities that do not accept comparable digital means of payment from their payers in settlement of a debt (e.g. they only accept euro banknotes and coins), but may use digital payments in settlement of a debt to their payees (e.g. they pay with credit transfers), should not be subject to the mandatory acceptance of payments in digital euro. Finally, a payee may also refuse a payment in digital euro if the refusal is made in good faith and if the payee justifies the refusal on legitimate and temporary grounds, proportionate to concrete circumstances beyond its control, leading to an impossibility to accept payments in digital euro at the <b>relevant</b> time of the transaction, such as a power outage in the case of online digital euro payment transactions, or a defective device in the case of offline or online digital euro payment transactions.</p> <p>BE: (Comments): Editorial drafting suggestions.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>legal entities that accept comparable digital means of payment from payers should be subject to the mandatory acceptance of payments in digital euro. Comparable digital means of payment should include debit card payment or instant payment or other future technological solutions used at the point of interaction, but should exclude credit transfer and direct debit that are not initiated at the point of interaction. Microenterprises and non-profit legal entities that do not accept comparable digital means of payment from their payers in settlement of a debt (e.g. they only accept euro banknotes and coins), but may use digital payments in settlement of a debt to their payees (e.g. they pay with credit transfers), should not be subject to the mandatory acceptance of payments in digital euro. Finally, a payee may</p>	<p>PT: (Drafting): (18) Since the digital euro requires the capacity to accept digital means of payment, imposing an obligation of mandatory acceptance of payments in digital euro on all payees could be disproportionate. To this end, exceptions to the mandatory acceptance of payments in digital euro should be provided for natural persons acting in the course of a purely personal or household activity. Exceptions to mandatory acceptance should also be provided for microenterprises, which are particularly important in the euro area for the development of entrepreneurship job creation and innovation, playing a vital role in shaping the economy. Union policies and actions should reduce regulatory burdens for enterprises of this size. Exceptions to mandatory acceptance should also be provided for non-profit legal entities which promote the public interest and serve the public good performing a variety of goals of societal interest, including equity, education, health, environmental protection and human rights. For microenterprises and non-profit legal entities, the acquisition of the required infrastructure and the acceptance costs would be disproportionate. They should therefore be exempted from the obligation to accept payments in digital euro. In such cases, other means for the settlement of monetary debts should remain available. Nevertheless, microenterprises and non-profit legal entities that accept comparable digital means of payment from payers should be subject to the mandatory acceptance of payments in digital euro. Comparable digital means of payment should include debit card payment or instant <b>credit transfers payment</b> or other future technological solutions used at the point of interaction, but should exclude <b>other types of credit transfers</b> and direct debit that are not initiated at the point of interaction. Microenterprises and non-profit legal entities that do not accept comparable digital means of payment from their payers in settlement of a debt (e.g. they only accept euro banknotes and coins), but may use digital payments in settlement of a debt to their payees (e.g. they pay with credit transfers), should not be subject to the mandatory acceptance of payments in digital euro. Finally, a payee may also refuse a payment in digital euro if the refusal is made in good faith and if the payee justifies the refusal</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>also refuse a payment in digital euro if the refusal is made in good faith and if the payee justifies the refusal on legitimate and temporary grounds, proportionate to concrete circumstances beyond its control, leading to an impossibility to accept payments in digital euro at the relevant time of the transaction, such as a power outage in the case of online digital euro payment transactions, or a defective device in the case of offline or online digital euro payment transactions.</p>	<p>on legitimate and temporary grounds, proportionate to concrete circumstances beyond its control, leading to an impossibility to accept payments in digital euro at the relevant time of the transaction, such as a power outage in the case of online digital euro payment transactions, or a defective device in the case of offline or online digital euro payment transactions.</p> <p>PT: (Comments): For the moment, while we support the legal tender status of the digital euro, we believe the principle of proportionality should play a role when defining possible exceptions to the principle of mandatory acceptance, in light of the specificities of the digital euro. Therefore, the exceptions foreseen in the proposal seem adequate and justified (i.e., for natural persons acting in the course of a purely personal or household activity; non profit legal entities and microenterprises that do not accept comparable means of payment). In relation to the explanation of what comparable digital means of payment should include, we consider that some adjustments have to be introduced, since instant payments are in fact a type of credit transfers. The exceptions established in Article 9(b) seem adequate as they ensure coherence with the proposal for a Regulation on the legal tender of euro banknotes and coins, with the necessary adaptations given the digital euro's specificities.</p>
<p>(19) In order to ensure that additional exceptions to the mandatory acceptance of the digital euro may be introduced at a later stage if</p>	<p>NL: (Comments): <u>NL Comment</u>: What is meant with additional exceptions of a 'monetary law nature'. This should be clarified. Please also refer to our comments to Articles 11 below.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>they are required, for example due to technical specificities that may appear in the future, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the introduction of additional exceptions of a monetary law nature to the obligation to accept digital euro payment transactions, which would apply in a harmonised way across the euro area, taking into account any proposals from Member States to this end. The Commission may only adopt such exceptions if they are necessary, justified on grounds of general interest, proportionate, and preserve the effectiveness of the legal tender status of the digital euro. The power of the Commission to adopt delegated acts for the introduction of additional exceptions to the</p>	<p>PL: (Drafting): PL: (19) In order to ensure that additional exceptions to the mandatory acceptance of the digital euro may be introduced at a later stage if they are required, for example due to technical specificities that may appear in the future, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the introduction of additional exceptions of a monetary law nature to the obligation to accept digital euro payment transactions, which would apply in a harmonised way across the euro area, taking into account any proposals from Member States whose currency is the euro to this end. The Commission may only adopt such exceptions if they are necessary, justified on grounds of general interest, proportionate, and preserve the effectiveness of the legal tender status of the digital euro. The power of the Commission to adopt delegated acts for the introduction of additional exceptions to the obligation to accept digital euro payment transactions should be without prejudice to the possibility for Member States, pursuant to their own powers in areas of shared competence, to adopt national legislation introducing exceptions to the mandatory acceptance deriving from the legal tender status in accordance with the conditions laid down by the Court of Justice of the European Union in its judgment in Joined Cases C-422/19 and C-423/19.</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation</p> <p>FI: (Drafting): (19) In order to ensure that additional exceptions to the mandatory acceptance of the digital</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>obligation to accept digital euro payment transactions should be without prejudice to the possibility for Member States, pursuant to their own powers in areas of shared competence, to adopt national legislation introducing exceptions to the mandatory acceptance deriving from the legal tender status in accordance with the conditions laid down by the Court of Justice of the European Union in its judgment in Joined Cases C-422/19 and C-423/19.</p>	<p>euro may be introduced at a later stage if they are required, for example due to technical specificities that may appear in the future, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the introduction of additional exceptions of a monetary law nature to the obligation to accept digital euro payment transactions, which would apply in a harmonised way across the euro area, taking into account any proposals from Member States to this end. The Commission may only adopt such exceptions if they are necessary, justified on grounds of general interest, proportionate, and preserve the effectiveness of the legal tender status of the digital euro. The power of the Commission to adopt delegated acts for the introduction of additional exceptions to the obligation to accept digital euro payment transactions should be without prejudice to the possibility for Member States, pursuant to their own powers in areas of shared competence, to adopt national legislation introducing exceptions to the mandatory acceptance deriving from the legal tender status in accordance with the conditions laid down by the Court of Justice of the European Union in its judgment in Joined Cases C-422/19 and C-423/19 <b>such the principle, that obligation to accept digital euro may be restricted by the Member States whose currency is the euro for reasons of public interest and pursuant to their competences outside of the area of monetary law and policy and of other exclusive Union competences, provided those restrictions are justified by a public interest objective and proportionate to it.</b></p> <p>FI: (Comments): We prefer more explicit wording for the Member States power to restrict obligation to accept digital euro as it is with in the case for legal tender of euro cash.</p> <p>BE: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>In order to avoid erosion of the legal tender concept, the Regulation may need to contain rules on the type of exceptions to mandatory acceptance that Member States may provide, or under which circumstances. A certain margin of discretion was probably acceptable under the Hessischer Rundfunk case since the notion of legal tender was not harmonised at EU level and it was to a large extent left to the Member States, while this Regulation and the Cash Regulation will regulate the legal tender status for the entire euro area.</p> <p>PT: (Comments): In line with our comments to Article 6 of the proposal for a Regulation on the legal tender of euro banknotes and coins, and although we understand that the rationale behind this approach is to confer some level of flexibility, we believe that any additional exceptions should in principle be included in the level 1 text and, hence, not subject to delegation. It is yet not fully clear to us that it would be both necessary and appropriate to delegate this general power to the Commission, since this is an important part of the regulatory regime. Please see our comments to Article 10 of this proposal and Article 6 of the proposal for a Regulation on the legal tender of euro banknotes and coins.</p>
<p>(20) In order to ensure that people and businesses benefit from a wide acceptance network and are able to effectively use the digital euro in their day-to-day payments, payees who are subject to the mandatory</p>	<p>DE: (Drafting): (20) In order to ensure that people and businesses benefit from a wide acceptance network and are able to effectively use the digital euro in their day-to-day payments, payees who are subject to the mandatory acceptance of payments in digital euro should not <del>unilaterally</del> exclude payments in digital euro through contractual terms that have not been individually negotiated <del>or</del></p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>acceptance of payments in digital euro should not unilaterally exclude payments in digital euro through contractual terms that have not been individually negotiated or commercial practices.</p>	<p><del>commercial practices.</del></p> <p>DE: (Comments): We reserve further comments on all the proposals concerning legal tender made in this regulation, which we will share once we have finalized our political view on legal tender in general and acceptance obligations in particular.</p> <p>In any case, there is no such thing as an “unilateral exclusion” of payments in digital euro through “contractual terms”. Unilateral contractual provisions cannot exist, as such stipulations need to be part of a contract, i.e. of a bilateral legal act. In addition, it is unclear to us what “commercial practices” is supposed to refer to.</p> <p>PT: (Comments): We believe this Recital and Article 10 are essential to prevent the undermining of mandatory acceptance by payees and the contractual freedom of payers. It is difficult to understand why a similar provision is not established in the proposal for a Regulation on the legal tender of euro banknotes and coins. Therefore, we propose introducing a new provision in the proposal for a Regulation on the legal tender of euro banknotes and coins (new Article 5a). Please also refer to our comments on the said Regulation for additional reflection on legal tender.</p>
(21) The main objective of the establishment of the digital euro is its use as a form of the	<p>SI: (Drafting):</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>single currency with legal tender in the euro area. For this purpose and in line with the Agreement on the European Economic Area, digital euro users residing or established in the euro area, including consumers with no fixed address, asylum seekers and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, may be provided digital euro payment services by PSPs established in the European Economic Area. Natural and legal persons who were already receiving digital euro payment services, because they opened a digital euro payment account at the time they resided or were established in a Member State whose currency is the euro, but no longer reside or are established in such Member State, may still receive digital euro payment services by</p>	<p>The main objective of the establishment of the digital euro is its use as a form of the single currency with legal tender <b>status</b> in the euro area. For this purpose and in line with the Agreement on the European Economic Area, digital euro users residing or established in the euro area, including consumers with no fixed address, asylum seekers and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, may be provided digital euro payment services by PSPs established in the European Economic Area. Natural and legal persons who were already receiving digital euro payment services, because they opened a digital euro payment account at the time they resided or were established in a Member State whose currency is the euro, but no longer reside or are established in such Member State, may still receive digital euro payment services by payment service providers established in the European Economic Area, in line with the Agreement on the European Economic Area, subject to possible time limitations in relation to the status of residence or establishment of these persons that the European Central Bank may define.</p> <p>PL: (Drafting): PL: (21) The main objective of the establishment of the digital euro is its use as a form of the single currency with legal tender in the euro area. For this purpose and in line with the Agreement on the European Economic Area, digital euro users residing or established in the euro area, including consumers with no fixed address, asylum seekers and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, may be provided digital euro payment services by payment service providers established in the European Economic Area. Natural and legal persons who were already receiving digital euro payment services, because they opened a digital euro payment account at the time they resided or were established in a Member State whose currency is the euro, but no longer reside or are established in such Member State, may still receive digital euro payment services by payment service providers established in the European Economic Area, in line with the Agreement on the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>payment service providers established in the European Economic Area, in line with the Agreement on the European Economic Area, subject to possible time limitations in relation to the status of residence or establishment of these persons that the European Central Bank may define.</p>	<p>European Economic Area, subject to possible time limitations in relation to the status of residence or establishment of these persons that the European Central Bank may define.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material. PSP is not defined in the regulation.</p> <p>BE: (Drafting): (21) The main objective of the establishment of the digital euro is its use as a <b>digital</b> form of the single currency with legal tender in the euro area. For this purpose and in line with the Agreement on the European Economic Area, digital euro users residing or established in the euro area, including consumers with no fixed address, asylum seekers and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, may be provided digital euro payment services by PSPs established in the European Economic Area. Natural and legal persons who were <del>already receiving digital euro payment services, because they entitled to hold digital euro and</del> opened a digital euro payment account at the time they resided or were established in a Member State whose currency is the euro, but no longer reside or are established in such Member State, may still <b>hold digital euro and</b> receive digital euro payment services by payment service providers established in the European Economic Area, in line with the Agreement on the European Economic Area, subject to possible time limitations in relation to the status of residence or establishment of these persons that the European Central Bank may define.</p> <p>BE: (Comments): Rather than stating that digital euro users are those receiving digital euro payment services, we</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>propose to more consistently use the notion, throughout the Regulation, that digital euro users are these natural and legal persons who are entitled to hold digital euro or open digital euro payment accounts. The provision of digital euro payment services by PSPs is an accessory (albeit necessary) to this. We will provide further drafting suggestions in this sense throughout the Regulation.</p> <p>PT: (Comments): The possibility of natural and legal persons who opened an account at the time they resided or were established in the MS whose currency is the euro, but no longer reside or are established in such MS, maintaining access to digital euro payment services, raises concerns. We understand that, in principle, it may be difficult to establish that such natural and legal persons lose their right of holding a digital euro payment account, as a result of they no longer residing or being established in a MS whose currency is the euro. Additionally, the reference to “possible time limitations” raises several concerns and doubts regarding both its conception and implementation (e.g., will it be possible to unilaterally terminate the digital euro payment account? And, if so, to where will the funds be transferred to?) and enforcement (e.g., will the compliance with the time limit be ensured by the PSP – with whom the contractual relationship was established – or by the ECB?). Consequently, we have doubts if the provision on the “restrictions to the access and use in time of the digital euro” by these users should be kept. Please see out comments in Article 13(1).</p>
(22) In accordance with Directive 2015/2366 of the European Parliament and the Council, the	<p>DE: (Comments): We have considerable doubts that PSD 2 can or should be applied to the digital euro without</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>notion of ‘funds’ means banknotes and coins, scriptural money or electronic money. As a new form of central bank money with legal tender, the digital euro should be considered as funds under Directive 2015/2366. It should be ensured that payment service providers distributing the digital euro should be subject to the requirements laid down in this Directive as transposed by Member States and supervised for this purpose by the competent authorities referred to in this Directive as well. When issuing the digital euro, the European Central Bank and national central banks of the Member States whose currency is the euro, as part of the Eurosystem, would be acting in their capacity as monetary authority and should therefore not be subject to Directive 2015/2366 in accordance with Article 1(e) of that Directive.</p>	<p>modifications. Under PSD 2, the legal relationship between account servicing PSPs and consumers in many cases is very different from the relationship envisaged by Recital (9) between digital euro users and PSPs:</p> <p>Under PSD 2, a positive credit balance in a payment account typically is a claim of the account holder against the PSP founded in the law of obligations. Consequently, it would fall into the insolvency estate of the PSP in case of the account managing PSP’s insolvency (thus the need for deposit insurance). Account balances can be directly “credited” and “debited” under PSD 2. The account balance is the root of title (of the claim of the account holder against the account servicing PSP); when it is changed (through credits or debits), the amount “owned” by the account holder changes.</p> <p>By contrast it appears to us that the services by PSPs as envisaged by this draft Regulation seem to be similar to offering custodial wallets rather than payment accounts in the sense of PSD 2. The settlement appears to take place in the central ledger operated by the ECB (for online transactions, see Article 30 (2)) or in the local storage devices of the payer and payee (for offline transactions, see Article 30 (3)). The insolvency of a PSP would not affect digital euro holders (as stated at the end of recital (9)).</p> <p>Given these considerable conceptual differences, we are sceptic to what extent a direct application of PSD 2 rules to the digital euro would be appropriate. For example:</p> <ul style="list-style-type: none"> <li>• Is the regime of prudential regulation under PSD 2 appropriate for the digital euro, if in case of the digital euro, digital euro users are not exposed to insolvency risk from a PSP?</li> <li>• Are modifications to the liability regime under PSD 2 (e.g. Artt. 73, 74 PSD 2) necessary in light of the fact that the ECB performs the settlement of digital euro payment transactions; e.g. what consequences will mistakes at ECB level have?</li> </ul> <p><u>We would kindly ask for a comprehensive analysis by the Commission on (1) how all the different rules of PSD 2 would apply to the digital euro, (2) whether modifications would be necessary and (3) to what extent such modifications have already been proposed in the PSD3/PSR proposal.</u></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Please also refer to our comprehensive comment above at Recital (9).</p> <p>BE: (Drafting): (22) In accordance with Directive 2015/2366 of the European Parliament and the Council, the notion of ‘funds’ means banknotes and coins, scriptural money or electronic money. As an <b>new form evolution of generally accessible</b> central bank money with legal tender, the digital euro should be considered as funds under Directive 2015/2366. It should be ensured that payment service providers distributing the digital euro should be subject to the <b>relevant</b> requirements laid down in this Directive as transposed by Member States and supervised for this purpose by the competent authorities referred to in this Directive as well. When issuing the digital euro, the European Central Bank and national central banks of the Member States whose currency is the euro, as part of the Eurosystem, would be acting in their capacity as monetary authority and should therefore not <b>be</b> subject to Directive 2015/2366 in accordance with Article 1(e) of that Directive.</p> <p>BE: (Comments): See our comment to Recital 9: it is important to clarify that PSPs do not provide the entire range of services typically associated with payment accounts as defined in PSD2. Notably, PSPs do not provide settlement services and they should rather be considered as payment initiation service providers (PISPs) and account information service providers (AISPs) within the meaning of PSD2. As a result, we doubt that all the provisions of PSD2 are to be observed by PSPs. The Regulation should therefore identify which provisions of PSD2 are relevant. It may also be</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	necessary to apply some targeted amendments to PSD2 with regards to digital euro payment services. At this stage, we do not making concrete drafting suggestions in this respect.
<p>(23) Digital euro payment accounts are a category of payment accounts denominated in euro through which digital euro users are able to carry out inter alia the following transactions: place funds, withdraw cash and execute and receive payment transactions to and from third parties, irrespective of the technology used and the structure of the ledger or of the data (e.g. whether digital euros are recorded as holding balances or units of value). Where these activities require processing of personal data, the payment service providers should be controllers.</p>	<p>DE: (Drafting): (23) <b><u>Through D</u></b>digital euro payment accounts <b>are a category of payment accounts denominated in euro through which digital euro</b> users are able to <b><u>access digital euro recorded in the digital euro settlement infrastructure or in an offline digital euro device and to initiate or receive digital euro payment transactions, whether offline or online, and irrespective of technology and data structure</u></b> <del>carry out inter alia the following transactions: place funds, withdraw cash and execute and receive payment transactions to and from third parties, irrespective of the technology used and the structure of the ledger or of the data (e.g. whether digital euros are recorded as holding balances or units of value)</del>. Where these activities require processing of personal data, the payment service providers should be controllers.</p> <p>DE: (Comments): For the reasons explained on our comments to Recitals (9) and (22), we are sceptic to what extent digital euro payment accounts could be a category of “payment accounts” within the meaning of PSD 2. In any case, they should not have a “denomination”, as per the legal concept as explained in Recital (9), they only hold the keys to access digital euro holdings that are stored elsewhere (in the ECB ledger).</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Also, it appears to us that digital euro payment accounts are not used to “execute” digital euro payment transactions (which would be part of the definition of “payment account” according to Article 4 (12) of PSD 2). In line with the legal concept developed in Recital (9) and as stated in the definition in Article 2 (5), they are used to “initiate or receive digital euro payment transactions”. This bears some similarities with payment initiation services under PSD 2 – with the difference that a payment initiation service would initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider (cf. Article 4 (15) of PSD 2), while – to our understanding and in line with the legal relationships described in Recital (9) – digital euro users would not hold a “payment account” with the ECB.</p>
<p>(24) Account servicing payment service providers under Directive 2015/2366 should provide funding and defunding services to their clients, regardless of their ability to provide the liquidity source for those funds in central bank money. At the request of their clients, in view of successfully carrying out funding and defunding</p>	<p>NL: (Comments): <u>NL Comment</u>: Please refer to our comments to Article 13.</p> <p>BE: (Drafting): (24) Account servicing payment service providers under Directive 2015/2366 should provide funding and defunding services to their clients <b>who hold digital euro payment accounts</b>, regardless of their ability to provide the liquidity source for those funds in central bank money. At the request of their clients, in view of successfully carrying out funding and defunding</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>services, account servicing payment service providers that are allowed to have an account at the central bank should provide account servicing payment service providers that are not allowed to have an account at the central bank with access to payment systems, and similarly should pass through the settlement infrastructure the transfer orders of the account servicing payment service providers that are not allowed to have an account at the central bank, in an objective, proportionate and non-discriminatory manner.</p>	<p>services, account servicing payment service providers that are allowed to have an account at the central bank should provide account servicing payment service providers that are not allowed to have an account at the central bank with access to payment systems, and similarly should pass through the settlement infrastructure the transfer orders of the account servicing payment service providers that are not allowed to have an account at the central bank, in an objective, proportionate and non-discriminatory manner.</p> <p>BE: (Comments): Drafting clarification.</p> <p>PT: (Comments): In our view, the proposed recital does not consider the possibility that some PSPs which are not credit institutions may be allowed, in the near future, to have an account at the central bank (e.g. PI and EMI). In view of the changes which are being proposed in the context of the PSD3 proposal, we suggest that the recital is monitored to also cater for such possibility, if necessary, once the relevant legislative amendments are in place.</p>
<p>(25) For the purpose of properly enforcing any holding limits on the use of the digital euro decided upon by the European Central Bank,</p>	<p>NL: (Comments): <u>NL Comment</u>: We understand the need for a single access point of digital euro user identifiers and related holding limits, but are wondering why the Commission abandoned the option to have</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>when on-boarding digital euro users, or during ex-post checks where appropriate, payment service providers in charge of distributing the digital euro should verify whether their prospective or existing customer already has digital euro payment accounts. The European Central Bank may support payment service providers in performing the task of enforcing any holding limits, including by establishing alone or jointly with national central banks a single access point of digital euro user identifiers and the related digital euro holding limits. The European Central Bank should implement appropriate technical and organisational measures, including state-of-the-art security and privacy-preserving measures, to ensure that the identity of individual digital euro users cannot be linked with the information in</p>	<p>only one digital euro account per user?</p> <p>IT: (Comments): <b>IT</b> – see also our comments at art. 13(7): we propose to provide individuals/natural persons with the possibility to open a single digital euro account with a single PSP. Therefore, there would be no need, in the single access point of digital euro user identifiers, to store the digital euro holding limits. In this respect, it is also essential to clarify whether business/legal persons will have an holding limit equal to zero: in that scenario, it could be envisaged to differentiate the rules applicable to business/legal persons and allow them to open accounts with different PSPs.</p> <p>DE: (Comments): We will likely have further comments on this recital, which we will share together with our general position on instruments limiting the store of value function of a digital euro and, in particular, on the question to which extent member states should play a role in this context.</p> <p>BE: (Drafting): (25) For the purpose of properly enforcing any holding limits <del>on the use of the applied to</del> digital euro <b>holdings as</b> decided upon by the European Central Bank, when on-boarding digital euro users, or during ex-post checks where appropriate, payment service providers <del>in charge of</del> distributing the digital euro should verify whether their prospective or existing <b>digital euro</b> customers already <del>has</del> <b>have</b> digital euro payment accounts. The European Central Bank may support payment service providers in performing the task of enforcing any holding limits, including by establishing alone or jointly with national central banks a single access point of</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>the single access point by entities other than payment service providers whose client or potential customer is the digital euro user. The European Central Bank should be controller to the extent that these activities require processing of personal data. When the European Central Bank establishes the single access point together with the national central banks, they should be joint controllers.</p>	<p>digital euro user identifiers and the related digital euro holding limits. The European Central Bank should implement appropriate technical and organisational measures, including state-of-the-art security and privacy-preserving measures, to ensure that the identity of individual digital euro users <del>cannot be linked with the information in</del> <b>can only be accessed through</b> the single access point by <del>entities other than</del> payment service providers whose client or potential customer is the digital euro user. [The European Central Bank should be controller to the extent that these activities require processing of personal data. When the European Central Bank establishes the single access point together with the national central banks, they should be joint controllers.]</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>Furthermore, it is at this stage not clear to us whether the single access point will as such contain the identity of all individual digital euro users, or whether it will only provide an access to other databases (e.g. held by PSPs) that contain the identity of such users. More information is required to assess the privacy impact of the single access point.</p> <p>Finally, we are not convinced that the Eurosystem would be a controller of data processing that takes place through the access point, notably if the Eurosystem itself has no access to the personal data contained in or accessed through the access point and if the data processing can only be done by the PSPs. Enforcing holding limits is a task of the PSPs, not of the Eurosystem, and the provision of technical support by providing an access point would in our opinion not necessarily make the Eurosystem a data controller. More information is required to assess the privacy impact.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>PT: (Comments): As to the multiple digital euro holdings, we are still assessing the trade-off between competition and the freedom of users versus the technical challenges. The single access point, as referred to in this Recital, raises a set of questions that we consider pertinent for such assessment. Firstly, it is established that the ECB “may” support PSPs in performing the task of enforcing any holding limits, which, in our view, does not provide for a sufficient level of legal certainty. While we understand the ECB has the interest to assure a robust limitation setting and controlling framework, we would suggest a more legally binding draft. Secondly, the proposal states that such a mechanism may be established by the ECB alone or jointly with national central banks. Further clarification is needed in the involvement of national central banks due to the complexity of such a mechanism and the possible liability resulting from failures or unavailability of the single access point. Thirdly, it is difficult to understand how the control of such holding limits will be made without the processing of significant personal data or at least a higher amount of personal data than would be necessary if users could only have one digital euro payment account. Finally, even though the proposal establishes that PSPs will be responsible to monitor the enforcement of such holding limits, the proposal is silent regarding the possibility of technical failures or temporary unavailability of the single access point.</p>
(26) To support universal access to the digital euro by the general public in the euro area, and to foster innovation and a high level of	<p>IT: (Comments): IT – we would make a reservation for a deeper analysis on the part of this recital according to which crypto asset services providers should also be allowed to distribute the digital euro.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>competition in the retail payment market, all the relevant intermediaries should be able to distribute the digital euro. All account servicing payment service providers under Directive 2015/2366, including credit institutions, electronic money institutions, payment institutions, post office giro institutions which are entitled under national law to provide payment services, the European Central Bank and national central banks of Member States whose currency is the euro, as part of the Eurosystem, when not acting in their capacity as monetary authority or other public authorities, and Member States or their regional or local authorities when not acting in their capacity as public authorities should be able to provide digital euro payment accounts and the related digital euro payment services, regardless of their</p>	<p>FI: (Comments): In article 13 (6) digital euro users are excluded from contractual relationship with ECB and national central banks. However in this recital ECB and national central banks should be able to provide digital euro payment accounts so is there discrepancy between these?</p> <p>DE: (Comments): Could the Commission kindly clarify whether the digital Euro qualifies as “central bank money” pursuant to Art. 5(8) Regulation (EU) 2022/858 (DLT Pilot Regulation) and thus may (have to) be used for the settlement of payments where retail investors are direct participants in DLT Settlement Systems (Art. 5(5) DLT Pilot Regulation)?</p> <p>Could the Commission kindly clarify whether the notion of crypto asset services providers under MiCA that are account servicing payment service providers refer to credit institutions and e-money-institutions as per Article 48 (1) (a) MiCA?</p> <p>Also, what was the Commission’s reasoning behind separately mentioning crypto-asset service providers given that the decisive criterion is their status as account servicing payment service provider?</p> <p>BE: (Drafting): (26) To support universal access to the digital euro by the general public in the euro area, and to foster innovation and a high level of competition in the retail payment market, all the relevant intermediaries should be <b>able allowed</b> to distribute the digital euro. All account servicing</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>location in the European Economic Area. Crypto asset services providers regulated under Regulation 2023/1114 of the European Parliament and of the Council<sup>14</sup> that are account servicing payment service providers under Directive 2015/2366 should also be allowed to distribute the digital euro. In accordance with Directive 2015/2366, account servicing payment service providers should be obliged to provide access to data on payment accounts to payment initiation and account information service providers based on Application Programming Interfaces (APIs), to allow them to develop and</p>	<p>payment service providers under Directive 2015/2366, including credit institutions, electronic money institutions, payment institutions, post office giro institutions which are entitled under national law to provide payment services, the European Central Bank and national central banks of Member States whose currency is the euro, as part of the Eurosystem, when not acting in their capacity as monetary authority or other public authorities, and Member States or their regional or local authorities when not acting in their capacity as public authorities should be <b>able allowed</b> to provide digital euro payment accounts and the related digital euro payment services, regardless of their location in the European Economic Area. Crypto asset services providers regulated under Regulation 2023/1114 of the European Parliament and of the Council<sup>15</sup> that are account servicing payment service providers under Directive 2015/2366 should also be allowed to distribute the digital euro. In accordance with Directive 2015/2366, account servicing payment service providers should be obliged to provide access to data on <b>digital euro</b> payment accounts to payment initiation and account information service providers based on Application Programming Interfaces (APIs), to allow them to develop and provide innovative additional services.</p> <p>BE: (Comments): Editorial drafting suggestions.</p>

<sup>14</sup> Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, OJ L150, 9.6.2023, p. 40

<sup>15</sup> Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, OJ L150, 9.6.2023, p. 40

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
provide innovative additional services.	
(27) In case the availability of the digital euro were contingent upon free business decisions by all payment service providers, the digital euro could be marginalised or even excluded by the payment service providers. That could prevent users from paying and receiving payments in a form of currency endowed with the status of legal tender. In that case, the singleness in the use of the digital euro throughout the euro area required by Article 133 TFEU, would not be guaranteed. It is therefore essential that designated payment service providers be required to distribute digital euro basic services.	<p>BE: (Drafting): (27) In case the availability of the digital euro were contingent upon free business decisions by all payment service providers, the digital euro could be marginalised or even excluded by the payment service providers. That could prevent users from paying and receiving payments in a <b>digital</b> form of currency endowed with the status of legal tender. In that case, the singleness in the use of the digital euro throughout the euro area required by Article 133 TFEU, would not be guaranteed. It is therefore essential that designated payment service providers <del>be</del> <b>are</b> required to distribute digital euro basic services.</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>PT: (Comments): For the moment, we support the proposal to establish that designated payment service providers – i.e., credit institutions – are required to distribute digital euro basic services.</p>
(28) A requirement to distribute the digital euro should be proportionate to the objective of	<p>NL: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>ensuring an effective use of the digital euro as a legal tender means of payment. Restricting that obligation to credit institutions that are already active in retail business services would ensure the effectiveness of legal tender status, while avoiding putting a disproportionate burden on payment service providers with specialised, non-consumer oriented business models. The obligation to distribute the digital euro is therefore limited to credit institutions providing payment account services at the request of their clients. This is without prejudice to the application of Chapter IV of the Payment Account Directive on access to payment account with basic features to the access to digital euro account with basic features to consumers which are not client of a credit institution.</p>	<p><u>NL Comment</u>: We understand the reasoning of the Commission, but are of the view that the competitive disadvantage for banks should not be underestimated. This obligation to offer basic digital euro payment services free of charge could potentially give banks a competitive disadvantage, due to compliance burden and both one-off and ongoing costs that other PSPs will not have. This should be further considered and discussed, also in combination with the compensation model. Please also refer to our comments to Article 14 below.</p> <p>BE: (Drafting): (28) A <b>requirement obligation</b> to distribute the digital euro should be proportionate to the objective of ensuring an effective use of the digital euro as a legal tender means of payment. Restricting that obligation to credit institutions that <b>are</b> already <b>active in provide</b> retail <b>business payment</b> services would <b>sufficiently</b> ensure the effectiveness of <b>the</b> legal tender status, while avoiding putting a disproportionate burden on payment service providers with specialised, non-consumer oriented business models. The obligation to distribute the digital euro <b>is should</b> therefore <b>be</b> limited to credit institutions providing payment account services at the request of their clients. <del>This is without prejudice to the application of Chapter IV of the Payment Account Directive on access to payment accounts with basic features, to the access to digital euro account with basic features to consumers which are not client of a credit institution.</del> <b>Consumers who are not a client of a credit institution that provides digital euro payment account services, should be guaranteed access to digital euro accounts with basic features in accordance with the provisions of Chapter IV of the Payment Account Directive.</b></p> <p>BE: (Comments): Editorial drafting suggestions.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PT: (Comments): For the moment and as a preliminary remark, we support that credit institutions are required to provide digital euro basic services, for free. Nevertheless, it is important to highlight that this is a more ambitious approach than the one followed in PAD, which establishes that the provision of payment accounts with basic features may be subject to “<i>a reasonable fee</i>”.</p>
<p>(29) To ensure a wide usage of the digital euro, including for people who do not have a non-digital euro payment account, do not wish to open a digital euro payment account at a credit institution or at another payment service providers that may distribute the digital euro, or persons with disabilities, functional limitations or limited digital skills, and elderly persons, it is essential that public entities, including local or regional authorities, or postal offices, distribute the digital euro. For that purpose, Member</p>	<p>NL: (Comments): <u>NL Comment</u>: Please also refer to our comments to Article 14 below.</p> <p>PL: (Drafting): PL: (29) To ensure a wide usage of the digital euro, including for people who do not have a non-digital euro payment account, do not wish to open a digital euro payment account at a credit institution or at another payment service providers that may distribute the digital euro, or persons with disabilities, functional limitations or limited digital skills, and elderly persons, it is essential that public entities, including local or regional authorities, or postal offices, distribute the digital euro. For that purpose, Member States whose currency is the euro should designate entities that should carry out that task within their territory. Such entities, as payment service providers under Directive (EU) 2015/2366, should comply with the provisions of this Regulation, including Directive (EU) 2015/2366 and Directive (EU) 2015/849.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>States should designate entities that should carry out that task within their territory. Such entities, as payment services providers under Directive (EU) 2015/2366, should comply with the provisions of this Regulation, including Directive (EU) 2015/2366 and Directive (EU) 2015/849.</p>	<p>PL: (Comments): PL: We suggest to clarify the scope of this obligation. Additionally, it should be discussed whether this obligation should apply also to Member States which have signed an arrangement pursuant to the Article 18</p> <p>IT: (Drafting): IT (29) To ensure a wide usage of the digital euro, including for people who do not have a non-digital euro payment account, do not wish to open a digital euro payment account at a credit institution or at another payment service providers that may distribute the digital euro, or persons with disabilities, functional limitations or limited digital skills, and elderly persons, it is <b>essential appropriate</b> that public entities, including local or regional authorities, or postal offices, distribute the digital euro. For that purpose, Member States should designate entities that should carry out that task within their territory. Such entities, as payment services providers under Directive (EU) 2015/2366, should comply with the provisions of this Regulation, including Directive (EU) 2015/2366 and Directive (EU) 2015/849.</p> <p>IT: (Comments): <b>IT</b> - We believe that it is better not to be too prescriptive in a whereas.</p> <p>BE: (Drafting): (29) To ensure a wide usage of the digital euro, including for people who do not have a non-digital euro payment account, do not wish to open a digital euro payment account at a credit institution or at another payment service providers that may distribute the digital euro, or</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>persons with disabilities, functional limitations or limited digital skills, and elderly persons, it is essential that public entities, including local or regional authorities, or postal offices, distribute the digital euro. For that purpose, Member States should designate entities that should carry out that task within their territory. Such entities, as payment services providers under Directive (EU) 2015/2366, should comply with the provisions of this Regulation, including <b>the relevant provisions of</b> Directive (EU) 2015/2366 and Directive (EU) 2015/849.</p> <p>BE: (Comments): See our comments to Recitals 9 and 22.</p> <p>PT: (Comments): Although we believe the digital euro should be an inclusive means of payment – accessible to all individuals – addressing the main factors leading to financial and digital exclusion, we have doubts about the proposed approach (e.g. will this approach be suitable to address those situations where individuals are not able to open/hold a payment account with basic features?).</p>
(30) To enable a wide usage of the digital euro and keep pace with innovation in digital payments, digital euro payment services should include basic and additional digital euro	<p>BE: (Drafting): (30) To enable a wide usage of the digital euro and keep pace with innovation in digital payments, digital euro payment services should <b>both</b> include basic and additional digital euro</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>payment services. Basic digital euro payment services are payment, account or support services that are considered essential for the use of the digital euro by natural persons. This includes inter alia the provision of at least one payment instrument to natural persons. Only account servicing payment service providers under Directive 2015/2366 should provide the entire set of basic digital euro services. In addition to these basic digital euro payment services, account servicing payment service providers and other payment service providers under Directive 2015/2366 may develop and provide additional digital euro payment services. Additional digital euro payment services include for instance conditional digital euro payment transactions like pay-per-use or payment initiation services. The digital euro</p>	<p>payment services. Basic digital euro payment services are payment, account or support services that are considered essential for the use of the digital euro by natural persons. This includes inter alia the provision of at least one payment instrument to natural persons. Only account servicing payment service providers under Directive 2015/2366 should provide the entire set of basic digital euro services. In addition to these basic digital euro payment services, account servicing payment service providers and other payment service providers under Directive 2015/2366 may develop and provide additional digital euro payment services. Additional digital euro payment services include for instance <del>conditional</del> <b>conditioned</b> digital euro payment transactions like pay-per-use or payment initiation services. The digital euro infrastructure should facilitate the deployment of such optional services.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
infrastructure should facilitate the deployment of such optional services.	
(31) Pursuant to its powers under the Treaties and in line with the provisions of this Regulation, the European Central Bank should be able to set limits on the use of the digital euro as a store of value. The effective use of the digital euro as a legal tender means of payment should be preserved through limits on inter-PSP or merchant fees.	<p>NL: (Comments): <u>NL Comments</u>: we recognise the need to have safeguards in place to mitigate financial stability risks.</p> <p>PT: (Drafting): (31) Pursuant to its powers under the Treaties and in line with the provisions of this Regulation, the European Central Bank should be able to set limits on the use of the digital euro as a store of value. <b><i>The effective use of the digital euro as a legal tender means of payment should be preserved through limits on inter-PSP or merchant fees.</i></b></p> <p>PT: (Comments): Please consider to divide this recital in two, one reflecting art 16 (first sentence) and another on art 17 (regarding fees).</p>
	<p>PT: (Drafting): <b><i>(31a) The effective use of the digital euro as a legal tender means of payment should be</i></b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<i>preserved through limits on inter-PSP or merchant fees.</i>
<p>(32) An unrestricted use of digital euro as a store of value could endanger financial stability in the euro area, with adverse effects on credit provision to the economy by credit institutions. This may require that the European Central Bank, with a view to ensuring the stability of the financial system, and in line with the principle of proportionality, introduce limits on the digital euro's use as a store of value. The policy tools that could be used for this purpose include, but would not be restricted to, quantitative limits to individual digital euro holdings and limits to conversion of other categories of funds to digital euro in a specified timeframe. When deciding on the parameters and use of the instruments referred to in paragraph 1, the European Central Bank should respect the principle of an open</p>	<p>NL: (Comments): <u>NL Comment</u>: Please refer to our comments to Article 16.</p> <p>DE: (Comments): We will likely have further comments on this paragraph, which we will share together with our general position on instruments limiting the store of value function of a digital euro and, in particular, on the question to which extent member states should play a role in this context.</p> <p>BE: (Drafting): (32) An unrestricted use of digital euro as a store of value could endanger financial stability in the euro area, with adverse effects on credit provision to the economy by credit institutions. This may require that the European Central Bank, with a view to ensuring <b>the effective implementation of monetary policy and maintaining</b> the stability of the financial system, and in line with the principle of proportionality, introduce limits on the digital euro's use as a store of value. The policy tools that could be used for this purpose <b>could</b> include, but would not be restricted to, quantitative limits to individual digital euro holdings and limits to conversion of other categories of funds to digital euro in a specified timeframe. When deciding on the parameters and use of the instruments referred to in paragraph 1, the European Central Bank should respect the principle of an open market economy with free competition, in accordance with Article 127(1) TFEU.</p> <p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
market economy with free competition, in accordance with Article 127(1) TFEU.	<p>(Comments): The limits should safeguard, amongst others, the intermediary role of credit institutions within the monetary system which is vital for the execution of monetary policy by the Eurosystem. However, the Regulation seems to emphasise financial stability considerations, while financial stability is mere an ancillary task of the Eurosystem. Furthermore, setting limits while being obliged to ensure the usability and acceptance of the digital euro, as stipulated in Article 16(2)(b) of the Regulation, should not supersede the primary Eurosystem objective of preserving price stability. It should therefore be clarified that the limits set by the ECB should ensure the effective implementation of monetary policy.</p> <p>PT: (Comments): The possible impact of the digital euro on financial stability needs to be carefully estimated as the safeguards and their suitability to prevent and mitigate the materialisation of possible risks. The proposal should address several issues as how the different levels of competence (between the EU and the ECB/Eurosystem) might need to interact on the establishment of holding limits, also considering that this touches on issues of financial stability (which is a competence that is not allocated to any specific EU institution, being shared between the EU and the Member State) and monetary policy definition and implementation (which is an EU exclusive competence conferred on the ECB). Additionally, please note that reference to limits to conversion is not reflected in the operative part of the text. This may create some doubts regarding which limits should apply in practice.</p>
(33) Limits should not be used to substitute for early intervention or other supervisory	BE: (Comments):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>measures. Neither should such limits be imposed to address situations of individual credit institutions which competent resolution authorities or other relevant authorities would normally deal with by using tools and powers at their disposal, including suspensions of payment, moratoria, measures available under Directive 2013/36/EU, Directive 2014/59/EU or Regulation (EU) No 806/2014, or other similar measures which are aimed at restoring the viability, resolving the institution concerned or otherwise remedying the situation of financial distress.</p>	<p>We are of the opinion that <u>holding limits</u> should be set by the Eurosystem as they primarily serve maintaining financial stability and ensuring the effective implementation of monetary policy, this is including setting the limit for holding digital euro in an offline device or wallet. <u>Transaction limits</u> in case of offline digital euro payments, on the other hand, could indeed be set by the Commission as these primarily serve AML purposes. These respective competences should be clarified throughout the Regulation.</p> <p>PT: (Comments): This reference should be included in the operative part of the text, due to its importance, even though it is a materialization of the obligation of the ECB to respect the principle of an open market economy with free competition, already referred to in the previous Recital.</p>
<p>(34) Digital euro users should have the choice to use the digital euro either online or offline, or both, subject to the limits set respectively by the European Central Bank and by a Commission</p>	<p>NL: (Comments): <u>NL Comment</u>: In our opinion, storing the identifier of the local storage device during offline use of the digital euro is also processing personal data within the meaning of the GDPR, since this can be traced back to the person. Is that correct?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>implementing act. The payment service providers should register and de-register the local storage devices for offline digital euro payment transactions of their customers. The payment service providers should only store the identifier of the local storage device used for offline digital euro for the duration of facilitating the provision of offline digital euro to their customers. The payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identifier of the device of individual digital euro users cannot be used for other purposes other than for the purpose of the provision of offline digital euro.</p>	<p>IT: (Comments): IT – We wonder if this recital, which is mainly copied in the following recital n. 35, is supposed to stay (maybe it should be deleted)</p> <p>PT: (Drafting): (34) Digital euro users should have the choice to use the digital euro either online or offline, or both, subject to the limits set respectively by the European Central Bank and by a Commission implementing act. The payment service providers should register and de-register the local storage devices for offline digital euro payment transactions of their customers. The payment service providers should only store the identifier of the local storage device used for offline digital euro for the duration of facilitating the provision of offline digital euro to their customers. The payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identifier of the device of individual digital euro users cannot be used for other purposes other than for the purpose of the provision of offline digital euro. <b><i>For instance, these measures should adequately prevent the identifier of the device of individual digital euro users from being compared with the information about the digital euro user to identify the data subject, except for the purpose of Article 37.</i></b></p> <p>PT: (Comments): The proposal seems to be silent on the registration of local storage devices for offline digital euro payment transactions (e.g., where PSPs should apply for such registration? By whom such information will be accessible? What will happen if PSPs fail to comply with such</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	requirements?)
<p>(35) The payment service providers should register and re-register the local storage devices for offline digital euro payment transactions of their customers. The payment service providers should only store the identifier of the local storage device used for offline digital euro for the duration of facilitating the provision of offline digital euro to their customers. The payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identifier of the device of individual digital euro users cannot be compared with the information about the digital euro user in order to identify</p>	<p>NL: (Comments): <u>NL Comment</u>: This recital seems to partly overlap with the previous recital.</p> <p>DE: (Comments): This is a duplication (with some small differences) with Recital 34. Is this intentional? If so, what meaning do the differences have and how can they be reconciled? Otherwise, we suggest to delete Recital (35).</p> <p>PT: (Drafting): <del><b>(35) — The payment service providers should register and re-register the local storage devices for offline digital euro payment transactions of their customers. The payment service providers should only store the identifier of the local storage device used for offline digital euro for the duration of facilitating the provision of offline digital euro to their customers. The payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identifier of the device of individual digital euro users cannot be compared with the information about the digital euro user in order to identify the data subject, except for the purpose of Article 37. (deleted)</b></del></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
the data subject, except for the purpose of Article 37.	<p>PT: (Comments): We propose a minor adjustment as part of this Recital seems to replicate the previous one.</p> <p>FR: (Comments): Recital 35 largely overlaps with recital 34. We suggest merging the two, adding the reference to article 37 at the end of recital 34.</p>
<p>(36) The digital euro should allow for a smooth payment experience. Any instruments that the European Central Bank might employ to limit the digital euro's store of value function should take this objective into account.</p> <p>Automated mechanisms that link a digital euro payment account with a non-digital euro payment account should allow for an uninhibited payment functionality of the digital euro, by ensuring that transactions are successfully executed in the presence of</p>	<p>NL: (Comments): <u>NL Comment</u>: We think it is important that a digital euro is also an attractive means of payment for corporate transactions. We understand from the Commission that the (reverse) waterfall functionality and conditional payment orders could make this possible, but only if the technology is ready and safe to use by the time this Regulation enters into force.</p> <p>BE: (Drafting): (36) The digital euro should allow for a smooth payment experience. Any instruments that the European Central Bank might employ to limit the digital euro's store of value function should take this objective into account. Automated mechanisms that link a digital euro payment account with a non-digital euro payment account should allow for an uninhibited payment functionality of the digital euro, by ensuring that transactions are successfully executed <b>in the presence of</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>individual digital euro holding limits that may become binding on the payer's or payee's side. In particular, digital euro users should be able to initiate a digital euro payment transaction even though the amount of their digital euro holdings is inferior to the amount of the transaction, by automatically mobilising funds from a non-digital euro payment account to complement the transaction amount ('reverse waterfall functionality'). Conversely, digital euro users should be able to receive digital euro payment transactions even though the amount of the transaction exceeds the limit set on their digital euro holdings, by automatically transferring funds in excess of the limit to a non-digital euro payment account ('waterfall functionality'). Such payment functionalities should be expressly authorized by digital euro users.</p>	<p><b>taking account of</b> individual digital euro holding limits that may become binding on the payer's or payee's side. In particular, digital euro users should be able to initiate a digital euro payment transaction even though the amount of their digital euro holdings is inferior to the amount of the transaction, by automatically mobilising funds from a non-digital euro payment account to complement the transaction amount ('reverse waterfall functionality'). Conversely, digital euro users should be able to receive digital euro payment transactions even though the amount of the transaction exceeds the limit set on their digital euro holdings, by automatically transferring funds in excess of the limit to a non-digital euro payment account ('waterfall functionality'). Such payment functionalities should be expressly authorized by digital euro users. Where a digital euro payment account held by one payment service provider is linked with a non-digital euro payment account held by another payment service provider, they should enter into an arrangement specifying their respective roles and responsibilities under data protection rules, as well as agree on the security measures necessary to ensure secure transmission of personal data between the two payment service providers.</p> <p>PT: (Drafting): (36) The digital euro should allow for a smooth payment experience. Any instruments that the European Central Bank might employ to limit the digital euro's store of value function should take this objective into account. Automated mechanisms that link a digital euro payment account with a non-digital euro payment account should allow for an uninhibited payment functionality of the digital euro, by ensuring that transactions are successfully executed in the presence of individual digital euro holding limits that may become binding on the payer's or payee's side. In particular, digital euro users should be able to initiate a digital euro payment transaction even though the amount of their digital euro holdings is inferior to the amount of the transaction, by automatically mobilising funds from a non-digital euro payment account to complement the transaction amount ('reverse waterfall functionality'). Conversely, digital euro users should be</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Where digital euro payment account held by one payment service provider is linked with non-digital euro payment account held by another payment service provider, they should enter into an arrangement specifying their respective roles and responsibilities under data protection rules, as well as agree on the security measures necessary to ensure secure transmission of personal data between the two payment service providers.</p>	<p>able to receive digital euro payment transactions even though the amount of the transaction exceeds the limit set on their digital euro holdings, by automatically transferring funds in excess of the limit to a non-digital euro payment account ('waterfall functionality'). Such payment functionalities should be expressly authorized by digital euro users. <del><i>Where digital euro payment account held by one payment service provider is linked with non-digital euro payment account held by another payment service provider, they should enter into an arrangement specifying their respective roles and responsibilities under data protection rules, as well as agree on the security measures necessary to ensure secure transmission of personal data between the two payment service providers.</i></del></p> <p>PT: (Comments): It is difficult to understand what the content of the arrangement to be established between PSPs will be, given that the subject of personal data protection is already widely regulated by European legislation. Therefore, we suggest deleting the last paragraph of this Recital or at least its clarification. Additionally, please note that the terms 'reverse waterfall functionality' and 'waterfall functionality' are not mentioned in the operative part of the text. In our view, these terms should be included in the definitions (article 2) and in article 13(4).</p> <p>FR: (Comments): See Comments on Article 16 (same considerations apply to recital 37)</p>
(37) While instruments employed by the	DE:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>European Central Bank to limit an excessive use of the digital euro as a store of value aim at safeguarding financial stability and financial intermediation, they may nonetheless impact on and interact with the European Central Bank's monetary policy stance. Such instruments would therefore need to be applied uniformly across the euro area in order to ensure the use of the digital euro as a single currency and the singleness of the monetary policy. Furthermore, a uniform application would be necessary to ensure a level playing field for payment service providers in the European single market or avoid an overly complex enforcement of any instrument through payment service providers on the basis of digital euro users' residency. Within the framework of this Regulation, the digital euro should not bear interest for the</p>	<p>(Drafting): While instruments employed by the European Central Bank to limit an excessive use of the digital euro as a store of value aim at safeguarding financial stability and financial intermediation, they may nonetheless impact on and interact with the European Central Bank's monetary policy stance. Such instruments would therefore need to be applied uniformly across the euro area in order to ensure the use of the digital euro as a single currency and the singleness of the monetary policy. Furthermore, a uniform application would be necessary to ensure a level playing field for payment service providers in the European single market or avoid an overly complex enforcement of any instrument through payment service providers on the basis of digital euro users' residency. <del>Within the framework of this Regulation, the digital euro should not bear interest for the purposes of primarily using the digital euro as a means of payment while limiting its use as a store of value.</del></p> <p>DE: (Comments): We will likely have further comments on this paragraph, which we will share together with our general position on instruments limiting the store of value function of a digital euro and, in particular, on the question to which extent member states should play a role in this context.</p> <p>See our comment on Article 16 (8).</p> <p>BE: (Drafting): (37) <del>While instruments employed by the European Central Bank to limit an excessive use of the digital euro as a store of value aim at ensuring the effective implementation of monetary policy and</del> safeguarding financial stability and financial intermediation, <del>they may nonetheless impact on and interact with the European Central Bank's monetary policy stance.</del> Such</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>purposes of primarily using the digital euro as a means of payment while limiting its use as a store of value.</p>	<p>instruments would therefore need to be applied uniformly across the euro area in order to ensure the use of the digital euro as a single currency and the singleness of the monetary policy. Furthermore, a uniform application would be necessary to ensure a level playing field for payment service providers in the European single market or avoid an overly complex enforcement of any instrument through payment service providers on the basis of digital euro users' residency. Within the framework of this Regulation, the digital euro should not bear interest for the purposes of primarily using the digital euro as a means of payment while limiting its use as a store of value.</p> <p>BE: (Comments): See our comment to Recital 32.</p> <p>PT: (Comments): We believe it should be clarified what is the purpose and meaning of the reference to 'within the framework of this Regulation'.</p>
<p>(38) Limits to the use of the digital euro for digital euro users residing or established outside the euro area should not be more favourable than for digital euro users residing or established in the euro area, also to cater for</p>	<p>PT: (Comments): We support the principle foreseen in this Recital and in Article 16(5) of the proposal.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
monetary sovereignty and financial stability concerns both within and outside the euro area.	
<p>(39) Any limits to the store of value function that the European Central Bank decided on should be binding on and implemented by the payment service providers distributing the digital euro. While natural or legal persons may have one or more digital euro payment accounts at the same payment service provider or at different payment service providers, they should be subject to an individual holding limit that a digital euro user may allocate across different payment services providers. Payment service providers may offer digital euro users the possibility to legally have a joint digital euro payment account. In this case, any holding limit applied to the joint digital euro payment account</p>	<p>NL: (Comments): <u>NL Comment</u>: We support the idea of a limit to the store of value function, to avoid disruption of financial stability at the introduction of the digital euro. Subsequently, one needs a tool for monitoring any holding limit to ensure the foregoing. It would be helpful to further discuss in more detail (e.g. in light of privacy disuccions) how the Commission and ECB envisage such monitoring. We think this recital can also be of added value in understanding the calculation of applicable holding limits in a specific case.</p> <p>PL: (Drafting): PL: (39) Any limits to the store of value function that the European Central Bank decided on should be binding on and implemented by the payment service providers distributing the digital euro. While natural or legal persons may have one or more digital euro payment accounts at the same payment service provider or at different payment service providers, they should be subject to an individual holding limit that a digital euro user may allocate across different payment service providers. Payment service providers may offer digital euro users the possibility to legally have a joint digital euro payment account. In this case, any holding limit applied to the joint digital euro payment account should be equal to the sum of the allocated holding limits of the digital euro users. Where a digital euro payment account is legally held by only one digital euro user, but can be technically accessed to and used by several persons, upon de facto or legal mandate given by the digital euro user, any holding limit applied to the digital</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>should be equal to the sum of the allocated holding limits of the digital euro users. Where a digital euro payment account is legally held by only one digital euro user, but can be technically accessed to and used by several persons, upon de facto or legal mandate given by the digital euro user, any holding limit applied to the digital euro payment account should remain equal to the holding limit defined for a digital euro payment account held by a single digital euro user, to avoid any circumvention of the holding limits.</p>	<p>euro payment account should remain equal to the holding limit defined for a digital euro payment account held by a single digital euro user, to avoid any circumvention of the holding limits.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>IT: (Comments): <b>IT</b> – see our comment at recital (25) and art. 13(7): we propose to provide individuals/natural persons with the possibility of opening a single digital euro account with a single PSP, while leaving the possibility to open different accounts only to businesses/legal persons, for which a holding limit equal to zero could be envisaged.</p> <p>DE: (Comments): We will likely have further comments on this paragraph, which we will share together with our general position on instruments limiting the store of value function of a digital euro and, in particular, on the question to which extent member states should play a role in this context.</p> <p>PT: (Comments): The proposal does not specify the consequences in possible cases when PSPs fail to comply with the requirement to enforce holding limits or when multiple PSPs are involved in, for instance, transactions that result in a user exceeding the maximum amount of holdings. The possibility to have a joint digital euro payment account is not a distinctive fundamental</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>feature of digital euro holdings, as different users may have different digital euro wallets even if they have only one commercial bank account. In our view, this possibility may increase the technical and privacy related difficulties in imposing the holding limits. We are still assessing the trade-offs between the technical difficulties in implementing this solutions and the gains in terms of functionality for digital euro users.</p> <p>Another aspect we are still assessing is the trade-off between competition and the freedom of users versus the technical challenges posed by the possibility of users having multiple digital euro holdings, particularly in view of the need to impose holding limits. Nevertheless, a possible alternative to this technically challenging possibility is the switching mechanism, allowing users to easily change from payment service provider.</p> <p>FR: (Comments): See Comments on Article 16</p>
<p>(40) To ensure wide access to and use of the digital euro, consistent with its status of legal tender, and to support its role as monetary anchor in the euro area, natural persons residing in the euro area, natural persons who opened a digital euro account at the time they resided in the euro area, but no longer reside there, as well</p>	<p>NL: (Comments): <u>NL Comment:</u> We wonder why the Commission decided that users should not bear any fees for having a digital euro account. One could argue that public money with legal tender status needs to be freely available. In such case, it would make sense to not charge for funding/defunding transactions and changing cash into digital euro's. However, our concern is that fees for regular payment services will rise to cover the costs of mandatory digital euro distribution if banks are not allowed to charge a fee to users for holding a digital euro account. We agree that transactions (including funding and defunding of the digital euro account) should be free for users, since this also applies to current payment transactions.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>as visitors, should not be charged for basic digital euro payment services. That means that such digital euro users should not bear any direct fees for their basic access to and basic use of the digital euro, including not being charged transaction fees or any other fees that are directly associated with the provision of services related to the basic use of the digital euro.</p> <p>Digital euro users should not be required to have or open a non-digital euro payment account or to accept other non-digital euro products. Where the digital euro user agrees to a package of services comprising non-digital euro services and basic digital euro payment services, the payment service provider should be able to charge that package of services at its discretion. In that case, there should not be a differentiated charge for the non-digital euro services when</p>	<p>BE: (Drafting): (40) To ensure wide access to and use of the digital euro, consistent with its status of legal tender, and to support its role as monetary anchor in the euro area, natural persons residing in the euro area, natural persons who <b>were entitled to hold digital euro or</b> opened a digital euro account at the time they resided in the euro area, but no longer reside there, as well as visitors, should not be charged for basic digital euro payment services. That means that such digital euro users should not bear any direct fees for their basic access to and basic use of the digital euro, including not being charged transaction fees or any other fees that are directly associated with the provision of services related to the basic use of the digital euro. Digital euro users should not be required to have or open a non-digital euro payment account or to accept other non-digital euro products. Where the digital euro user agrees to a package of services comprising non-digital euro services and basic digital euro payment services, the payment service provider should be able to charge that package of services at its discretion. In that case, there should not be a differentiated charge for the non-digital euro services when they are offered separately or as part of a package including basic digital euro payment services. Where the digital euro user asks to receive only basic digital euro payment services with a payment service provider, those services should not be charged, including for waterfall and reverse waterfall functionalities where the digital euro user also has a non-digital euro payment account with another payment service provider. Payment service providers should be <b>able allowed</b> to charge digital euro users for additional digital euro payment services beyond the basic digital euro payment services.</p> <p>BE: (Comments): Editorial drafting suggestions.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>they are offered separately or as part of a package including basic digital euro payment services. Where the digital euro user asks to receive only basic digital euro payment services with a payment service provider, those services should not be charged, including for waterfall and reverse waterfall functionalities where the digital euro user also has a non-digital euro payment account with another payment service provider. Payment service providers should be able to charge digital euro users for additional digital euro payment services beyond the basic digital euro payment services.</p>	<p>PT: (Comments): The rationale behind the proposal to ensure that visitors have access to basic digital euro payment services, free-of-charge, is difficult to grasp and, in view of the costs it will represent for credit institutions, the rationale behind this option needs to be further clarified. On the possibility of users not having a non-digital euro payment account linked to their digital euro payment account, we are still assessing the implications for the legal tender status of the digital euro, as the user might not be able to transfer an amount of digital euros which is above the holding limit of the beneficiary (since no waterfall mechanism operates) and therefore the payer cannot be discharged from its payment obligation. The possibility of PSPs charging a fee for a package that includes non-digital euro payment services and digital euro basic services also raises concerns, as it may pose challenges when monitoring and enforcing the provision of digital euro basic services for free.</p>
<p>(41) The European Central Bank or the Eurosystem do not charge payment service providers for the costs it bears to support their provision of digital euro services to digital euro</p>	<p>NL: (Comments): <u>NL Comment</u>: We understand this choice.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
users.	
<p>(42) As the digital euro is a form of the single currency having legal tender status, digital euro payment transactions should not be subject to excessive fees by payment service providers. In particular, granting the digital euro legal tender status, with the corollary of mandatory acceptance, means that merchants would have no choice but to accept digital euro payment transactions. Furthermore, any charge or fee per transaction or period erodes, directly or indirectly, the face value of payments received, which is an essential component of the legal tender status. It is therefore essential that a fee or a charge, as a restriction of the face value of the digital euro, be objectively justified and proportionate to the objective of ensuring an</p>	<p>BE: (Drafting): (42) As the digital euro is a <b>digital</b> form of the single currency having legal tender status, digital euro payment transactions should not be subject to excessive fees <b>charged</b> by payment service providers. In particular, granting the digital euro legal tender status, with the corollary of mandatory acceptance, means that merchants would have no choice but to accept digital euro payment transactions. <del>Furthermore, any charge or fee per transaction or period erodes, directly or indirectly, the face value of payments received, which is an essential component of the legal tender status.</del> It is therefore essential that any fee or a charge, <del>as a restriction of the face value of the digital euro,</del> be objectively justified and proportionate to the objective of ensuring an effective use of the digital euro as a legal tender means of payment.</p> <p>BE: (Comments): We do not agree with the view that charging a fee to merchants for digital euro acquiring services should be considered as an erosion of the face value of the digital euro that is the subject of a payment transaction (neither directly nor indirectly): as long as the merchant effectively receives the amount tendered by the payer during the payment transaction, there is no erosion of the face value. The merchant would usually have to pay separately, at a later stage or at regular intervals for the acquiring services he or she received, and the fees will not be immediately deducted from the amount tendered by the payer. This is in other words a wrong representation of what happens in reality, and should thus be avoided in the Regulation.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
effective use of the digital euro as a legal tender means of payment.	<p>PT: (Comments): This is a very important aspect of this framework. We agree that the pricing should not be left for the market to decide. We also believe that setting price expectations may not be effective in achieving the goal of ensuring that digital euro services are attractive and fair. Therefore, we consider that both inter-PSP fees and Merchant Service Charges (MSC) should be capped. The proposed approach raises significant doubts. For instance:</p> <ul style="list-style-type: none"> <li>• Will these fees be applicable in the first issuance of the digital euro?</li> <li>• Will the ECB report be enough to impose such fees? Or will another legal instrument be needed, particularly considering that, according to Recital 43, “competent authorities (...) should be responsible for ensuring compliance by payment service providers with these maximum fees or charges?”</li> <li>• How the reference to “a representative group of the most efficient payment service providers in a given year” ensures that the sample considered in this exercise includes PSPs from all MS?</li> <li>• How the ECB intends to assess what should be considered a “reasonable margin of profit”?</li> </ul> <p>Finally, the role given to the ECB as a price setter is also questionable. An alternative solution would be to establish caps under this proposal.</p>
(43) To ensure that fees and charges are uniform across the euro area and proportionate, the European Central Bank should regularly monitor their level and, on this basis, publish the	<p>NL: (Comments): <u>NL Comment</u>: Please refer to our comments to Article 17 below.</p> <p>PL:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>corresponding amounts together with an explanatory report. A maximum fee or charge should allow for free competition between intermediaries below that level. Fees or charges should not exceed the relevant costs incurred by payment service providers for the provision of digital euro payment services in relation to digital euro payment transactions, which are objective elements, and may include a reasonable margin of profit. For that purpose, the European Central Bank should use an estimate of the representative average cost incurred by payment service providers across the euro area and should therefore be in a position to collect relevant data from payment service providers. The relevant costs for providing digital euro payment services in relation to digital euro payment transactions</p>	<p>(Drafting):            PL: (43) To ensure that fees and charges are uniform across the euro area and proportionate, the European Central Bank should regularly monitor their level and, on this basis, publish the corresponding amounts together with an explanatory report. A maximum fee or charge should allow for free competition between intermediaries below that level. Fees or charges should not exceed the relevant costs incurred by payment service providers for the provision of digital euro payment services in relation to digital euro payment transactions, which are objective elements, and may include a reasonable margin of profit. For that purpose, the European Central Bank should use an estimate of the representative average cost incurred by payment service providers across the euro area and should therefore be in a position to collect relevant data from payment service providers. The relevant costs for providing digital euro payment services in relation to digital euro payment transactions should be based on the costs incurred by a representative group of the most efficient payment service providers in a given year. Competent authorities designated by Member States whose currency is the euro and by Member States which have signed an arrangement pursuant to Article 18, as applicable, should be responsible for ensuring compliance by payment service providers with these maximum fees or charges.</p> <p>PL:            (Comments):            PL: We suggest to clarify the scope of this obligation</p> <p>BE:            (Comments):            We are of the opinion that it is hardly possible to determine the appropriate amount of maximum fees prior to the effective launch of the digital euro. We are therefore in favour of letting the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>should be based on the costs incurred by a representative group of the most efficient payment service providers in a given year. Competent authorities designated by Member States should be responsible for ensuring compliance by payment service providers with these maximum fees or charges.</p>	<p>market play more freely than currently envisaged and to only regulate fees if market failure can be objectively established a few years (e.g. 2 years) after the launch of the digital euro. Furthermore, we reserve the right to provide comments later on as to (a) the authorities that would be best suited to set maximum fees, whether it be the Eurosystem, the Commission through delegated acts or another authority, (b) the methodology for determining these fees, and (c) the authorities best suited to ensure compliance by PSPs.</p>
<p>(44) Furthermore, to ensure an effective use of the digital euro, it is important that fees or charges are not higher than those requested for comparable private digital means of payment. International card schemes regulated under Regulation (EU) 2015/751 of the European Parliament and the Council<sup>16</sup>, national card</p>	<p>NL: (Comments): <u>NL Comment</u>: Please refer to our comments to Article 17 below.</p> <p>BE: (Drafting): (44) Furthermore, to ensure an effective use of the digital euro, it is important that fees or charges <b>for digital euro payment services</b> are not higher than those requested for <b>payment services for</b> comparable private digital means of payment. International card schemes regulated</p>

<sup>16</sup> Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
schemes, and instant payments at the point of interaction provided by payment service providers should be considered comparable means of payments.	under Regulation (EU) 2015/751 of the European Parliament and the Council <sup>17</sup> , national card schemes, and instant payments at the point of interaction provided by payment service providers should be considered comparable means of payments.  BE: (Comments): Editorial drafting suggestions.
(45) As payment services providers distributing the digital euro would not be in a position to charge fees to natural persons for basic digital euro payment services, an inter-PSP fee may be needed to provide compensation to those payment service providers for the distribution costs. The inter-PSP fee should provide sufficient compensation for the distribution costs of both the distributing	NL: (Comments): <u>NL Comment</u> : Please refer to our comments to Article 17 below.  SI: (Comments): As we understand it, the inter-PSP is received by the distributing PSPs, not by the acquiring PSPs. So how is it possible that the inter-PSP fee is compensating acquiring PSPs?  PL: (Drafting): PL: (45) As payment service providers distributing the digital euro would not be in a position to charge fees to natural persons for basic digital euro payment services, an inter-PSP

<sup>17</sup> Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
and acquiring payment service providers, including a reasonable margin of profit.	<p>fee may be needed to provide compensation to those payment service providers for the distribution costs. The inter-PSP fee should provide sufficient compensation for the distribution costs of both the distributing and acquiring payment service providers, including a reasonable margin of profit.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>BE: (Drafting): (45) As payment services providers distributing the digital euro would not be <b>in a position allowed</b> to charge fees to natural persons for basic digital euro payment services, an inter-PSP fee may be <b>needed charged</b> to provide compensation to those payment service providers for the distribution costs. The inter-PSP fee should provide sufficient compensation for the distribution costs of both the distributing and acquiring payment service providers, including a reasonable margin of profit.</p> <p>BE: (Comments): Editorial drafting suggestions.</p>
(46) The distribution of the digital euro by natural or legal persons residing or established outside the euro area would contribute to foster	<p>BE: (Drafting): (46) The distribution of the digital euro <b>by to</b> natural or legal persons residing or established</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>the international use of the euro. This would also bring benefits to the euro area and other economies by facilitating cross-border payments for the purpose of trade or remittances, in line with the G20 agenda.</p>	<p>outside the euro area would contribute to foster the international use of the euro. This would also bring benefits to the euro area and other economies by facilitating cross-border payments for the purpose of trade or remittances, in line with the G20 agenda.</p> <p>BE: (Comments): In our opinion, the crux of this issue is the distribution of digital euro <u>to</u> persons residing or established outside the euro area, rather than the distribution <u>by</u> intermediaries residing or established outside the euro area.</p>
<p>(47) An excessive distribution of the digital euro outside the euro area could have an unwanted impact on the size and composition of the consolidated balance sheet of the European Central Bank and national central banks. Impacts on monetary sovereignty and financial stability of non-euro area countries may also differ depending on the use of the digital euro outside the euro area. Those impacts could be harmful in case the digital euro replaces the</p>	<p>BE: (Drafting): (47) An excessive distribution of the digital euro <b>to natural or legal persons residing or established</b> outside the euro area could have an unwanted impact on the size and composition of the consolidated balance sheet of the European Central Bank and national central banks. Impacts on monetary sovereignty and financial stability of non-euro area countries may also differ depending on the use of the digital euro outside the euro area. Those impacts could be harmful in case the digital euro replaces the local currency in a high number of domestic transactions. In particular, a situation in which the digital euro becomes dominant in a Member State whose currency is not the euro, thus de facto replacing the national currency, could interfere with the euro area adoption criteria and process set out in Article 140 TFEU. To avoid undesirable effects and prevent monetary sovereignty and financial stability risks, both within and outside the euro area, it is necessary to provide for the possibility for the Union to conclude agreements with third countries, and for the European Central Bank to conclude arrangements with the national</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>local currency in a high number of domestic transactions. In particular, a situation in which the digital euro becomes dominant in a Member State whose currency is not the euro, thus de facto replacing the national currency, could interfere with the euro area adoption criteria and process set out in Article 140 TFEU. To avoid undesirable effects and prevent monetary sovereignty and financial stability risks, both within and outside the euro area, it is necessary to provide for the possibility for the Union to conclude agreements with third countries, and for the European Central Bank to conclude arrangements with the national central banks of Member States whose currency is not the euro and with the national central banks of third</p>	<p>central banks of Member States whose currency is not the euro and with the national central banks of third countries, to specify the conditions for the regular provision of digital euro payment services to digital euro users residing or established outside the euro area. [Such agreements and arrangements should not cover visitors to the euro area, to whom payment service providers established in the European Economic Area<sup>19</sup>, in line with the Agreement on the European Economic Area, may directly provide digital euro payment services].</p> <p>BE: (Comments): We fail to understand the last sentence, according to which the envisaged agreements and arrangements should not cover visitors to the euro area. In our understanding, visitors should be considered as natural or legal persons residing or established in non-participating Member States or third countries, entailing that their access to the digital euro is dependent on the international arrangements concluded subject to Article 18 or Article 19. The topic of access to visitors and the conditions thereof should be further clarified. At this stage, we do not provide concrete drafting suggestions.</p>

<sup>19</sup> Agreement on the European Economic Area (OJ L 1, 3.1.1994, p. 3).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>countries, to specify the conditions for the regular provision of digital euro payment services to digital euro users residing or established outside the euro area. Such agreements and arrangements should not cover visitors to the euro area, to whom payment service providers established in the European Economic Area<sup>18</sup>, in line with the Agreement on the European Economic Area, may directly provide digital euro payment services.</p>	
<p>(48) The provision of digital euro payment services to digital euro users residing or established in a Member State whose currency is not the euro should be subject to a prior arrangement between the European Central</p>	

<sup>18</sup> Agreement on the European Economic Area (OJ L 1, 3.1.1994, p. 3).

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>Bank and the national central bank of the Member State whose currency is not the euro, following a request from the Member State whose currency is not the euro. In line with the Agreement on the European Economic Area, digital euro users residing or established in non-euro area Member States may be provided digital euro payment services by payment service providers established in the European Economic Area.</p>	
<p>(49) The provision of digital euro payment services to digital euro users residing or established in third countries, with the exclusion of third countries or territories that are under a monetary agreement with the Union, should be subject to a prior agreement between the Union and such third country. This should also apply</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>in the case of States that are a party to the Agreement on the European Economic Area or the Convention establishing the European Free Trade Association. Such agreement should be complemented by an arrangement between the European Central Bank and the national central bank of the third country. Intermediaries established in the same country of residence or establishment than digital euro users and payment service providers established in the European Economic Area may provide digital euro payment services to digital euro users residing or established in third countries. Intermediaries providing digital euro payment services in third countries should be subject to adequate regulatory and supervisory requirements, with the objectives to ensure that the digital euro, which is a central bank money,</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>is safely and adequately distributed, and is not misused. Regulatory and supervisory requirements should be determined as part of the conclusion of the international agreement, based on proportionate, objective and uniform criteria. Agreements and arrangements with high-risk third countries identified pursuant to Regulation <i>[please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final)</i> should be restricted, suspended, or terminated.</p>	
<p>(50) The provision of digital euro payment services to digital euro users residing or established in third countries or territories, under a monetary agreement with the Union, should be governed by monetary agreements. Intermediaries established in the same country</p>	<p>IE: (Comments): Clarity on this point will be needed at some stage with regards to the Northern Irish Protocol for Irish citizens living in Northern Ireland.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>of residence or establishment than digital euro users and payment service providers established in the European Economic Area may provide digital euro payment services to digital euro users residing or established in third countries or territories, under a monetary agreement with the Union.</p>	
<p>(51) The use of the digital euro in cross-currency payments would furthermore contribute to foster the international use of the euro. This would also bring benefits to the euro area and other economies by facilitating cross-border payments for the purpose of trade or remittances, in line with the G20 agenda.</p>	
<p>(52) Digital euro users, whether they reside or are established within the euro area or not,</p>	



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>may also have the capacity to receive or initiate cross-currency payments between the digital euro and a local currency. Arrangements concluded between the European Central Bank and national central banks in Member States whose currency is not the euro and in third countries should specify the conditions for access to and use of interoperable payment systems for the purpose of cross-currency payments involving the digital euro.</p>	
<p>(53) Agreements and arrangements related to the provision of digital euro payment services or cross-currency payments involving the digital euro should be concluded on a voluntary basis, in priority with non-euro area Member States. The European Central Bank should cooperate with national central banks of Member States</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
whose currency is not the euro for the purpose of cross-currency payments involving the digital euro.	
(54) The technical design of the digital euro should make it widely accessible to and usable by the general public. That design should, in particular, support access to financially excluded persons or persons at risk of financial exclusion, persons with disabilities by ensuring compliance with accessibility requirements laid down in Annex I of Directive (EU) 2019/882 of the European Parliament and the Council <sup>20</sup> (European Accessibility Act), persons with functional limitations who would also benefit	<p>NL: (Comments): <u>NL Comment</u>: We support the inclusive nature of the digital euro.</p> <p>PT: (Comments): While we agree with the policy option of ensuring an inclusive digital euro that may foster financial inclusion, the solutions adopted by the proposal do not seem to be the most adequate to pursue such objectives. For instance, it is difficult to understand how a possible user who does not hold a non-digital euro payment account – for instance, because credit institutions refuse to open or maintain a payment account with basic features – will succeed in opening and maintaining a digital euro payment account, as similar onboarding requirements should apply. On the possibility of users not having a non-digital euro payment account linked to their digital euro payment account, we are still assessing the implications for the legal tender status of the</p>

<sup>20</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>from accessibility, or persons with limited digital skills and elderly persons. For that purpose, the digital euro should have usage features that are simple and easy to handle, and should be sufficiently accessible through a wide range of hardware devices to cater for the needs of different groups of the population.</p> <p>Furthermore, payment service providers should provide digital euro users with digital euro payment services, regardless of those users holding non-digital euro payment accounts. In addition, those users should be allowed to have digital euro payment accounts with payment service providers that are different from the ones with which they have non-digital euro payment accounts.</p>	<p>digital euro, as the user might not be able to transfer an amount of digital euros which is above the holding limit of the beneficiary (since no waterfall mechanism operates) and therefore the payer cannot discharge from its payment obligation.</p>
(55) The digital euro should support the	NL:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>programming of conditional digital euro payment transactions by payment service providers. The digital euro should, however, not be “programmable money”, which means units that, due to intrinsically defined spending conditions, can only be used for buying specific types of goods or services, or are subject to time limits after which they are no longer usable.</p> <p>Conditional payment transactions are payments which are automatically triggered by software based on pre-defined and agreed conditions.</p> <p>Conditional payments should not have, as object or effect, the use of digital euro as programmable money. Payment service providers could develop different types of logic to offer a range of conditional payment transactions to digital euro users, including automated payment transactions for placing or</p>	<p>(Comments):  <u>NL Comment:</u> The Netherlands supports that a digital euro is not programmable money, as also made clear in the Eurogroup statement of January 2023.            We are of the view that conditional payments (based on instructions set in advance by the user) should be possible and can be of added value for business-to-business transactions. However, it could be confusing for the general public, however, to mention the two choices together in one article. Therefore, in communications it should be clear that ‘conditional payments’ are not a form of programmability of the digital euro itself. It is merely a functionality in the digital euro payment account. Is this assumption correct?</p> <p>BE:            (Drafting):            (55) The digital euro should support the programming of <del>conditional</del> <b>conditioned</b> digital euro payment transactions by payment service providers. The digital euro should, however, not be “programmable money”, which means units that, due to intrinsically defined spending conditions, can only be used for buying specific types of goods or services, or are subject to time limits after which they are no longer usable. <del>Conditional</del> <b>Conditioned</b> payment transactions are payments which are automatically triggered by software based on pre-defined and agreed conditions. <del>Conditional</del> <b>Conditioned</b> payments should not have, as object or effect, the use of digital euro as programmable money. Payment service providers could develop different types of logic to offer a range of <del>conditional</del> <b>conditioned</b> payment transactions to digital euro users, including automated payment transactions for placing or withdrawing digital euros, payment standing orders that trigger automatic payments of a specific amount on a specific date, and payments between machines where those machines are programmed to automatically trigger payments for their own spare parts upon ordering them, for charging and paying electricity at most favourable market conditions, for paying insurance, and leasing and maintenance fees on a usage basis.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>withdrawing digital euros, payment standing orders that trigger automatic payments of a specific amount on a specific date, and payments between machines where those machines are programmed to automatically trigger payments for their own spare parts upon ordering them, for charging and paying electricity at most favourable market conditions, for paying insurance, and leasing and maintenance fees on a usage basis.</p>	<p>BE: (Comments): See our comment to Recital 7: a conditional payment can be understood as a payment which has been executed but either (a) the final discharge of the underlying debt would be conditional upon the later occurrence or non-occurrence of an event (condition suspensive) or (b) the payment can be unwound upon the later occurrence or non-occurrence of an event (condition résolutoire). In order to avoid any confusion, we propose to consistently use the term “conditioned payments”.</p>
<p>(56) To facilitate the use of digital euro and the provision of innovative services, the Eurosystem should support the provision of conditional digital euro payment transactions. First, some types of conditional payment services could be supported through detailed measures, rules and standards that could help</p>	<p>BE: (Drafting): (56) To facilitate the use of digital euro and the provision of innovative services, the Eurosystem should support the provision of <b>conditional conditioned</b> digital euro payment transactions. First, some types of <b>conditional conditioned</b> payment services could be supported through detailed measures, rules and standards that could help payment service providers to develop and operate interoperable applications that execute conditional logic. That could include a set of technical tools such as application programming interfaces. Second, the Eurosystem could provide additional functionalities in the digital euro settlement infrastructure, necessary for the provision of <b>conditional conditioned</b> payment services to digital euro users. That could</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>payment service providers to develop and operate interoperable applications that execute conditional logic. That could include a set of technical tools such as application programming interfaces. Second, the Eurosystem could provide additional functionalities in the digital euro settlement infrastructure, necessary for the provision of conditional payment services to digital euro users. That could facilitate the reservation of funds in the settlement infrastructure for future execution of some conditional payments. Payment service providers should adapt the business logic for conditional digital euro payment transactions in accordance with the standards and application programming interfaces which the Eurosystem may adopt to facilitate such transactions.</p>	<p>facilitate the reservation of funds in the settlement infrastructure for future execution of some <del>conditional</del> <b>conditioned</b> payments. Payment service providers should adapt the business logic for <del>conditional</del> <b>conditioned</b> digital euro payment transactions in accordance with the standards and application programming interfaces which the Eurosystem may adopt to facilitate such transactions.</p> <p>BE: (Comments): See our comment to Recital 55.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>(57) European Digital Identity Wallets could facilitate digital transactions by enabling authentication, identification and the exchange of attributes including licenses and certificates. European Digital Identity Wallets should contribute to the effective universal access to and use of the digital euro. Member States should issue European Digital Identity Wallets based on common standards and practices set out in the implementing legislation. The European Digital Identity Wallet should have strong and specific safeguards to ensure data protection and privacy and high-level security certification. Front-end solutions to be developed by the European Central Bank should therefore duly consider the technical specifications governing the European Digital Identity Wallets. This would enable the relevant</p>	<p>NL: (Comments): <u>NL Comments</u>: Any new functional requirements for EDI-wallets should be included as an extension of the technical specifications and certification requirements under eIDAS. We see the potential for onboarding and authentication purposes, but do have questions about the feasibility as of the first issuance of a digital euro. We refer to the general remarks made under article 25. Question: what is exactly meant by universal access?</p> <p>FI: (Drafting): (57) European Digital Identity Wallets could facilitate digital transactions by enabling authentication, identification and the exchange of attributes including licenses and certificates. European Digital Identity Wallets should contribute to the effective universal access to and use of the digital euro. Member States should issue European Digital Identity Wallets based on common standards and practices set out in the implementing legislation. The European Digital Identity Wallet should have strong and specific safeguards to ensure data protection and privacy and high-level security certification. Front-end solutions to be developed by the European Central Bank should therefore duly consider the technical specifications governing the European Digital Identity Wallets. This would enable the relevant interoperability with the European Digital Identity Wallets that would allow to capitalise on these benefits. Based on user choice, interoperability with the European Digital Identity Wallet should also allow to discharge customer due diligence under Regulation (EU) <i>[please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final]</i>. <del>Furthermore, to achieve a coherent customer experience, intermediaries might choose to fully integrate their</del></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>interoperability with the European Digital Identity Wallets that would allow to capitalise on these benefits. Based on user choice, interoperability with the European Digital Identity Wallet should also allow to discharge customer due diligence under Regulation (EU) <i>[please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final]</i>. Furthermore, to achieve a coherent customer experience, intermediaries might choose to fully integrate their digital euro front-end services into the specifications governing the European Digital Identity Wallets.</p>	<p><del>digital euro front-end services into the specifications governing the European Digital Identity Wallets.</del></p> <p>FI: (Comments): Might need to be aligned with eIDAS-regulation, as with this wording they might expand use cases for European Digital Identity Wallets compared to IDAS-regulation.</p> <p>BE: (Drafting): (57) European Digital Identity Wallets could facilitate digital transactions by enabling authentication, identification and the exchange of attributes including licenses and certificates. European Digital Identity Wallets <b>should may</b> contribute to the effective universal access to and use of the digital euro. Member States should issue European Digital Identity Wallets based on common standards and practices set out in the implementing legislation. The European Digital Identity Wallet should have strong and specific safeguards to ensure data protection and privacy and high-level security certification. Front-end solutions to be developed by the European Central Bank <b>should may</b> therefore duly consider the technical specifications governing the European Digital Identity Wallets. This would enable the relevant interoperability with the European Digital Identity Wallets that would allow to capitalise on these benefits. Based on user choice, interoperability with the European Digital Identity Wallet should also allow to discharge customer due diligence under Regulation (EU) <i>[please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final]</i>. Furthermore, to achieve a coherent customer experience, intermediaries might choose to fully integrate their digital euro front-end services into the specifications governing the European Digital Identity Wallets.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	BE: (Comments): While we support the objectives pursued here, these provisions should only serve as guiding principles for the Eurosystem when developing the digital euro. It appears too challenging, in the context of an already complex and highly novel project, for the Eurosystem to ensure full interoperability with European Digital Identity Wallets.
(58) Users should be able, if they so wish, to onboard and authorise payments with the digital euro by using the European Digital Identity Wallets. Payment service providers should therefore be obliged to accept the European Digital Identity Wallets for the verification of both prospective and existing customers' identities, in line with Regulation (EU) <i>[please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final]</i> . To facilitate the opening of digital euro accounts across the Union,	FI: (Drafting): (58) Users should be able, if they so wish, to onboard and authorise payments with the digital euro by using the European Digital Identity Wallets. Payment service providers should therefore be obliged to accept the European Digital Identity Wallets for the verification of both prospective and existing customers' identities, in line with Regulation (EU) <i>[please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final]</i> . To facilitate the opening of digital euro accounts across the Union, payment service providers should also be able to rely on qualified attestations provided by the European Digital Identity Wallets, including for the remote performance of customer due diligence. <del>Payment service providers should also accept the use of European Digital Identity Wallets if the payer wishes to use the wallet for payment authorisation of digital euro payment transactions. Further, to facilitate offline proximity payments in digital euro, it should be possible to use the European Digital Identity Wallets for the storage of digital euros in the payment device.</del>  FI: (Comments):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>payment service providers should also be able to rely on qualified attestations provided by the European Digital Identity Wallets, including for the remote performance of customer due diligence. Payment service providers should also accept the use of European Digital Identity Wallets if the payer wishes to use the wallet for payment authorisation of digital euro payment transactions. Further, to facilitate offline proximity payments in digital euro, it should be possible to use the European Digital Identity Wallets for the storage of digital euros in the payment device.</p>	<p>Might need to be aligned with eIDAS-regulation, as with this wording they might expand use cases for European Digital Identity Wallets compared to IDAS-regulation.</p>
<p>(59) To facilitate a harmonised user experience, the digital euro rules, standards and processes that the European Central Bank may adopt pursuant to its own competences, should</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>ensure that any digital euro user is able to carry out digital euro payment transactions with any other digital euro users across the euro area regardless of the payment service providers involved and the front-end services used. To reduce the fragmentation of the European retail payments market, and to support competition, efficiency and innovation in that market, and the development of payment instruments across the Union in keeping with the objective of the Commission’s retail payment strategy, the digital euro should be, to the extent possible, compatible with private digital payment solutions, building on functional and technical synergies. In particular, the European Central Bank should seek to ensure that the digital euro is compatible with private digital payment solutions at the point of interaction, and in</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>person-to-person payments, where the fragmentation of the Union retail payments market is currently significant. The use of open standards, common rules and processes, and possibly shared infrastructures could support such compatibility. While existing solutions may be leveraged where such solutions are deemed appropriate to ensure that compatibility, notably in view of minimising overall adaptation costs, such existing solutions should not create undue dependencies that could prevent adaptation of the digital euro to new technologies or would be incompatible with the digital euro features. In order to achieve these objectives, and without conferring any enforceable rights upon market operators, the European Central Bank should seek to ensure that the digital euro is compatible with private</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
digital payment solutions on a best-effort basis and where deemed appropriate.	
<p>(60) To facilitate dispute resolution, the European Central Bank should provide payment service providers and digital euro users with technical and functional support for dispute resolution, related at least to technical and fraud (pre) disputes. Technical disputes include inter alia situations where the transaction amount differs, where there are duplicates, or where there is no authorization or pre-validation. Fraud disputes include inter alia situations of identity theft, merchant identity fraud, counterfeit goods.</p>	<p>IT: (Drafting): <b>IT</b> (60) To facilitate dispute resolution, the European Central Bank should provide payment service providers and digital euro users with <b><u>scheme rules as well</u></b> as technical and functional support to deal with dispute resolution, related <del>at least</del> to technical and fraud <del>(pre)</del> disputes. Technical disputes include inter alia situations where the transaction amount differs, where there are duplicates, or where there is no authorization or pre-validation. Fraud disputes include inter alia situations of identity theft, merchant identity fraud, counterfeit goods.</p> <p>IT: (Comments): <b>IT</b> It is important to clarify that the ECB should have a role in both, setting scheme's rules and providing infrastructural support for intermediaries to exchange messages in order to facilitate dispute management for the benefit of the user, but has no direct involvement in dispute resolution towards end-users, that continue to be carried out by intermediaries. We suggest to introduce a definition of "dispute resolution" in art.2 and to clarify that commercial disputes are not included in fraud disputes.</p> <p>BE: (Drafting): (60) To facilitate dispute resolution, <b>notably taking account of Article 22 of the Statute of the ESCB and of the European Central Bank</b>, the European Central Bank <del>should</del> <b>may decide</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p><b>to</b> provide payment service providers and digital euro users with technical and functional support for dispute resolution, related at least to technical and fraud (pre) disputes. Technical disputes include inter alia situations where the transaction amount differs, where there are duplicates, or where there is no authorization or pre-validation. Fraud disputes include inter alia situations of identity theft, merchant identity fraud, counterfeit goods.</p> <p>BE: (Comments): In accordance with Article 27, this is not an obligation for the Eurosystem. The Eurosystem should entirely independently decide on whether or not to provide this support and how. This Recital should therefore refer to Article 22 of the Statute of the ESCB as the appropriate legal basis for the provision of this type of facilities.</p>
<p>(61) To access and use the digital euro as part of digital euro payment services, digital euro users should be provided with front-end services. Those users should have the possibility to access and use digital euro payment services via the front-end services provided by payment service providers and by the European Central Bank. Payment service providers should be able</p>	<p>PL: (Drafting): PL: (61) To access and use the digital euro as part of digital euro payment services, digital euro users should be provided with front-end services. Those users should have the possibility to access and use digital euro payment services via the front-end services provided by payment service providers and by the European Central Bank. Payment service providers should be able to choose to rely on front-end services provided by other stakeholders, including the European Central Bank, notably in the case where the cost of developing and operating front-end services, including applications, are disproportionate. Where digital euro users can choose between different front-end services, the decision to select a given front-end service should ultimately rest in the hands of those users and should not be imposed by payment service providers or the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>to choose to rely on front-end services provided by other stakeholders, including the European Central Bank, notably in the case where the cost of developing and operating front-end services, including applications, are disproportionate. Where digital euro users can choose between different front-end services, the decision to select a given front-end service should ultimately rest in the hands of those users and should not be imposed by payment service providers or the European Central Bank. In this respect, payment service providers should have capacity to provide digital euro users with the possibility to access and use digital euro payment services via the front-end services provided by the European Central Bank. The European Central Bank and the payment service providers shall implement appropriate technical</p>	<p>European Central Bank. In this respect, payment service providers should have capacity to provide digital euro users with the possibility to access and use digital euro payment services via the front-end services provided by the European Central Bank. The European Central Bank and the payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be accessed by the European Central Bank via its front-end solution.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>BE: (Drafting): (61) To access and use the digital euro as part of digital euro payment services, digital euro users should be provided with <b>a front-end services solution</b>. Those users should have the possibility to access and use digital euro payment services via the front-end <b>services solution</b> provided by payment service providers and by the European Central Bank. Payment service providers should be able to choose to rely on front-end <b>services solutions</b> provided by other stakeholders, including the European Central Bank, notably in the case where the cost of developing and operating front-end <b>services solutions, including applications</b>, are disproportionate. Where digital euro users can choose between different front-end <b>services solutions</b>, the decision to select a given front-end <b>service solution</b> should ultimately rest in the hands of those users and should not be imposed by payment service providers or the European Central Bank. In this respect, payment service providers should <b>have capacity to provide allow</b> digital euro users <b>with the possibility</b> to access and use digital euro payment services via the front-end <b>services solution</b> provided by the European Central Bank. The European Central Bank</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be accessed by the ECB via its front-end solution.	and the payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be accessed by the ECB via its front-end <b>solution solution</b> .  BE: (Comments): We are concerned that the term “front-end services” could be confused with the digital euro payment services that are provided by the PSP. The impression should not be given that the latter can be provided by the Eurosystem as well. We propose replacing the said term with the term “front-end solution”.
(62) To avoid interfering in the payment service providers’ customer relationships and their role in the digital euro distribution, the front-end solutions provided by the European Central bank should be limited to providing an interface between digital euro users and the payment infrastructures of payment service providers. In particular, the Eurosystem would	PL: (Drafting): PL: (62) To avoid interfering in the payment service providers’ customer relationships and their role in the digital euro distribution, the front-end solutions provided by the European Central Bank should be limited to providing an interface between digital euro users and the payment infrastructures of payment service providers. In particular, the Eurosystem would not have a contractual relationship with digital euro users even if those users use the front-end services provided by the European Central Bank. The European Central Bank and the payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be accessed by the European Central Bank via its front-end solution.



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>not have a contractual relationship with digital euro users even if those users use the front-end services provided by the European Central Bank. The ECB and the payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be accessed by the ECB via its front-end solution.</p>	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>BE: (Drafting): (62) To avoid interfering in the payment service providers' customer relationships and their role in the digital euro distribution, the front-end <del>solutions</del> <b>solution</b> provided by the European Central bank should be limited to providing an interface between digital euro users and the <del>payment</del> infrastructures <b>of required by payment service providers to give access to digital euro holdings and to provide digital euro payment services</b>. In particular, the Eurosystem would not have a contractual relationship with digital euro users even if those users use the front-end <del>services</del> <b>solution</b> provided by the European Central Bank. <del>The ECB and the payment service providers should implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be accessed by the ECB via its front-end solution.</del></p> <p>BE: (Comments): See our comment to Recital 61. The last sentence repeats the last sentence of Recital 61 and should be deleted.</p>
<p>(63) To enable a smooth user experience, payment service providers that provide digital</p>	<p>BE: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>euro users with front-end services to access and use the digital euro should take care that digital euro users can quickly and easily access and use the digital euro. In particular, digital euro payment accounts should be clearly labelled by the use of the official digital euro logo. Digital euro payment accounts should be accessed via one the main pages of the Internet website or an application, or any other front-end services, on an equal footing with non-digital euro payment accounts.</p>	<p>(63) To enable a smooth user experience, payment service providers that provide digital euro users with front-end <del>services solutions</del> to access and use the digital euro should <del>take care</del> <b>ensure</b> that digital euro users can quickly and easily access and use the digital euro. In particular, digital euro payment accounts should be clearly <del>labelled by</del> <b>identifiable through</b> the use of the official digital euro logo. Digital euro payment accounts should be accessed via <del>one the online accessible customer interface main pages of the Internet website or an application</del>, or any other front-end <del>services solution</del>, on an equal footing with non-digital euro payment accounts.</p> <p>BE: (Comments): Editorial drafting suggestions.</p>
<p>(64) To provide for instantaneous settlement, both online and offline digital euro transactions, including in the context of funding and defunding, and as waterfall and reverse waterfall functionalities, should be settled instantaneously, in a few seconds only, in</p>	<p>PL: (Comments): PL: The effectiveness of reverse waterfall functionality as a basic service provided in near real time and around the clock (24/7/365) needs to be further examined. The digital euro users would be able to initiate a digital euro payment transaction exceeding the amount of their digital euro holdings, by automatically mobilising funds from a non-digital euro payment account to complement the transaction amount (art 13 par 4(b)). While the digital euro users may designate one non-digital euro payment account to be linked with the digital euro payment account to use</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>normal circumstances. The settlement of online digital euro payment transactions should be performed in the digital euro settlement infrastructure adopted by the Eurosystem.</p> <p>Online digital euro payment transactions should be settled in a matter of seconds as specified under the functional and technical requirements adopted by the European Central Bank. Final settlement of online digital euro payment transactions should be achieved at the moment of recording the digital euros concerned of the payer and the payee in the digital euro settlement infrastructure approved by the European Central Bank, irrespective of whether digital euros are recorded as holding balances or units of value, or of the technology used. The digital euro settlement infrastructure should seek to ensure adaptation to new technologies,</p>	<p>reverse waterfall (and waterfall) functionality, this may affect the possibility of instantaneous settlement of online digital euro transactions (eg in the situation of automatic funding of a digital euro account from a PSP payment account outside the euro zone).</p> <p>BE: (Drafting): (64) To provide for instantaneous settlement, both online and offline digital euro transactions, including in the context of funding and defunding, and as <b>a result of</b> waterfall and reverse waterfall functionalities, should <b>in normal circumstances</b> be settled instantaneously, in a few seconds only, <del>in normal circumstances</del>. The settlement of online digital euro payment transactions should be performed in the digital euro settlement infrastructure adopted <b>and operated</b> by the Eurosystem. Online digital euro payment transactions should be settled in a matter of seconds as specified under the functional and technical requirements adopted by the European Central Bank. Final settlement of online digital euro payment transactions should be achieved at the moment of recording the digital euros concerned of the payer and the payee in the digital euro settlement infrastructure approved by the <del>European Central Bank</del> <b>Eurosystem</b>, irrespective of whether digital euros are recorded as holding balances or units of value, or of the technology used. <del>The digital euro settlement infrastructure should seek to ensure adaptation to new technologies, including distributed ledger technology.</del></p> <p>BE: (Comments): Editorial drafting suggestions. Furthermore, the choice of the technology for the digital euro settlement infrastructure (whether new or not so new) should be entirely left to the Eurosystem.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
including distributed ledger technology.	
<p>(65) Due to the absence of network connectivity, the settlement of offline proximity payments in digital euros should be performed in the local storage of the payment device respectively of payers and payees. Offline proximity payments in digital euros should be settled in a matter of seconds as specified under the functional and technical requirements adopted by the European Central Bank: Final settlement should occur at the moment of updating the records of relevant digital euro holdings in the local storage devices of, respectively, the payer and the payee, irrespective of whether digital euros are recorded as holding balances or units of value, or of the technology used.</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>(66) Since payment service providers are not party to a digital euro payment transaction between two digital euro users, digital euro payment transactions do not carry systemic risks and therefore do not warrant designation as a system as defined in Article 2, point (a), of Directive 98/26/EC of the European Parliament and of the Council<sup>21</sup>. Digital euro payment transactions should be settled in a matter of seconds and therefore no options to net should be allowed.</p>	<p>PL: (Drafting): PL: (66) Since payment service providers are not party to a digital euro payment transaction between two digital euro users, digital euro payment transactions do not carry systemic risks and therefore do not warrant designation as a system as defined in Article 2, point (a), of Directive 98/26/EC of the European Parliament and of the Council<sup>22</sup>. Digital euro payment transactions should be settled in a matter of seconds and therefore no options to net should be allowed.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>BE: (Drafting): (66) <b>Since payment service providers are not party to a do not provide clearing and settlement of digital euro payment transaction between two digital euro users, Only the digital euro settlement infrastructure adopted and operated by the Eurosystem will provide settlement of digital euro payment transactions. Since these transactions should be settled instantaneously, no netting and clearing should be performed. Furthermore, since the digital euro settlement infrastructure will only settle individual transactions for limited</b></p>

<sup>21</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment a

<sup>22</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment a

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><b>amounts, the settlement infrastructure</b> does not carry systemic risks and therefore does not warrant designation as a system as defined in Article 2, point (a), of Directive 98/26/EC of the European Parliament and of the Council<sup>23</sup>. <del><b>Digital euro payment transactions should be settled in a matter of seconds and therefore no options to net should be allowed.</b></del></p> <p>BE: (Comments): It should be clarified that the PSPs' role does not extend to providing clearing or settlement services. The PSPs, therefore, do not operate a system in the meaning of the Settlement Finality Directive (SFD). Only the settlement infrastructure operated by the Eurosystem could constitute a system as envisaged by SFD. But given the lack of systemic risk, a designation under SFD would not be necessary.</p> <p>PT: (Comments): Please see our comments to Recital 24.</p> <p>FR: (Comments): It should be pointed out that the legal definition of what constitutes a digital euro remains open - see comment 1. - and needs to be clarified comprehensively in the text. Furthermore, the ECB and the Eurosystem have not, at this stage, adopted a definitive position on the settlement infrastructure that would serve the digital euro, especially as the ECB has presented several options to the Eurogroup bodies with different degrees of centralisation for settlement. The ECB</p>

<sup>23</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment a

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>indicated that having the ECB validate the settlement and record was one of the possible options, compared with the possibility of establishing only settlement rules and risk mitigation measures as a second option. A discussion in the Council on the choices in terms of settlement principles would be welcome in this sense, so that the Council can endorse one of the possible choices in full knowledge of the options. More details on the possibility for payment providers to settle verification transactions themselves and on the opportunity to use DLT technology for settlement could be provided to the Council to this effect.</p> <p>With regard to the issues of settlement finality in digital euros, the interest of the settlement finality rule as set out in the SFD lies mainly in the fact that it protects systems from the sometimes retroactive effects of insolvency proceedings on payments. For example without this rule, if a judge opens insolvency proceedings against company X, depending on the applicable national law, he may be able to cancel all payments made that day by that company, even before the judgment is delivered ("zero hour" rule). In a payment system where large amounts of money pass through the system, the judge's power to cancel payments is considered to be dangerous, insofar as cancelling a payment means "unravelling" all the payments subsequent to that payment. The risk is both operational and potentially systemic if this situation affects the smooth running of the system.</p> <p>The question is therefore whether there is a need in protecting settlements made in digital euros against any risk of past transactions being called into question, linked to insolvency law. This protection can be achieved either (i) by considering qualifying the digital euro settlement infrastructure as a "system" within the meaning of the SFD, or (ii) by amending the SFD Directive to specifically include the digital euro settlement infrastructure, or (iii) by reproducing in the draft regulation on the digital euro the protective effect of the SFD in a simplified manner – especially articles under sections II and III -, i.e. without resorting to the qualification of system and therefore without being subject to the SFD Directive.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>As regards the first option, we would like the Commission to spell out the arguments that would make it possible to exclude the digital euro settlement system from the systems designated by the SFD, as payment service providers will receive payment orders from end-users and will be responsible for pre-settlement activities (authentication, validation, etc.) and as the instant settlement of transactions does not exclude instant transfer systems from being designated by the SFD, as is the case for private infrastructures. The Commission's opinion would also be welcome on the undesirable effects that the inclusion of the digital euro settlement infrastructure in the systems designated by the SFD could have.</p> <p>Furthermore, what mechanisms does the Commission have in place to ensure that the amounts transferred from transactions that are cancelled can actually be returned to the payer, particularly in the event of a company defaulting ?</p> <p>.</p>
(67) For reasons of contractual freedom and to ensure competition, digital euro users should	SI: (Comments):



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>have the possibility to switch their digital euro payment accounts to different payment service providers. At the request of the digital euro users, payment service providers should then enable the switching of the digital euro payment accounts, while maintaining the same account identifiers. In exceptional circumstances where a payment service provider is unable to perform this task, including due to having lost the relevant digital euro payment account-related data, the European Central Bank should be able to authorise the switching of digital euro payment accounts so that the new payment service provider designated by the digital euro user can retrieve the information about the digital euro holdings of the digital euro user and complete the switching without relying on the unavailable payment service provider. This</p>	<p>Please check the wording of the bolded text in the last sentence. The word <i>both</i> appears twice and should probably be deleted once.</p> <p>DE: (Drafting): (67) For reasons of contractual freedom and to ensure competition, digital euro users should have the possibility to switch their digital euro payment accounts to different payment service providers. At the request of the digital euro users, payment service providers should then enable the switching of the digital euro payment accounts, while maintaining the same account identifiers. In exceptional circumstances where a payment service provider is unable to perform this task, including due to having lost the relevant digital euro payment account-related data, the European Central Bank should be able to authorise the switching of digital euro payment accounts so that the new payment service provider designated by the digital euro user can retrieve the information about the digital euro holdings of the digital euro user and complete the switching without relying on the unavailable payment service provider. This process should allow a digital euro user to then continue accessing its digital euro holdings via the new designated payment service provider. The European Central Bank would not have any operational role in the switching of <del>ofn</del> accounts <del>both</del> in both going concern situations and exceptional circumstances.</p> <p>DE: (Comments): Editorial suggestion.</p> <p>BE: (Drafting): (67) For reasons of contractual freedom and to ensure competition, digital euro users should</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>process should allow a digital euro user to then continue accessing its digital euro holdings via the new designated payment service provider. The European Central Bank would not have any operational role in the switching on account both in both going concern situations and exceptional circumstances.</p>	<p>have the possibility to switch their digital euro payment accounts to different payment service providers. At the request of the digital euro users, payment service providers should then enable the switching of the digital euro payment accounts, while maintaining the same account identifiers. In exceptional circumstances where a payment service provider is unable to perform this task, including due to having lost the relevant digital euro payment account-related data, the European Central Bank should be able to authorise the switching of digital euro payment accounts so that the new payment service provider designated by the digital euro user can retrieve the information about the digital euro holdings of the digital euro user and complete the switching without relying on the unavailable payment service provider. This process should allow a digital euro user to then continue accessing its digital euro holdings via the newly designated payment service provider. The European Central Bank would not have any operational role in the switching <del>on account</del> both in <del>both</del> going concern situations and exceptional circumstances.</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>PT: (Comments): We believe the switching mechanism may be a positive way to foster contractual freedom and competition in the European retail payments market. The circumstance of the ECB being able to authorize the switching of digital euro payment accounts, in the event of the former PSP having lost the relevant digital euro payment account-related data, seems to imply that, in those cases, the ECB would have access to a higher level of</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	users' personal information. This is an aspect that should be clarified.
<p>(68) The prevention of fraud by payment service providers is essential for the protection of citizens making use of the digital euro, the integrity of the personal data processed in digital euro payments, and to ensure the smooth and efficient functioning of the digital euro. Fraud prevention plays an essential role in maintaining trust in the single currency. For this purpose, the European Central Bank may establish a general fraud detection and prevention mechanism to support fraud management activities performed by payment service providers on online digital euro payment transactions. A general fraud detection and prevention mechanism delivers a range of essential functions to detect fraud patterns that a</p>	<p>NL: (Comments): <u>NL Questions</u>: Could the Commission explain how the how the general fraud detection and prevention mechanism of the ECB relates to the Transaction monitoring mechanisms and fraud data sharing proposal from Article 83 of the Proposal for PSR? And who would oversee or audit that fraud detection and prevention mechanisms are subject to state-of-the-art security and privacy preserving measures to ensure that individual digital euro users are not identified by the central fraud detection and prevention mechanism? Would Article 36 apply to such mechanisms?</p> <p>PL: (Drafting): PL: (68) The prevention of fraud by payment service providers is essential for the protection of citizens making use of the digital euro, the integrity of the personal data processed in digital euro payments, and to ensure the smooth and efficient functioning of the digital euro. Fraud prevention plays an essential role in maintaining trust in the single currency. For this purpose, the European Central Bank may establish a general fraud detection and prevention mechanism to support fraud management activities performed by payment service providers on online digital euro payment transactions. A general fraud detection and prevention mechanism delivers a range of essential functions to detect fraud patterns that a single payment service provider could not detect on its own. Often one payment service provider does not have the full picture about all elements that could lead to timely fraud detection. However, it can be made more effective with information on potentially fraudulent activity stemming from other payment</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>single payment service provider could not detect on its own. Often one payment service provider does not have the full picture about all elements that could lead to timely fraud detection.</p> <p>However, it can be made more effective with information on potentially fraudulent activity stemming from other payment service providers.</p> <p>This general fraud detection function exists in comparable payment schemes and is necessary to achieve demonstrably low fraud rates in order to keep the digital euro secure for both consumers and merchants. The transfer of information between PSPs and the fraud detection and prevention mechanism should be subject to state-of-the-art security and privacy-preserving measures to ensure that individual digital euro users are not identified by the central fraud detection and prevention</p>	<p>service providers. This general fraud detection function exists in comparable payment schemes and is necessary to achieve demonstrably low fraud rates in order to keep the digital euro secure for both consumers and merchants. The transfer of information between payment service providers and the fraud detection and prevention mechanism should be subject to state-of-the-art security and privacy-preserving measures to ensure that individual digital euro users are not identified by the central fraud detection and prevention mechanism.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>DE: (Drafting): (68) The prevention of fraud by payment service providers is essential for the protection of citizens making use of the digital euro, the integrity of the personal data processed in digital euro payments, and to ensure the smooth and efficient functioning of the digital euro. Fraud prevention plays an essential role in maintaining trust in the single currency. For this purpose, the European Central Bank may establish a general fraud detection and prevention mechanism to support fraud management activities performed by payment service providers on online digital euro payment transactions. A general fraud detection and prevention mechanism delivers a range of essential functions to detect fraud patterns that a single payment service provider could not detect on its own. Often one payment service provider does not have the full picture about all elements that could lead to timely fraud detection. However, it can be made more effective with information on potentially fraudulent activity stemming from other payment service providers. This general fraud detection function exists in comparable payment schemes and is necessary to achieve demonstrably low fraud rates in order to keep the digital euro secure for both consumers and merchants. The transfer of information between PSPs and the fraud detection and prevention</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
mechanism.	<p>mechanism should be subject to state-of-the-art security and privacy-preserving measures to ensure that individual digital euro users are not identified by the central fraud detection and prevention mechanism. <b><u>In case of no suspicious transactions the data used for the fraud detection and prevention have to be deleted immediately.</u></b></p> <p>DE: (Comments): We reserve our position on whether we will support the proposed fraud prevention mechanism at this point in time.</p> <p>The proposed mechanism on fraud prevention touches on the very sensitive issue of privacy protection, which in our view is key to the public's trust in the project. To be able to take an informed position on this subject, a number of questions need to be answered:</p> <ol style="list-style-type: none"> <li>1) How exactly would the mechanism work from a technical perspective?</li> <li>2) How does it compare to private sector fraud detection mechanisms in use today?</li> <li>3) Which data exactly need to be processed for purposes of fraud detection?</li> <li>4) Which "state-of-the-art security and privacy-preserving measures" could be used to enhance data protection for this mechanism?</li> </ol> <p>BE: (Drafting): (68) The prevention of fraud by payment service providers is essential for the protection of citizens making use of the digital euro, the integrity of the personal data processed in digital euro payments, and to ensure the smooth and efficient functioning of the digital euro. Fraud prevention plays an essential role in maintaining trust in the single currency. For this purpose, the European Central Bank may, <b>pursuant to Article 22 of the Statute of the ESCB and of the European Central Bank, decide to</b> establish a general fraud detection and prevention</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>mechanism to support fraud management activities performed by payment service providers on online digital euro payment transactions. A general fraud detection and prevention mechanism delivers a range of essential functions to detect fraud patterns that a single payment service provider <del>could</del> <b>may</b> not detect on its own. Often one payment service provider does not have the full picture about all elements that could lead to timely fraud detection. However, it can be made more effective with information on potentially fraudulent activity stemming from other payment service providers. This general fraud detection function exists in comparable payment schemes and is necessary to achieve demonstrably low fraud rates in order to keep the digital euro secure for both consumers and merchants. The transfer of information between PSPs and the fraud detection and prevention mechanism should be subject to state-of-the-art security and privacy-preserving measures to ensure that individual digital euro users are not identified <del>by</del> <b>through</b> the central fraud detection and prevention mechanism.</p> <p>BE: (Comments): Editorial drafting suggestions. Furthermore, the Eurosystem should entirely independently decide on whether or not to provide this support and how. This Recital should therefore refer to Article 22 of the Statute of the ESCB as the appropriate legal basis for the provision of this type of facilities.</p>
(69) To process digital euro payments online or offline, it is essential that front end service providers for the digital euro and issuers of	<p>NL: (Comments): <u>NL Comment</u>: We suggest to include technical specifications for the EDI-wallet only in the eIDAS regulation and a dynamic reference to such provisions is included here. Please refer to</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>European Digital Identity Wallets obtain access to near field communication technology (NFC) on mobile devices. These components include, in particular but not exclusively, NFC antennas and the so-called secure elements of mobile devices (e.g.: Universal Integrated Circuit Card (UICC), embedded SE (eSE), and microSD etc). It is therefore necessary to ensure that whenever needed to provide digital euro services, original equipment manufacturers of mobile devices or providers of electronic communication services would not refuse access to NFC antennas and secure elements. Central bank money with legal tender should be widely accessible. To ensure this also in the digital economy, providers of front-end services for the digital euro and operators of European Digital Identity Wallets shall be entitled to store software on</p>	<p>articles 12b, sub 3a and (new) recital 21a in the last compromise text of the eIDAS revision regulation.</p> <p>SI: (Comments): With regard to access to Near Field Communication (NFC) technology on mobile devices, it is also important that manufacturers of mobile devices and providers of electronic communication services do not have access to sensitive personal data (if stored on these devices).</p> <p>LT: (Comments): From our perspective, <b>technological, operational and cyber security should be our priority in development the possible technical solutions and providing front-end services for the digital euro online and offline payments</b>, operating of European Digital Identity Wallets functionalities. In case of interaction with software on relevant mobile devices' hardware in order to make transactions with digital euro technically possible both online and offline) <b>the highest level of technological, operational and cyber security should be ensured.</b></p> <p>FI: (Comments): Is there any sanctions related to this?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>relevant mobile devices' hardware in order to make transactions with digital euro technically possible both online and offline. For this purpose, original equipment manufacturers of mobile devices and providers of electronic communication services should be obliged to provide access on fair, reasonable and non-discriminatory terms to all hardware and software components when needed for online and offline digital euro transactions. In all instances, such operators would be obliged to provide adequate capacity on relevant hardware and software features in mobile devices to process online digital euro payment transactions and for storing digital euros on mobile devices for offline digital euro payment transactions. This obligation should be without prejudice to Article 6 paragraph (7) of</p>	



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
Regulation (EU) 2022/1925, which obliges gatekeepers to provide, free of charge, effective interoperability with, and access for the purposes of interoperability to, the operating system, hardware or software features of mobile devices, which is applicable to existing and new digital means of payments, including the digital euro.	
(70) The rights to privacy and personal data protection are fundamental rights enshrined in Article 7 and 8 of the Charter of Fundamental Rights of the European Union. As stressed by the European Data Protection Board <sup>24</sup> , a high standard of privacy and data protection is crucial to ensure the trust of Europeans in the	DE: (Comments): Germany welcomes the significance attached to privacy and data protection in this proposal, in particular the introduction of legal bases for the processing of personal data and rules on controllership. However, we still see a need for further discussion and clarification on matters of data protection, which we will specify in our following comments on the following recitals 71–77 and Chapter VIII.

<sup>24</sup> Statement on the design choices for a digital euro from the privacy and data protection perspective adopted on 10 October 2022.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>future digital euro. This is also in line with the G7 Public Policy Principles for Retail Central Bank Digital Currencies. The processing of personal data for compliance and in the context of this Regulation would be carried out in accordance with Regulation (EU) 2016/679<sup>25</sup> and Regulation (EU) 2018/1715<sup>26</sup>, as well as, where applicable, Directive 2002/58/EC<sup>27</sup>.</p>	
<p>(71) The digital euro should therefore be designed so as to minimise the processing of personal data by payment service providers and by the European Central Bank to what is</p>	<p>NL: (Comments): <u>NL Question</u>: We assume this is the case, but point out that the technology for such design requirements ready and safe by the time this Regulation enters into force.</p>

<sup>25</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88.

<sup>26</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

<sup>27</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, OJ L 201, 31.07.2002, p. 37.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>necessary to ensure the proper functioning of the digital euro. The digital euro should be available offline, with a level of privacy vis a vis payment service providers which is comparable to withdrawals of banknotes at automatic teller machines. The settlement of digital euro transactions should be designed in such a way that neither the European Central Bank nor national central banks can attribute data to an identified or identifiable digital euro user.</p>	<p>DE: (Drafting): (71) The digital euro should therefore be designed so as to minimise the processing of personal data <del>by payment service providers and by the European Central Bank</del> to what is necessary to ensure the proper functioning of the digital euro. The digital euro should be available offline, with a level of privacy vis a vis payment service providers which is comparable <b><u>to cash, in the case of payment transactions, and</u></b> to withdrawals of banknotes at automatic teller machines, <b><u>in the case of funding and de-funding transactions</u></b>. The settlement of digital euro transactions should be designed in such a way that neither the European Central Bank nor national central banks can attribute data to an identified or identifiable digital euro user.</p> <p>DE: (Comments): We welcome the explicit mention of the data minimization principle and the approach to offer offline availability of the digital euro. As it seems that PSPs and ECB would not be the only entities processing personal data in the context of the digital euro, the first sentence might be misleading or incomplete. We propose that the consideration of the data minimisation principle be kept in general.</p> <p>It should be clarified that for payments made with the offline version of a digital euro, the standard of comparison should be that of cash (i.e. the transaction is completely anonymous vis-à-vis the ECB as well as PSPs). Withdrawals of cash from ATMs can only serve as a comparison standard for funding and de-funding transactions for the offline version, which should still be anonymous vis-à-vis the ECB, but PSPs can see the amount of funding/de-funding as well as certain meta data (such as time and place).</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Drafting): (71) The digital euro should therefore be designed so as to minimise the processing of personal data by payment service providers and by the <del>European Central Bank Eurosystem</del> to what is necessary to ensure the proper functioning of the digital euro. The digital euro should be available offline, with a level of privacy vis a vis payment service providers which is comparable to withdrawals of banknotes at automatic teller machines. The settlement of digital euro transactions should be designed in such a way that neither the European Central Bank nor national central banks can attribute data to an identified or identifiable digital euro user.</p> <p>BE: (Comments): Editorial drafting suggestion.</p> <p>IE: (Drafting): The digital euro should therefore be designed so as to minimise the processing of personal data by payment service providers and by the European Central Bank to what is necessary to ensure the proper functioning of the digital euro. The digital euro should be available offline, with a level of privacy vis a vis payment service providers which is comparable to withdrawals of banknotes at automatic teller machines. The settlement of digital euro transactions should be designed in such a way that neither the European Central Bank nor national central banks can attribute data to an identified or identifiable digital euro user <i>in the normal course of business</i>.</p> <p>IE: (Comments): There will be circumstances where the data will become identifiable (e.g. if a data subject makes</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	an access request and provides sufficient information to identify their transactions). It may be necessary therefore to highlight that this is not a fully anonymous solution and there is no guarantee to users that their data will never be identifiable under any circumstances.
<p>(72) Data protection by design and data protection by default should be embedded in all data processing systems developed and used within the framework of this Regulation. The processing of personal data should be subject to appropriate safeguards to protect the rights and freedoms of the data subject. Those safeguards should ensure that technical and organisational measures are in place in particular to ensure respect for the data protection principles laid down in Regulation (EU) 2016/679 and Regulation (EU) 2018/1715, including data minimisation and purpose limitation.</p>	<p>NL: (Comments): <u>NL Comment</u>: We support data protection by design and data protection by default for all data processing systems within the framework of this Regulation. The principles data minimisation and prupose limitation are already enshrined in Regulation (EU) 2016/679 and Regulation (EU) 2018/1715. Furthermore, we point out that especially in light of inclusiveness, personal data of vulnerable groups might be a point of attention.</p> <p>DE: (Comments): Regarding safeguards for data privacy, does the Commission consider the promotion of Codes of Conduct or Guidelines for PSPs, approved by Data Protection Authorities?</p> <p>Has the Commission considered carrying out a DPIA as part of the general impact assessment in the context of the adoption of this legal act (Art. 35 (10) of the GDPR)?</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>(73) Payment service providers should be able to process personal data in so far as it is necessary to fulfil tasks that are essential to the proper functioning of the digital euro. In line with Article 6(1)(c) of Regulation (EU) 2016/679, processing activities should be considered lawful as regards the digital euro if and to the extent that they are necessary for compliance with a legal obligation to which the controller is subject pursuant to this Regulation. In the framework of this regulation, the processing of personal data for the purposes of the enforcement of holding limits, the initiation of the funding and de-funding of a user's holdings, and the management of local storage devices for offline digital euro payments are tasks in the public interest that are essential for the protection of citizens making use of the</p>	<p>PL: (Drafting): PL: (73) Payment service providers should be able to process personal data in so far as it is necessary to fulfil tasks that are essential to the proper functioning of the digital euro. In line with Article 6(1)(c) of Regulation (EU) 2016/679, processing activities should be considered lawful as regards the digital euro if and to the extent that they are necessary for compliance with a legal obligation to which the controller is subject pursuant to this Regulation. In the framework of this regulation, the processing of personal data for the purposes of the enforcement of holding limits, the initiation of the funding and de-funding of a user's holdings, and the management of local storage devices for offline digital euro payments are tasks in the public interest that are essential for the protection of citizens making use of the digital euro as well as for the stability and integrity of the Union's financial system. Payment service providers will be the controller of personal data as regards these tasks. In addition, payment service providers may process personal data to comply with existing tasks in the public interest or for compliance with a legal obligation established in Union law that apply to funds defined in Directive (EU) 2015/2366. These tasks apply to the provision of payment services and the prevention and detection of fraud in accordance with Directive (EU) 2015/2366, combatting money laundering and terrorist financing in accordance with Directive (EU) 2015/849, the fulfilment of obligations related to taxation and tax avoidance, and the management of operational and security risks in line with Regulation (EU) 2022/2554.</p> <p>PL: (Comments): PL: Mistake in numeration of DORA.</p> <p>FI:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>digital euro as well as for the stability and integrity of the Union's financial system. Payment service providers will be the controller of personal data as regards these tasks. In addition, payment service providers may process personal data to comply with existing tasks in the public interest or for compliance with a legal obligation established in Union law that apply to funds defined in Directive (EU) 2015/2366. These tasks apply to the provision of payment services and the prevention and detection of fraud in accordance with Directive (EU) 2015/2366, combatting money laundering and terrorist financing in accordance with Directive (EU) 2015/849, the fulfilment of obligations related to taxation and tax avoidance, and the management of operational and security risks in line with Regulation (EU)</p>	<p>(Comments): Verotus mainitaan johdannon kohdassa 73 laaja muotoilu ja artiklassa 34, jossa muotoilu on minusta suppeampi muun verotuksen kuin arvonnäköveron osalta. Itse pitäisin hyvänä laajempaa ja joustavampaa muotoilua myös artiklassa. ”</p> <p>”Itse mietin myös sitä, miten varmistetaan, että oikein toimivien hallinnollinen rasitus on pienin ja se mahtuu yleisen verovelvoitteiden hoitamisen sisälle ja tuli lukiessa myös mieleen, että mahtuuko artiklaan tuon kaltaiset näkökulmat tuloverotuksen puolelta.</p> <p>DE: (Drafting): 73) Payment service providers, <b>the ECB and national central banks</b> should be able to process personal data in so far as it is necessary to fulfil tasks that are essential to the <b>proper lawful, stable and secure</b> functioning of the digital euro. In <b>particular, in</b> line with Article 6(1)(c) of Regulation (EU) 2016/679, processing <b>of personal data activities</b> should be considered lawful as regards the digital euro if and to the extent that they are necessary for compliance with a legal obligation to which the controller is subject pursuant to this Regulation. In the framework of this <b>Regulation</b>, the processing of personal data for the purposes of the enforcement of holding limits, the initiation of the funding and de-funding of a user’s holdings, and the management of local storage devices for offline digital euro payments <b>are should be considered necessary for the performance of</b> tasks in the public interest, <b>as they that</b> are essential for the protection of citizens making use of the digital euro as well as for the stability and integrity of the Union's financial system. Payment service providers <b>will/would</b> be the controllers <b>for the processing</b> of personal data as regards these tasks. In addition, payment service providers may process personal data <b>where this is necessary</b> to comply with existing tasks in the public interest or for compliance with a legal obligation established in Union law that apply to funds defined in Directive (EU) 2015/2366. These tasks apply to the provision of</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
2022/255.	<p>payment services and the prevention and detection of fraud in accordance with Directive (EU) 2015/2366, combatting money laundering and terrorist financing in accordance with Directive (EU) 2015/849, the fulfilment of obligations related to taxation and tax avoidance, and the management of operational and security risks in line with Regulation (EU) 2022/255.</p> <p>DE: (Comments): “Proper” should be specified further in order to clarify the scope of the purpose.</p> <p>BE: (Drafting): (73) Payment service providers should be able to process personal data in so far as it is necessary to fulfil tasks that are essential to the proper functioning of the digital euro. In line with Article 6(1)(c) of Regulation (EU) 2016/679, processing activities should be considered lawful as regards the digital euro if and to the extent that they are necessary for compliance with <b>a the legal obligations</b> to which the controller is subject pursuant to this Regulation. In the framework of this regulation, the processing of personal data for the purposes of the enforcement of holding limits, the initiation of the funding and de-funding of a user’s holdings, and the management of local storage devices for offline digital euro payments are <b>some of the tasks in the public interest that are essential for the protection of citizens making use of the digital euro as well as for the stability and integrity of the Union's financial system that require compliance with a legal obligation</b>. Payment service providers will be the controller of personal data as regards these tasks. In addition, payment service providers may process personal data to comply with existing tasks <b>in the public interest or for that require compliance with a legal obligations established in pursuant to Union law that apply to funds defined in Directive (EU) 2015/2366. TSome of these tasks apply to</b> are the provision of payment services and the prevention and detection of fraud in accordance with Directive (EU)</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>2015/2366, combatting money laundering and terrorist financing in accordance with Directive (EU) 2015/849, the fulfilment of obligations related to taxation and tax avoidance, and the management of operational and security risks in line with Regulation (EU) 2022/255.</p> <p>BE: (Comments): One should avoid qualifying the data processing activities of PSPs with regards to the digital euro as tasks that are performed in the public interest. It suffices to consider these data processing activities as lawful since they are necessary to comply with a legal obligation to which the controller is subject.</p>
<p>(74) Any processing of personal data to verify whether users are listed persons or entities pursuant to restrictive measures adopted in accordance with Article 215 TFEU should be in line with Regulation (EU) 2016/679 of the European Parliament and of the Council. Processing of the names and the payment account identifiers of natural persons is proportionate and necessary to ensure the</p>	<p>DE: (Drafting): (74) Any processing of personal data to verify whether users are listed persons or entities pursuant to restrictive measures adopted in accordance with Article 215 TFEU should be in line with Regulation (EU) 2016/679 of the European Parliament and of the Council. Processing of the names and the payment account identifiers of natural persons <b>is <u>should be considered</u></b> proportionate and necessary to ensure the compliance with restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
compliance with restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available.	
<p>(75) Offline digital euro payment transactions are payments that occur in close physical proximity (“face-to-face”). They have similarities with transactions in cash and should be treated in a similar way in terms of privacy. Payment service providers should therefore not process personal data related to offline digital euro payment transactions, but only personal data related to depositing or withdrawing digital euros from digital euro payment accounts to load them onto the local storage devices, or from the local storage devices into the digital euro payment accounts This includes the</p>	<p>NL: (Comments): <u>NL Comment:</u> We support the possibility of offline payment transactions from the first issuance of the digital euro. It offers the possibility to make anonymous payments in the digital domain and is therefore a real addition to the current digital payment options. We understand the choice for the requirement of physical proximity from an AML/CFT-point of view.</p> <p>DE: (Drafting): (75) Offline digital euro payment transactions are payments that occur in close physical proximity (“face-to-face”). They have similarities with transactions in cash and should be treated in a similar way in terms of privacy. Payment service providers should therefore not process personal data related to offline digital euro payment transactions, but only personal data related to depositing or withdrawing digital euros from digital euro payment accounts to load them onto the local storage devices, or from the local storage devices into the digital euro payment accounts This includes the identifier of the local storage devices which payment service providers attribute to a digital euro user that holds offline digital euro. That level of privacy would be comparable to <b><u>to cash, in the case of payment transactions, and to</u></b> withdrawals of banknotes at automatic teller machines, <b><u>in the case of funding and de-funding transactions,</u></b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>identifier of the local storage devices which payment service providers attribute to a digital euro user that holds offline digital euro. That level of privacy would be comparable to withdrawals of banknotes at automatic teller machines when payment service providers process personal data related to a user’s identity and data pertaining to how funding and defunding transactions have been carried out. That means that no transaction data monitoring should occur for offline digital euro payment transactions.</p>	<p>when payment service providers process personal data related to a user’s identity and data pertaining to how funding and defunding transactions have been carried out. That means that no transaction data monitoring should occur for offline digital euro payment transactions.</p> <p>DE: (Comments): See our comments at recital (71).</p> <p>BE: (Drafting): (75) Offline digital euro payment transactions are payments that occur in close physical proximity (“<del>face-to-face</del>”). They <b>have show</b> similarities with transactions in cash and should be treated in a similar way in terms of privacy. Payment service providers should therefore not process personal data related to offline digital euro payment transactions, but only personal data related to <del>depositing or withdrawing</del> <b>transferring</b> digital euros from digital euro payment accounts to <del>load them onto the</del> local storage devices, or from the local storage devices <del>into</del> the digital euro payment accounts. <del>Thisese transfers should</del> includes the identifier of the <b>offline digital euro</b> local storage devices which payment service providers attribute to a digital euro user <del>that holds offline digital euro</del>. That level of privacy would be comparable to withdrawals of banknotes at automatic teller machines, where payment service providers <b>only</b> process personal data related to a user’s identity and data pertaining to how funding and defunding transactions have been carried out. That means that no transaction data monitoring should occur for offline digital euro payment transactions.</p> <p>BE: (Comments): An online payment transaction can also take place “face-to-face” and is thus not exclusive to</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	offline payment transactions. Furthermore, we make some editorial drafting suggestions.
<p>(76) The European Central Bank and national central banks may process personal data in so far as it is necessary to fulfil tasks that are essential to the proper functioning of the digital euro. In the framework of this regulation, the processing of personal data for the purposes of the settlement of digital euro payment transactions and the management of the security and integrity of the digital euro infrastructure are tasks in the public interest that are essential for the protection of citizens making use of the digital euro as well as for the stability and integrity of the Union's financial system. The task of maintaining the security and integrity of digital euro infrastructure includes activities</p>	<p>NL: (Comments): <u>NL Comment</u>: We welcome pseudonymized and encrypted processing of transactions (both online and offline), so that privacy of users can be protected towards the ECB, the national central banks and payment service providers. We do think that an in-depth discussion is required to understand and be able to agree on all the necessities for processing of personal data and corresponding safeguards.</p> <p>AT: (Drafting): (76) The European Central Bank and national central banks may process personal data in so far as it is necessary to fulfil tasks that are essential to the proper functioning of the digital euro. In the framework of this regulation, the processing of personal data for the purposes of the settlement of digital euro payment transactions and the management of the security and integrity of the digital euro infrastructure are tasks in the public interest that are essential for the protection of citizens making use of the digital euro as well as for the stability and integrity of the Union's financial system. The task of maintaining the security and integrity of digital euro infrastructure includes activities related to ensuring the stability and operational resilience of the digital euro. The European Central Bank and national central banks would be the controller of personal data as regards these tasks. The European Central Bank and national central banks would process personal data for these tasks using state-of-the-art security and privacy-preserving measures, such as pseudonymisation or encryption, to ensure that data cannot be used to <b>directly</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>related to ensuring the stability and operational resilience of the digital euro. The European Central Bank and national central banks would be the controller of personal data as regards these tasks. The European Central Bank and national central banks would process personal data for these tasks using state-of-the-art security and privacy-preserving measures, such as pseudonymisation or encryption, to ensure that data cannot be used to directly identify a specific digital euro user..</p>	<p>identify a specific digital euro user.</p> <p>AT: (Comments): AT: We welcome the high level of privacy for users of the digital euro set out in Articles 34 et seqq. It is our understanding that the ECB and the national central banks can neither directly nor indirectly identify users based on the personal data which they have provided. In order to reflect this understanding in the legislative proposal, we ask to delete the word “directly” in the last sentence of recital 76.</p> <p>DE: (Drafting): (76) The European Central Bank and national central banks may process personal data in so far as it is necessary to fulfil tasks that are essential to the <del>proper</del><b>lawful, stable and secure</b> functioning of the digital euro. In the framework of this <del>r</del><b>Regulation</b>, the processing of personal data for the purposes of the settlement of digital euro payment transactions and the management of the security and integrity of the digital euro infrastructure <b>should be considered to be necessary for the performance of are</b> tasks in the public interest, <b>as they that</b> are essential for the protection of citizens making use of the digital euro as well as for the stability and integrity of the Union's financial system. The task of maintaining the security and integrity of digital euro infrastructure includes activities related to ensuring the stability and operational resilience of the digital euro. The European Central Bank and national central banks would be the controllers of personal data as regards these tasks. The European Central Bank and national central banks <del>would</del><b>should</b> process personal data for these tasks using state-of-the-art security and privacy-preserving measures, such as pseudonymisation or encryption, to ensure that data cannot be used to <del>directly</del> identify a specific digital euro user.;</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>DE: (Comments): “Proper” should be specified further in order to clarify the scope of the purpose.</p> <p>Amendments according to the wording of Article 6 (3) GDPR.</p> <p>BE: (Comments): While we can largely agree with this Recital that processing of personal data by the Eurosystem could be lawful in view of the public interest, it is at odds with the requirements throughout the Regulation that the Eurosystem should not be able to identify natural persons at all and should, thus, not process personal data under any circumstances. We reserve the right to make further comments on this at a later stage.</p> <p>IE: (Comments): The reference to “state-of-the-art security and privacy-preserving measures” appears in Provision 76 and in several other places in the draft legislation and should be re-assessed. The phrase “state-of-the-art” is not defined, and is capable of several different interpretations. We would suggest to instead refer throughout to “high standards of security and privacy-preserving measures”.</p>
(77) For the purpose of enforcing the holding	IT:

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>limits and ensuring the exceptional switching of digital euro payment accounts in emergency situations upon the request of the digital euro user, a single access point of digital euro user identifiers and the related digital euro holding limits is necessary to ensure the efficient functioning of the digital euro across the entire euro area, as digital euro users may hold digital euro payment accounts in different Member States. When establishing the single access point, the European Central Bank and national central banks should ensure that the processing of personal data is minimised to what is strictly necessary and that data protection by design and by default is embedded. The European Central Bank and national central banks should consider, where appropriate and to minimise the risk of data breaches, the use of decentralised</p>	<p>(Comments):  <b>IT</b> – see our comment at recital (25) and art. 13(7): we propose to provide individuals/natural persons with the possibility of opening a single digital euro account with a single PSP, while leaving the possibility to open different accounts only to businesses/legal persons, for which a holding limit equal to zero could be envisaged.</p> <p>DE:  (Comments):  The proposed “single access” point touches on the very sensitive issue of privacy protection, which in our view is key to the public’s trust in the project. To be able to take an informed position on this subject, a number of questions need to be answered:</p> <ol style="list-style-type: none"> <li>1) From a technical point of view, we would like to much better understand how the single access point would work. E.g. who provides the technical infrastructure, what data exactly would be stored in the single access point, who exactly would have access to which parts of the data for which purposes? We appreciate that the legislative proposal attempts to address some of these questions in chapter VIII and the annexes. However, for us the answers to these questions are not sufficiently clear just from reading the draft text. We would appreciate an in-depth explanation as part of a more general in-depth session, where the exact data management and usage around the digital euro and its different functions is explained.</li> <li>2) From a conceptual point of view, we would like to understand better what exactly the single access point is needed for and whether there are (technical or conceptual) alternatives to enforcing holding limits that might be spread over several accounts.</li> <li>3) We would like to understand better why the Commission considers it necessary to introduce the emergency switching mechanism. People fully trust their intermediaries with their payment</li> </ol>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
data storage.	<p>accounts today and we are neither aware of similar mechanisms to switch one's bank account to a different bank in case of a technical emergency nor of any necessity to provide for such mechanism.</p> <p>BE: (Drafting): (77) For the purpose of enforcing the holding limits and ensuring the exceptional switching of digital euro payment accounts in emergency situations upon the request of the digital euro user, a single access point of digital euro user identifiers and the related digital euro holding limits is necessary to ensure the efficient functioning of the digital euro across the entire euro area, as digital euro users may hold digital euro payment accounts in different Member States. When establishing the single access point, the European Central Bank and national central banks should <del>ensure that the processing of personal data is minimised to what is strictly necessary and that data protection by design and by default is embedded</del> <b>implement appropriate technical and organisational measures to ensure that the identity of individual digital euro users cannot be inferred from the information accessed via the single access point, except by relevant payment service providers. The European Central Bank and national central banks should consider, where appropriate and to minimise the risk of data breaches, the use of decentralised data storage.</b></p> <p>BE: (Comments): Data privacy limitation imposed by Article 35, paragraph 8 (no access to personal data by the Eurosystem) should be mentioned here. Furthermore, the type of technology to be used for the single access point is a decision to be made by the Eurosystem alone, taking account of all relevant factors. It should not be mentioned</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	in the Regulation.
<p>(78) With its package on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing, adopted by the Commission on 21 July 2021<sup>28</sup>, ('AML-package'), the Commission has proposed to significantly strengthen anti-money laundering ('AML') rules across the Union. In keeping with that objective and to ensure an effective application of AML/CFT requirements to the digital euro, this Regulation should provide that online digital euro payment transactions are subject to AML/CFT</p>	<p>NL: (Comments): <u>NL Comment:</u> We support the parallel with other online payments. We think it is important, also for level playing field, that online digital euro payments meet the same AML/CFT-standards as current/other online digital payments.</p> <p>PT: (Comments): Please refer to our comments to Recital (10), and to Article 37(2).</p> <p><b><u>General remark regarding the interaction of this Proposal with the AML/CFT legal framework regarding offline digital euro payment transactions</u></b> In our view, it's not clear from the evaluative and consultative work preceding this Proposal (as per the Explanatory Memorandum) that the European Commission has carried out a specific ML/TF risk assessment for the digital euro in order to support the conclusion that offline digital euro payments present a lower ML/TF risks, including when compared to other types of payment transactions (either online digital euro transactions or transactions with cash, scriptural money or e-money).</p>

<sup>28</sup> Proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (COM/2021/420 final); Proposal for a Directive establishing the mechanisms that Member States should put in place to prevent the use of the financial system for ML/TF purposes, and repealing Directive (EU) 2015/849 ( COM/2021/423 final); Proposal for a Regulation creating an EU Authority for anti-money laundering and countering the financing of terrorism ('AMLA') (COM/2021/421 final); and Proposal for the recast of Regulation (EU) 2015/847 expanding traceability requirements to crypto-assets (COM/2021/422 final)

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
requirements laid down in Directive (EU) 2015/849.	<p>In line with the risk-based approach that underpins AML/CFT regulation and supervision, <u>simplified due diligence measures may only be applicable in situations where a low risk of ML/TF is concretely identified.</u></p> <p>According with the AML/CFT legal framework, conclusions on the actual risk associated with a given situation must always result from weighing up all the risk factors applicable to the case, i.e. all those that contribute to reducing and all those that contribute to increasing risk. <u>The presence of one factor alone is therefore not sufficient to conclude that a given product is low risk.</u></p> <p>However, it seems to us that in this proposal the assumption that offline digital euro transactions are “low risk” stems only from the fact that they are proximity payments and therefore do not have the scalability that, for example, online digital euro payments have. We are aware that transaction limits will also contribute to reduce ML risk (but not the TF risks, as the values associated with transactions are usually low), but these limits have not yet been set. Other factors associated with offline digital euro payment transactions that contribute to <u>increase</u> the ML/TF, such as the quick and easy convertibility into online digital euro transactions and other types of funds and the fact that they are transactions intermediated by a PSP (different from cash payments*), exposing them to ML/TF risks, are not being considered.</p> <p>*In this point, we recall that parallels with cash and the anonymity it provides should not justify AML/CFT solutions applicable to the digital euro transactions. In this sense, we would like to emphasise that high ML/TF risks posed by the use of cash are well known and have been repeatedly highlighted by, among others, the FATF and the European Commission (e.g. in the Supra National Risk Assessment). Such risks, moreover, justified the EU trend to increasingly limit the use of cash – cf. in this sense, see Article 59 of the proposal for a new AML/CFT Regulation.</p> <p>In view of the above, we are of the opinion that any provision on AML/CFT rules applicable to offline digital euro payment transactions should be supported by a comprehensive ML/TF assessment to be prepared by the European Commission. Therefore, any developments in the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>negotiation of this proposal on this point should await this assessment. Only with an understanding of the associated ML/TF risks can appropriate mitigating measures be designed. An alternative solution, <u>which we prefer (at least for now and preliminarily)</u>, would be to refer the entire AML/CFT regime applicable to digital euro payment transactions to AML legislation, and deleting, inter alia, Article 37 of this proposal. In this regard, we recall that, according to the proposed Regulation AML/CFT, AMLA will be mandated to prepare draft RTS on simplified regimes to be adopted by obliged entities (cf. Article 22), and this is – in our opinion – the appropriate piece of legislation to address the AML/CFT rules to be applied to digital euro payment transactions.</p>
<p>(79) To facilitate the widespread uptake of the digital euro, it is essential that prospective digital euro users can easily access digital euro payment services provided by payment services providers in a harmonised manner across the euro area. It is therefore appropriate, without any prejudice to the risk approach underpinning the AML-package, for the anti-money laundering authority of the Union (‘AMLA’) to</p>	<p>PL: (Drafting): PL: (79) To facilitate the widespread uptake of the digital euro, it is essential that prospective digital euro users can easily access digital euro payment services provided by payment service providers in a harmonised manner across the euro area. It is therefore appropriate, without any prejudice to the risk approach underpinning the AML-package, for the anti-money laundering authority of the Union (‘AMLA’) to address the opening of digital euro payment accounts in its Regulatory Technical Standards on customer due diligence. For low-risk transactions or business relationships, AMLA should identify relevant simplified due diligence measures that payment service providers should apply. AMLA should prioritise the development of these Regulatory Technical Standards.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>address the opening of digital euro payment accounts in its Regulatory Technical Standards on customer due diligence. For low-risk transactions or business relationships, AMLA should identify relevant simplified due diligence measures that payment services providers should apply. AMLA should prioritise the development of these Regulatory Technical Standards.</p>	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>EE: (Comments): EE: The proposal is accompanied by an impact assessment. The proposal includes anti-money laundering rules. It foresees that AML/CFT guidelines should be/could be developed. Some measures in proposal are aimed at mitigating geographical risks and risks related to the combination of anonymity and large sums. The central pieces of mitigating measures are the holding and transaction limits. The proposal states that the transaction and holding limits shall be determined taking into account an assessment of the money laundering and terrorist financing threats, vulnerabilities and risks of the digital euro when funding and defunding their payment instrument. This is a very limited risk assessment. FATF recommendations state that countries and financial institutions should identify and assess the money laundering or terrorist financing risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. The risk assessment should be conducted as early as possible taking account all relevant threats, vulnerabilities and risks. At the moment there is no AML/CFT risk assessment. The mitigating measures are designed by the assumptions that digital euro is in some aspects similar to cash and in some aspects similar to wire transfer and bank account services. These are intelligent assumptions that may be true, but this approach is not knowledge-based nor is it risk-based, as we do not have the risk assessment. The risks of digital euro might differ due to the unique combination of vulnerabilities that are usually related to cash, wire transfers and virtual assets. The measures therefore could also differ from the measures used up until now. The proposed measures could not be appropriate or sufficient. If the risk assessment is conducted after designing product/service with the adoption of the regulation</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>then the results of the assessment have limited use. The unwanted consequences might include derisking, large scale ML and TF, formation of risk pockets, reputational damage to euro, central banks, jurisdictions and financial system as a whole etc. In order to have intelligent conversation about AML/CFT, there must be a holistic risk assessment to the digital euro.</p> <p>PT: (Comments): Please refer to our comment to Recital (78).</p>
<p>(80) In contrast to offline digital euro payment transactions, online digital euro payment transactions are not limited to physical proximity transactions, and can be used to transfer funds at distance between digital euro users. For online digital euro payment transactions, central bank digital currencies could present greater AML/CFT risks than cash as they would be acting as an instrument whose liquidity is similar to that of cash but without the limitations on portability that are implicit in</p>	<p>NL: (Comments): <u>NL Comment:</u> Please refer to our comment to recital 78 above.</p> <p>IT: (Drafting): (80) In contrast to offline digital euro payment transactions, online digital euro payment transactions are not limited to physical proximity transactions, and can be used to transfer funds at distance between digital euro users. For online digital euro payment transactions, central bank digital currencies could present greater AML/CFT risks than cash as they would be acting as an instrument whose liquidity is similar to that of cash but without the limitations on portability that are implicit in cash. It should therefore be laid down that an online digital euro payment transaction is to be subject to Directive (EU) 2015/849 of the European Parliament and of the Council, and Regulation (EU) <b>2023/1113</b> of the European Parliament and of the Council.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>cash. It should therefore be laid down that an online digital euro payment transaction is to be subject to Directive (EU) 2015/849 of the European Parliament and of the Council, and Regulation (EU) 2015/847 of the European Parliament and of the Council<sup>29</sup>.</p>	<p>IT: (Comments): <b>IT</b>: update the reference to the TFR</p> <p>BE: (Drafting): (80) <del><b>In contrast to offline digital euro payment transactions, online digital euro payment transactions are not limited to physical proximity transactions, and can be used to transfer funds at distance between digital euro users. For online digital euro payment transactions, central bank digital currencies could present greater AML/CFT risks than cash as they would be acting as an instrument whose liquidity is similar to that of cash but without the limitations on portability that are implicit in cash.</b></del> It should <del>therefore</del> be laid down that an online digital euro payment transaction, <b>like any other digital means of payment</b>, is to be subject to Directive (EU) 2015/849 of the European Parliament and of the Council, and Regulation (EU) 2015/847 of the European Parliament and of the Council<sup>30</sup>.</p> <p>BE: (Comments): We fail to understand why the online digital euro would be an instrument whose liquidity is similar to that of cash but without the limitations on portability that are implicit in cash. It would in our opinion suffice to say that the digital euro, like any other digital means of payment, should be subject to the AML Directive.</p>

<sup>29</sup> Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

<sup>30</sup> Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>EE: (Comments): Please see the comment on recital (79).</p> <p>PT: (Comments): Please refer to our comment to Recital (78) and Article 37(2).</p>
<p>(81) In order to ensure a consistent application of the legal tender requirements and keep pace with technological developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Regulation by adopting delegated acts in respect of additional exceptions to mandatory acceptance and the types of personal data processed by payment services providers, the European Central Bank</p>	<p>PL: (Drafting): PL: (81) In order to ensure a consistent application of the legal tender requirements and keep pace with technological developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Regulation by adopting delegated acts in respect of additional exceptions to mandatory acceptance and the types of personal data processed by payment service providers, the European Central Bank and the national central bank and providers of support services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.</p> <p>PL: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>and the national central bank and providers of support services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.</p>	<p>PL: Re-drafting proposals, technical, non-material</p>
<p>(82) While offline digital euro payment transactions have similarities with transactions in cash and should be treated in a similar way in terms of privacy specific holding and transaction limits for offline proximity payments are essential to mitigate AML/CFT risks,</p>	<p>NL: (Comments): <u>NL Comment</u>: we agree that it is important to have measures in place to mitigate the AML/CFT-risks involved with offline digital euro transactions and hence understand the benefits of holding and transaction limits for offline use.</p> <p>IT: (Comments): IT – when defining holding and transaction limits for offline digital euros, it will be important to bear in mind that significant differences still remain with cash also for proximity payments, due to the absence of the physical dimension of digital euros. Moving large amounts of cash, even</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>in compliance with the limits established by AML local laws, involves some risks (theft, loss, deterioration of banknotes). Moreover, moving large quantities of cash, can be intercepted by controls relying on the physical characteristics of the cash (volume, smell, which can be intercepted by specially trained dogs). This is not true for digital euro, hence justifying the provision of specific measures for offline digital euro (see comments under art. 37).</p> <p>BE: (Comments): AML/CFT risks in an offline context are foremost addressed by imposing transaction limits. Holding limits for offline digital euro should be determined by the Eurosystem, in the same way it determines holding limits for the online digital euro.</p> <p>EE: (Comments): Please see the comment on recital (79).</p> <p>PT: (Comments): Please refer to our comment to Recital (78) and Article 37(2).</p>
(83) In order to ensure uniform conditions for the application of holding and transaction limits for offline proximity payments, implementing	<p>NL: (Comments): <u>NL Comment</u>: We support the choice for the examination procedure.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>31</sup>. The examination procedure should be used for the adoption of the implementing acts specifying the transaction and holding limits of the offline digital euro, given that those acts contributes to the fight against money laundering and terrorist financing.</p>	<p>BE: (Comments): See our previous comment.</p>
<p>(84) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring that the euro is used as a single currency in a digitalised economy to lay down</p>	

<sup>31</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
rules concerning in particular its legal tender status, distribution, use and essential features. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) on the Treaty on European Union.	
(85) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council <sup>32</sup> and delivered a joint opinion on [XX XX 2023].	
HAVE ADOPTED THIS REGULATION:	

<sup>32</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
CHAPTER I SUBJECT MATTER AND DEFINITIONS	
Article 1 Subject matter	
With a view to adapting the euro to technological changes and to ensuring its use as a single currency, this Regulation establishes the digital euro and lays down rules concerning in particular its legal tender status, distribution, use, and essential technical features.	<p>NL: (Drafting): With a view to adapting the euro to technological changes <u>by way of the issuance of a digital euro</u> and to ensuring its use as a single currency, this Regulation <del>establishes the digital euro and</del> lays down rules concerning in particular its legal tender status, distribution, use, and essential technical features</p> <p>NL: (Comments): <u>NL Comment</u>: The issuance of the digital euro should be based on an existing legal basis within the Treaty and should not be presented as the assignment of a new task to the ECB under secondary EU law. We suggest to change the wording of this first provision to express that the euro is adapted to technological changes by way of the issuance of a digital euro and that this Regulation lays down rules on important aspects of the digital euro.</p> <p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting):</p> <p><b>1.</b> With a view to <del>adapting the euro to technological changes and to</del> ensuring <del>its</del> the use of the euro as a single currency, this Regulation <del>establishes</del> <b>recognises the competence of the Eurosystem to issue the a digital form of the euro as generally accessible central bank money vested with legal tender. To this end, this Regulation and</b> lays down rules concerning, in particular, its legal tender status, distribution, use as a means of payment, and essential technical features, as well as rules to ensure the privacy and data protection of data subjects and the prevention of money laundering practices.</p> <p><b>2.</b> This Regulation is without prejudice to the competences of the ECB and the central bank of the participating Member States in accordance with the Treaties.</p> <p>BE:</p> <p>(Comments):</p> <p>The Regulation, as an act of secondary law, cannot attribute a new competence to the Eurosystem since new competences can only be attributed by modification of the Treaties themselves. It is therefore important to avoid any wording which could be interpreted as attributing a new competence to the Eurosystem. As correctly indicated in Article 4 of the Regulation, the Eurosystem may issue the digital euro “in accordance with the Treaties”. The draft Regulation should therefore merely confirm the Eurosystem’s competence to issue the digital euro as a generally accessible central bank money vested with legal tender. Along the same line, the Regulation should not purport to establish the digital euro. Furthermore, it should be clarified that this Regulation is without prejudice to the competences of the Eurosystem pursuant to the Treaties.</p> <p>PT:</p> <p>(Drafting):</p> <p>With a view to adapting the euro to technological changes and to ensuring its use as a single</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>currency, this Regulation establishes the digital euro, <i>as a new form of central bank money</i>, and lays down rules concerning in particular its legal tender status, distribution, use, and essential technical features.</p> <p>PT: (Comments): Our point concerns the interaction between EU and ESCB / ECB competences. In this Article, it seems insufficient to say that the Regulation “establishes the digital euro”. Rather, it should be stated that the digital euro is established as a new form of central bank money.</p> <p>FR: (Comments): <b><u>Regarding the scope of the digital euro project, the choice has been made to limit it to retail use cases in the Commission’s proposal. As France said in many instances, including in Eurogroup format, innovative use cases, specifically for wholesale financial and cross-border transactions, shall not be left aside.</u></b> It is highly strategic as (i) private non-EU institutions are investing the sector and as (ii) several studies show potential to ease transactions and provide a public settlement asset, less risky than crypto-assets or other private assets. It therefore seems essential to find ways and means, including within the framework of this text, to ensure that these use cases and possibilities form part of the scope of the digital euro project as currently envisaged by the Commission and the Eurosystem. In this respect, it would be useful to be provided with a legal opinion from the Council legal services on the legal possibilities for</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	co-legislators to discuss, in the context of this regulation, the wholesale and cross-broder dimensions of the digital euro, beyond retail.
Article 2 Definitions	
For the purpose of this Regulation, the following definitions shall apply:	
1. 'digital euro' means the digital form of the single currency available to natural and legal persons;	<p>SI: (Comments): The draft regulation is not entirely clear on what the digital euro is. Various characteristics of the digital euro in the text of the draft regulation seem to point an instrument similar to cash or a payment instrument under PSD II framework.</p> <p>Given the legal tender status of the digital euro, the question arises whether the distinction between the digital euro as legal tender and payment instruments (which do not have legal tender status) should not be made clearer. As it stands, the general public may perceive the digital euro as a mere payment instrument.</p> <p>BE: (Drafting):</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>1. ‘digital euro’ means the digital form of the single currency available to natural and legal persons <b>as issued by the ECB and the central banks of the participating Member States</b>;</p> <p>BE: (Comments): It is important to clarify that the digital euro is issued by the Eurosystem and that it is different from the currently existing, generally available digital form of the euro as created by private financial institutions.l</p> <p>FR: (Comments): The distinction between retail digital euros and digital euros circulating on the rails of the ECB's TARGET infrastructures should be clarified, as these assets are public money accessible to legal entities (credit institutions).</p>
<p>2. ‘credit institution’ means a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>33</sup>;</p>	

<sup>33</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>3. ‘digital euro payment transaction’ means an act, initiated by a payer or on his or her behalf, or by the payee, of placing, transferring or withdrawing digital euro, irrespective of any underlying obligations between the payer and the payee;</p>	<p>PT: (Drafting): 3. ‘digital euro payment transaction’ means <b>a payment transaction as defined in Article 4(5) of Directive (EU) 2015/2366 of the European Parliament and the Council, in which the funds are digital euro</b> <del>an act, initiated by a payer or on his or her behalf, or by the payee, of placing, transferring or withdrawing digital euro, irrespective of any underlying obligations between the payer and the payee;</del></p> <p>PT: (Comments): This suggestion intends to ensure a higher level of coherence with the current revision of PSD2, which, according with the initial proposal, already includes the digital euro as a category of funds.</p>
<p>4. ‘digital euro user’ means anyone making use of a digital euro payment service in the capacity of payer, payee, or both;</p>	<p>SE: (Drafting): ‘digital euro user’ means <b>a natural or legal person</b> <del>anyone</del> making use of a digital euro payment service in the capacity of payer, payee, or both</p> <p>SE: (Comments): “anyone” is rather vague, a more specific drafting would be preferable</p> <p>NL:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments):  <b>NL Comment:</b> We suggest to delete the words “in the capacity of payer, payee, or both”, since a person that holds digital euro’s in his account, without making payments, should also be considered a digital euro user (please refer to e.g. Annex I).</p> <p>DE:  (Drafting):  4. ‘digital euro user’ means anyone making use of a digital euro payment service in the capacity of payer, payee, or both;</p> <p><b><u>4a. ‘consumer’ means any natural person who is acting for purposes which are outside his or her trade, business, craft or profession;</u></b></p> <p>DE:  (Comments):  With regard to our comments regarding Art. 14 (2) and Art. 17 (1) of the proposal please kindly consider to include the suggested definition of consumer (also e.g. used in PAD).</p> <p>BE:  (Drafting):  4. ‘digital euro user’ means <del>anyone</del> <b>one person referred to in Article 4a</b> making use of a digital euro payment service in the capacity of payer, payee, or both;</p> <p>BE:  (Comments):  See our suggestion to insert a new Article 4a in Chapter II, mentioning the persons that can be</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	digital euro users.
<p>5. ‘digital euro payment account’ means an account held by one or more digital euro users with a payment service provider to access digital euro recorded in the digital euro settlement infrastructure or in an offline digital euro device and to initiate or receive digital euro payment transactions, whether offline or online, and irrespective of technology and data structure;</p>	<p>SE: (Comments): Traditionally, account means a claim on the issuer. A digital euro payment account is a liability on the ECB and not on the payment service provider. Would there be any need for further clarification of this concept?</p> <p>NL: (Comments): <u>NL Comment:</u> The Regulation seems very descriptive in relation to the design of the digital euro. Perhaps the Regulation could use a more neutral wording in relation to digital euro holdings? Also, it could be an option to amend Article 17 of the Statute of the European System of Central Banks and of the European Central Bank (‘ESCB Statute’) to cater for the possibility for the Eurosystem to open accounts for the general public. Article 17 of the ESCB Statute can be amended by way of the simplified procedure on the basis of Article 40 of the ESCB Statute.</p> <p>SI: (Comments): Regarding joint accounts: if digital euro is to be constructed as a digital version of cash, we suggest that this analogy be maintained consistently in all aspects. Including joint accounts in the proposal could suggest an analogy with joint payment accounts rather than cash. This could make the proposal inconsistent. Furthermore, joint accounts could also be problematic from a technical implementation point of view, especially in connection with other functionalities of digital euro such as funding and defunding, offline functionality etc.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>AT: (Comments): In principle, we are <b>sceptical</b> of the digital euro users' <b>possibilities</b> to <b>use one</b> digital euro payment <b>account together</b> with <b>another user</b>, as the <b>technical</b> and <b>legal complexity</b> associated with such possibilities could hinder the take-up of the digital euro. We would therefore favour a <b>transfer</b> of these <b>possibilities</b> from the <b>prescriptive part</b> of the proposal to the <b>review clause</b> (Art 41).</p> <p>DE: (Drafting): 5. 'digital euro <b>payment user</b> account' means an account held by one or more digital euro users with a payment service provider to access digital euro recorded in the digital euro settlement infrastructure or in an offline digital euro device and to initiate or receive digital euro payment transactions, whether offline or online, and irrespective of technology and data structure;</p> <p>DE: (Comments): Definition No. 5 of "digital euro payment account" by and large correctly describes the role of the "payment service providers" (= financial intermediaries) in relation to digital euro users as providing <i>information</i> and <i>initiation</i> services to the digital euro users. Yet, the term "digital euro <i>payment</i> account" does not properly headline the activities undertaken by the payment service providers in relation to the digital euro users: no digital euro "payment" transactions are undertaken on those "accounts", Hence no "transfer" of digital euro holdings occurs on such accounts (instead, such transfer occurs in the ECB ledger). Our proposal would therefore be to remove the word "payment" from the term, in order to avoid a false/misguiding impression that</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>this is a traditional “payment account” as defined by PSD 2, and replace it by a more neutral text. Please also see our comments on Recitals (9), (22) and (23).</p> <p>This has to be applied consistently throughout the text (which we have not yet done in this commentary to avoid confusion).</p> <p>BE: (Drafting): 5. ‘digital euro payment account’ means an account held by one or more digital euro users with a payment service provider to <b>(a)</b> access digital euro recorded in the digital euro settlement infrastructure or in an offline <del>digital euro</del> device <b>and</b>, <b>(b)</b> <del>to</del> initiate <del>or receive</del> digital euro payment transactions, <b>or (c) receive digital euro</b>, whether offline or online, and irrespective of technology and data structure;</p> <p>BE: (Comments): Editorial drafting suggestions. At this stage, we do not have a clear stance as to whether a digital euro user should be allowed to open multiple digital euro accounts or not. We may comment later, once more information on the technical and operational feasibility is available</p> <p>PT: (Drafting): 5. ‘digital euro payment account’ means <b><i>a payment account as defined in Article 4(12) of Directive (EU) 2015/2366 of the European Parliament and the Council, which is used for the execution of digital euro payment transactions; an account held by one or more digital euro users with a payment service provider to access digital euro recorded in the digital euro settlement infrastructure or in an offline digital euro device and to initiate or receive digital</i></b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><i>euro payment transactions, whether offline or online, and irrespective of technology and data structure;</i></p> <p>PT: (Comments): We have doubts that this definition is aligned with the concept of payment account under the PSD regime, which establishes a much simpler and direct definition, by stating that such account is “held in the name of one or more payment service users which is used for the execution of payment transactions” (Article 4 (12) of PSD2). One option would be to adhere to the PSD terminology whenever possible, but use the recitals to explain some nuances, while also using other provisions of the regulation to further explain: i) the rules applying in the case of insolvency of the intermediary; and ii) and the issues of liability between the ECB/NCB and the PSP.</p>
	<p>SE: (Comments): A definition of “digital euro device” might be beneficial</p>
<p>6. ‘European Digital Identity Wallets’ means the wallets set out in Article 6a of Regulation (EUDIWR) [<i>please insert reference – proposal for a Regulation of the European Parliament and of the Council amending</i></p>	<p>NL: (Comments): <u>NL Comment</u>: The revised eIDAS regulation contains a definition of the EDI-wallet, and the requirements are set out in article 6a of the revised regulation. Referring to the definition in the revised eIDAS regulation rather than to the specifications of the EDI wallets would be more</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<i>Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity – COM(2021) 281 final];</i>	suitable here.
7. ‘payment service provider’ means a payment service provider as defined in Article 4, point (11) of Directive 2015/2366;	<p>IT: (Comments): IT. In line with other articles in this Regulation (e.g. art. 5 (3)), we suggest to insert reference to the proposal for a Regulation on payment services in the internal market and proposal for a Directive on payment services and electronic money services in the internal market, taking into account that the PSD2 is currently under revision.</p> <p>DE: (Comments): Article 2 (7) links PSPs in the digital euro world to the PSPs under PSD 2. As written above (cf. our comments on Recitals (9), (22) and (23)), this is problematic. In the digital euro world, PSPs perform services that are similar to (but not the same as) the services performed by “payment initiation service providers” (Article 4 (18) of PSD 2) and "account information service provider" (Article 4 (19) of PSD 2); from our current understanding, they would <u>not</u> perform services that are similar to the services performed by “account servicing payment service providers” (Article 4 (17) of PSD 2). As stated in our comments above, we need to much better</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	understand the implications of this notion and critically question to what extent the PSD-regime can apply o the digital euro, given the services performed by PSPs are quite different than those performed by account servicing payment service providers on traditional payment accounts.
8. 'digital euro payment service' means any of the business activities set out in Annex I;	
9. 'payer' means anyone who has a digital euro payment account and allows a payment order from that digital euro payment account;	<p>SI: (Comments): Digital euro specific definitions need to be aligned with the nature of the digital euro. Please see the comment to point 1 of this Article.</p> <p>IT: (Drafting): IT – 9. “payer” means a <b><i>natural or legal person</i></b> who has a digital euro payment account and allows a payment order from that digital euro payment account;</p> <p>IT: (Comments): IT: we suggest replacing “anyone” with “a natural or legal person” to be consistent with the new draft PSD Directive</p> <p>BE:</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting): 9. ‘payer’ means anyone who has a digital euro payment account and allows a payment order from that <del>digital euro payment</del> account;</p> <p>BE: (Comments): Editorial drafting suggestion.</p> <p>FR: (Comments): The relationship between this definition and the definition of payer in the Payment Services Directive should be clarified (see general comments for Article 5(3)).</p>
<p>10. ‘payee’ means anyone who is the intended recipient of funds which have been the subject of a digital euro payment transaction;</p>	<p>SI: (Comments): Digital euro specific definitions need to be aligned with the nature of the digital euro. Please see the comment to point 1 of this Article.</p> <p>IT: (Drafting): IT – 10. ‘payee’ means a <b><i>natural or legal person</i></b> who is the intended recipient of funds which have been the subject of a digital euro payment transaction;</p> <p>IT: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>IT: we suggest replacing “anyone” with “a natural or legal person” to be consistent with the new draft PSD Directive</p> <p>BE: (Drafting): 10. ‘payee’ means anyone who is the intended recipient of <del>funds which have been the subject of a</del> digital euro <b>transferred through a digital euro</b> payment transaction <b>and holds a digital euro payment account</b>;</p> <p>BE: (Comments): In our understanding, digital euro can only be received on a digital euro account and, thus, not directly on a non-digital euro account. The payee should therefore always hold a digital euro account.</p> <p>FR: (Comments): The relationship between this definition and the definition of payee in the Payment Services Directive should be clarified (see general comments for Article 5(3)).</p>
11. ‘funding’ means the process whereby a digital euro user acquires digital euros, in exchange for either cash or other funds, creating a direct liability of the European Central Bank	<p>SE: (Drafting): ‘funding’ means the process whereby a digital euro user <u>mandates its payment service provider to convert</u> <del>acquires digital euros, in exchange for either cash or other funds</del> <u>into digital euro</u>, creating a direct liability of the European Central Bank or a national central bank towards that digital euro user</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
or a national central bank towards that digital euro user;	<p>SE: (Comments): Definition is somewhat vague, a higher degree of clarification would be beneficial</p> <p>BE: (Drafting): 11. ‘funding’ means the process whereby a digital euro user acquires digital euros, in exchange for <del>either cash or</del> other funds, <b>entailing the issuance and bringing in circulation of digital euros and the creating creation of</b> a direct liability of the European Central Bank or a national central bank towards that digital euro user;</p> <p>BE: (Comments): Digital euro can be acquired in exchange of any other type of funds (as defined in PSD2, thus also including cash). Furthermore, we propose to clarify in this definition the process of issuance of the digital euro that takes place through a funding transaction.</p> <p>FR: (Comments): See general comments in article 3 notably regarding the use of the term “direct liability”.</p>
12. ‘defunding’ means the process whereby a digital euro user exchanges digital euro with cash or other funds;	<p>SE: (Drafting): ‘defunding’ means the process whereby a digital euro user <u>mandates its payment service provider to convert</u> exchanges digital euro <u>into</u> with cash or other funds</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>SE: (Comments): Definition is somewhat vague, a higher degree of clarification would be beneficial</p> <p>IT: (Comments): IT – we believe that the definition of “defunding” should be the same (in opposite terms) as the definition of “funding”</p> <p>BE: (Drafting): 12. ‘defunding’ means the process whereby a digital euro user exchanges digital euro <del>with cash or</del> for other funds, <b>entailing the withdrawal from circulation of these digital euros and the destruction of the direct liability of the European Central Bank or a national central bank towards that digital euro user;</b></p> <p>BE: (Comments): See our previous comment. Furthermore, we propose to clarify in this definition the process of withdrawal of the digital euro that takes place through a defunding transaction.</p>
13. ‘national central bank’ means a national central bank of a Member State whose currency	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
is the euro;	
14. ‘online digital euro payment transaction’ means a digital euro payment transaction where the settlement takes place in the digital euro settlement infrastructure;	<p>BE: (Drafting): 14. ‘online digital euro payment transaction’ means a digital euro payment transaction <b>that requires online connectivity and</b> where the settlement takes place in the digital euro settlement infrastructure;</p> <p>BE: (Comments): Drafting suggestion for clarification.</p>
15. ‘offline digital euro payment transaction’ means a digital euro payment transaction, made in physical proximity, where authorisation and settlement take place in the local storage devices of both payer and payee;	<p>SE: (Drafting): ‘offline digital euro payment transaction’ means a digital euro payment transaction, <b>requiring</b> <del>made in</del> physical proximity, where authorisation and <b>pre-</b>settlement take place in the local storage devices of both payer and payee</p> <p>SE: (Comments): Online payments could also be made in physical proximity, a higher degree of detail would therefore be preferable. The second part of the definition is to some degree contradicting Art 30(3), which states “Final settlement of offline digital euro payment transactions shall occur at the moment when the records of the digital euro holdings concerned in the local storage devices of the payer and payee</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>are updated.”</p> <p>BE: (Drafting): 15. ‘offline digital euro payment transaction’ means a digital euro payment transaction <b>that does not require online connectivity and can only be</b> made in physical proximity, where authorisation and settlement take place in the local storage devices of both payer and payee;</p> <p>BE: (Comments): Drafting suggestion for clarification.</p>
<p>16. ‘residence’ means the place where a natural person is legally resident in the Union as defined in Article 2, point (2), of Directive 2014/92/EU of the European Parliament and of the Council<sup>34</sup>;</p>	
<p>17. ‘conditional digital euro payment</p>	<p>BE:</p>

<sup>34</sup> Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>transaction’ means a digital euro payment transaction which is instructed automatically upon fulfilment of pre-defined conditions agreed by the payer and by the payee;</p>	<p>(Drafting): 17. <del>‘conditional</del> <b>conditioned</b> digital euro payment transaction’ means a digital euro payment transaction which is instructed automatically upon fulfilment of pre-defined conditions agreed by the payer and by the payee;</p> <p>BE: (Comments): See our comment to Recital 7: a conditional payment can be understood as a payment which has been executed but either (a) the final discharge of the underlying debt would be conditional upon the later occurrence or non-occurrence of an event (condition suspensive) or (b) the payment can be unwound upon the later occurrence or non-occurrence of an event (condition résolutoire). In order to avoid any confusion, we propose to consistently use the term “conditioned payments”.</p> <p>FR: (Drafting): ‘conditional digital euro payment transaction’ means a digital euro payment transaction which is instructed automatically upon fulfilment of pre-defined conditions <b>are met</b> <del>agreed by the payer and by the payee;</del></p> <p>FR: (Comments): Conditional payments do not necessarily required that pre-defined conditions are mutually agreed between the payer and the payee. We suggest a more open wording.</p>
18. ‘programmable money’ means units of	LT:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
digital money with an intrinsic logic that limits each unit's full fungibility;	<p>(Comments): Suggestion to expand the definition, by having in mind also programmable money which is programmed to pay interest or exercise any other condition which expands its use rather than limits, thus change „limits“ to „alters“ or „impacts“.</p> <p>BE: (Drafting): 18. 'programmable money' means units of digital money with an intrinsic logic that limits each unit's full fungibility, <b>e.g. by limiting its use to buying specific types of goods or services, or by subjecting its useability to time limits;</b></p> <p>BE: (Comments): For greater clarity the definition should contain some examples of possible limits to the full fungibility (as is also done in Recital 55).</p>
19. the 'digital euro settlement infrastructure' means the settlement infrastructure of the digital euro adopted by the Eurosystem;	<p>SE: (Drafting): the 'digital euro settlement infrastructure' means <u>an arrangement provided for settlement of digital euro transactions</u> <del>the settlement infrastructure of the digital euro adopted by the Eurosystem</del></p> <p>SE: (Comments): Defining a concept with similar words should preferably be avoided</p> <p>BE:</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting): 19. the ‘digital euro settlement infrastructure’ means the <del>settlement</del> infrastructure <del>of the digital euro</del> adopted by the Eurosystem <b>for the issuance and withdrawal of digital euros through funding and defunding transactions, and for the settlement of digital euro payment transactions;</b></p> <p>BE: (Comments): The Eurosystem digital euro infrastructure not only services settlement of digital euro payment transactions, but is also the platform for the issuance and withdrawal of digital euro through funding and defunding transactions.</p>
<p>20. ‘front-end service’ means all components necessary to provide services to digital euro users that interact via defined interfaces with back-end solutions and other front-end services;</p>	<p>SE: (Comments): The last part is rather unclear, is the reference to “interact via defined interfaces with back-end solutions” a limitation or an example</p> <p>BE: (Drafting): 20. ‘front-end <del>service solution</del> means all components necessary to provide services to digital euro users that interact via defined interfaces with back-end solutions and other front-end <del>services solutions;</del></p> <p>BE: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	We are concerned that the term “front-end services” could be confused with the digital euro payment services that are provided by the PSP. The impression should not be given that the latter can be provided by the Eurosystem as well. We propose replacing the said term with the term “front-end solution”.
21. ‘third country’ means a country that is not a member of the European Union;	
22. ‘visitor’ means a natural person who does not have its domicile or residence in a Member State whose currency is the euro, and who is travelling to and staying in one of those Member States, including for tourism, business or education and training purposes;	<p>SE: (Drafting): ‘visitor’ means a natural person who does not have its domicile or residence in a Member State whose currency is the euro, and who is travelling to and staying in one of those <u>euro area</u> Member States, including for tourism, business or education and training purposes</p> <p>SE: (Comments): For clarification reasons</p> <p>PT: (Comments): We consider that this definition is very open and should be discussed (e.g. a minimum period of stay in the euro area could be added).</p> <p>DK:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments): In order to ensure that the the digital euro solely is used within the euroarea by visitors, we would suggest to specify the conditions for visitors’s access to the digital euro as well as visitors’s ability to hold the digital euro.</p> <p>For further explanation, we refer to our comment to Article 13(1).</p>
<p>23. ‘Member State whose currency is not the euro’ means a Member State in respect of which the Council has not decided that it fulfils the necessary conditions for the adoption of the euro in accordance with Article 140 TFEU;</p>	<p>SE: (Comments): What are ther reasoning behind the definition in Article 140 TFEU? Could the definition in <i>Regulation on conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions - 1024/2013</i> be a more suitable option to be more consistent?</p>
<p>24. ‘merchant service charge’ means a fee paid by the payee to a payment service provider when acquiring a digital euro payment transaction;</p>	<p>SI: (Comments): To our opinion there is no need to define the term specifically for the digital euro.</p> <p>BE: (Drafting): 24. ‘merchant service charge’ means a fee paid by the payee to a payment service provider <del>when for</del> acquiring a digital euro payment transaction;</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	BE: (Comments): The fee does not necessarily need to be paid at the moment of acquiring a digital euro payment transaction.
	SE: (Comments): Might be beneficial to add a definition of “acquiring” or a reference to the definition of “acquiring of payment transactions” in PSD2
25. ‘comparable digital means of payment’ means digital means payment, including debit card payment and instant payment at the point of interaction but excluding credit transfer and direct debit that are not initiated at the point of interaction;	SE: (Comments): The concept is defined as “means digital means payment”. The PSD2 and other payment related EU legal acts uses “electronic payments”. It might be beneficial for the general understanding to keep the reference to “electronic payments”  SI: (Drafting): ‘comparable digital means of payment’ means digital means <b>of</b> payment, including debit card payment and instant payment at the point of interaction but excluding credit transfer and direct debit that are not initiated at the point of interaction;  PL: (Drafting): PL: 25. ‘comparable digital means of payment’ means digital means of payment, including debit card payment and instant payment at the point of interaction but excluding credit transfer and direct debit that are not initiated at the point of interaction;

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>DE: (Comments): We reserve our position on the proposed compensation model, including the proposed caps for merchant fees and inter-PSP fees.</p> <p>In any case, we wonder why credit card payments are not included in this definition. Please clarify whether they can also constitute comparable digital means of payment, either by including them in the definition or explaining the reasons for not including credit card payments in a recital (e.g. recital 18).</p> <p>We also note that the first half of the definition lacks some specificity. For example, to what extent would it cover additional forms of payment, such as P2P payment apps or certain crypto assets / so-called “stablecoins” that are used for payment?</p> <p>BE: (Drafting): 25. ‘comparable digital means of payment’ means digital means <b>of payment that are initiated at the point of interaction</b>, including debit card payment and instant payment at the point of interaction but excluding credit transfer and direct debit that are not initiated at the point of interaction;</p> <p>PT:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting): 25. ‘comparable digital means of payment’ means digital means payment, including debit card payment and instant <b>credit transfer payment</b> at the point of interaction but excluding <b>other types of</b> credit transfers and direct debit that are not initiated at the point of interaction;</p> <p>PT: (Comments): It is necessary to take into account that technically instant credit transfers are a category of credit transfers.</p>
<p>26. ‘switching’ means, upon a digital euro user’s request, transferring from one payment service provider to another either the information about all or some digital euro payment services, including recurring payments, executed on a digital euro payment account, or the digital euro holdings from one digital euro payment account to the other, or both, with or without closing the former digital euro payment account, while maintaining the same account</p>	<p>SE: (Comments): It is unclear whether switching of information requires a digital euro account at the new PSP. The last part, having two digital euro payment accounts with the same account identifier seems illogical, clarification would be beneficial</p> <p>SI: (Comments): The sentence “with or without closing the former digital euro payment account, while maintaining the same account identifier” does not seem to be correct. Without closing the former digital euro payment account it should not be possible to maintain the same account identifier for the new account.</p> <p>PL: (Comments): PL: We propose to clarify that maintaining the same account identifier only applies when the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
identifier;	<p>former digital euro payment account is closed.</p> <p>IT: (Comments): IT. It is not clear whether the “account identifier” hereby mentioned and the “user identifier” are the same thing. Otherwise, we suggest to include the definition of “account identifier”, which is currently missing, to avoid confusion with the expression "user identifier".</p> <p>DE: (Drafting): 26. ‘switching’ means, upon a digital euro user’s request, transferring from one payment service provider to another either the information about all or some digital euro payment services, including recurring payments, executed on a digital euro payment account, or the <b>information necessary to access all or some</b> digital euro holdings from one digital euro payment account to the other, or both, with or without closing the former digital euro payment account, while maintaining the same account identifier;</p> <p>DE: (Comments): In line with the legal structure as outlined in Recital (9) (please also cf. our comments there), “switching” can only relate to the agency relationship between intermediary and end user and therefore does not affect the actual digital euro holdings kept within the digital euro settlement infrastructure (there are no digital euro holdings on PSP level / no involvement of PSPs balance sheets). The suggested addition is, therefore, crucial to correctly reflect the legal structure underlying the proposal.</p> <p>Also, could the Commission kindly explain whether maintaining the same account identifier is</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>feasible in case the former digital euro payment account is not closed?</p> <p>BE: (Drafting): 26. ‘switching’ means, upon a digital euro user’s request, transferring a <b>digital euro payment account</b> from one payment service provider to another, <b>including all either</b> the <b>relevant</b> information about all or some digital euro payment services, <b>including such as on</b> recurring payments, executed on <del>a</del> <b>the</b> digital euro payment account, <del>or</del> <b>and on</b> the digital euro holdings <del>from one digital euro payment account to the other, or both, with or without closing the former digital euro payment account</del>, while maintaining the same account identifier;</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>PT: (Drafting): 26. ‘switching’ or <b>‘switching service’</b> means, upon a digital euro user’s request, transferring from one payment service provider to another either the information about all or some digital euro payment services, including recurring <b>and conditional</b> payments, executed on a digital euro payment account, or the digital euro holdings from one digital euro payment account to the other, or both, with or without closing the former digital euro payment account, while maintaining the same account identifier;</p> <p>PT: (Comments):</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>We propose minor adjustments to the proposed definition to:</p> <ul style="list-style-type: none"> <li>(i) Foster alignment with PAD that already establishes this service;</li> <li>(ii) Clarify that, when using this service, the information on conditional digital euro payment transactions is also transferred.</li> </ul> <p>LU: (Comments): This definition and the related processes is too vague and unclear. The term “account identifier” is not defined. Furthermore, the technical consequences and the feasibility of maintaining the same account identifier while not closing the initial account are not clear.</p>
<p>27. ‘user identifier’ means a unique identifier created by a payment service provider distributing the digital euro that unambiguously differentiates, for online digital euro purposes, digital euro users but that is not attributable to an identifiable natural or legal person by the European Central Bank and the national central banks;</p>	<p>SE: (Comments): The difference towards “user alias” is somewhat unclear, would be beneficial with further clarification</p> <p>DE: (Drafting): 27. ‘user identifier’ means a unique identifier created by a payment service provider distributing the digital euro that unambiguously differentiates, for online digital euro purposes <b><u>only</u></b>, digital euro users but that is not attributable to an identifiable natural or legal person by the European Central Bank and the national central banks <b><u>and may not be used for other purposes or disclosed to third parties other than those responsible for the functioning of the digital euro;</u></b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>DE: (Comments): We reserve further comments on the concept of “user identifier”. We would like the Commission to clarify and explain why and to what extent a “user identifier” is necessary in addition to a “user alias” (Article 2(28)) and how these concept relate to each other. Please also note our comments in Annex III.</p> <p>More generally, identifiers can pose a considerable risk for the protection of personal data and privacy, as they significantly facilitate profiling of individuals. In our opinion, the use of an identifier must be clearly restricted to those areas that are technically and organisationally essential for securely carrying out transactions.</p> <p>The identifier should not be passed on to third parties or used for advertising or other commercial purposes of PSPs.</p> <p>We also note that the amended eIDAS Regulation will also establish the introduction of persistent unique identifiers for natural persons. Against this background, we ask the Commission to clarify whether and, if so, to what extent these identifiers are intended to be linked or could (even unintendedly) be connected.</p> <p>BE: (Drafting): 27. ‘user identifier’ means a unique identifier <b>created issued</b> by a payment service provider <del>distributing the with whom a digital euro payment account is effectively held</del>, that unambiguously differentiates, for online digital euro purposes, digital euro users <b>from each other but that is not attributable to an identifiable natural or legal person by the European Central Bank and the national central banks</b>;</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Comments): In our understanding, the user identifier should only be issued (rather than created) by the PSP with whom the digital euro payment account will effectively be opened and held, and not by PSPs who may offer additional services on that payment account. Furthermore, the obligation to prevent that the Eurosystem can identify a digital euro user based on the user identifier should be laid down in the Articles themselves and not in the definition.</p>
<p>28. ‘user alias’ means a unique pseudonymous identifier used to protect user’s identity when processing digital euro payments that can only be attributable to an identifiable natural or legal person by the payment service provider distributing the digital euro or by the digital euro user;</p>	<p>SE: (Comments): The difference towards “user identifier” is somewhat unclear, would be beneficial with further clarification</p> <p>DE: (Comments): We do not quite understand the difference between the user alias and the user identifier. We concluded from Annexes III and IV that the first seems to be primarily used by PSPs, while the latter seems to be provided to the ECB and national central banks only. However, in some cases, the ECB and national central banks seem to also receive the user identifier, which does not seem to serve the purpose to strictly separate those user pseudonyms. We kindly ask the Commission for further explanation.</p> <p>BE: (Drafting): 28. ‘user alias’ means a unique pseudonymous identifier <b>used that is applied</b> to protect a</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>user’s identity when processing digital euro payments <del>transactions that can only be attributable to an identifiable</del> <b>and which only allows for the identification of a</b> natural or legal person by the payment service provider <del>distributing the offering</del> digital euro <b>payment services</b> or by the digital euro user <b>itself</b>;</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>PT: (Drafting): 28. ‘user alias’ means a unique pseudonymous identifier used to protect user’s identity when processing digital euro payments that can only be attributable to an identifiable natural or legal person by the payment service provider distributing the digital euro <del>or by the digital euro user</del>;</p> <p>PT: (Comments): We do not understand the reasons for allowing digital euro users to attribute their one “unique pseudonymous identifier”. This possibility may even cause unnecessary difficulties, as such user alias probably will need to obey some form of standardization.</p>
<p>29. ‘user authentication’ means a unique piece of information created by the payment service provider distributing the digital euro that</p>	<p>BE: (Drafting): 29. ‘user authentication’ means <del>a unique piece of information created by the payment</del></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
together with the user identifier allows a digital euro user to prove ownership of the online digital euro holdings recorded in the digital euro settlement infrastructure;	<p><del>service provider distributing the digital euro that together with the user identifier allows a the procedure that allows a digital euro payment service provider to verify that a digital euro user to prove ownership of natural or legal person is entitled to access a digital euro payment account or to access the online digital euro holdings recorded in the digital euro settlement infrastructure or recorded in a local storage device;</del></p> <p>BE: (Comments): Editorial drafting suggestions, in order to clarify in a more simple way that this is a process for verifying the right of a person to access digital euro holdings or payment accounts.</p>
30. ‘providers of support services’ means one or more entities, appointed by the European Central Bank, that provide services to all payment service providers distributing the digital euro that are aimed at facilitating the smooth functioning of digital euro payment transactions;	<p>BE: (Drafting): 30. ‘providers of support services’ means one or more entities, appointed by the European Central Bank, that provide services to all payment service providers <b>distributing providing the digital euro payment services</b> that are aimed at facilitating the smooth functioning of digital euro payment transactions;</p> <p>BE: (Comments): Editorial drafting suggestions.</p>
31. ‘mobile device’ means a device that	SE: (Drafting):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>enables digital euro users to authorise digital euro payment transactions online or offline including in particular smart phones, tablets, smart watches and wearables of all kind.</p>	<p>‘mobile device’ means a device that enables digital euro users to authorise digital euro payment transactions online or offline <u>without being bound to a particular place</u>, including in particular smart phones, tablets, smart watches and wearables of all kind</p> <p>SE: (Comments): For clarification reasons</p> <p>FI: (Drafting): ‘mobile device’ means a device that enables digital euro users to authorise digital euro payment transactions online or offline including in particular smart phones, tablets, smart watches, wearables of all kind and other smart devices.</p> <p>FI: (Comments): Maybe definitions could include more future proof definitions for smart devices to foster other use cases such as M2M payments.</p> <p>BE: (Comments): The list of definitions may need to be supplemented with other definitions, such as of “local storage device”, “cash services”, “transaction data”, “digital euro account identifier”, “smartcards” and “additional digital euro payment services”. We do not propose concrete drafting suggestions at this stage.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
CHAPTER II ESTABLISHMENT AND ISSUANCE OF THE DIGITAL EURO	<p>BE: (Drafting): CHAPTER II <del>ESTABLISHMENT AND</del> ISSUANCE OF THE DIGITAL EURO</p> <p>BE: (Comments): See our comment to Article 1.</p>
Article 3 Establishment of the digital euro	<p>NL: (Comments): <u>NL Comment</u>: This is a very abstract provision. We suggest to rephrase this and express that the Regulation establishes the legal framework for the issuance of the digital euro.</p> <p>BE: (Drafting): <b>Article 3</b> <b>Establishment of the digital euro</b></p> <p>BE: (Comments): See our comment on Recital 3: rather than establishing the digital euro, this Regulation should recognise the possibility for the Eurosystem to issue a digital euro and lay down the main characteristics thereof.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>FR: (Comments): The legal definition of the digital euro, the consequences of its architecture on its legal form, and the implications of the legal basis and regulatory framework for its potential use must be approached in an comprehensive manner by the Council, including all the relevant provisions of the proposal.</p> <p>While the legislative proposal includes several provisions which emphasize that the digital euro would indeed constitute a direct liability on the balance sheet of the European Central Bank or national central banks, "like euro banknotes and coins", it does not clearly state the legal nature of the digital euro between (i) a claim like for an account opened by credit institutions and (ii) assets subject to property rights, such as banknotes and coins, nor the rights available to the digital euro holder.</p> <p>Notably, several provisions suggest that the digital euro could be considered as a property right. Apart from articles 2(11) and 2(30) that refer to ownership and acquisition, the legislative proposal specifies that "for the purpose of digital euro payment services, digital euro users shall only enter into a contractual relationship with PSPs" (...) [and] "shall not have any contractual relationship with the European Central Bank or the national central banks" (article 13(6), see also recitals 9 and 62). Nevertheless, some might argue that a claim right could be instituted directly by the digital euro regulation, without this claim right having a contractual origin. The absence of a contractual relationship between the Eurosystem and users is not such as to allow any firm conclusions to be drawn.</p> <p>However, certain elements of the proposed regulation would appear to contradict the logic of property rights. The digital euro would be managed via "digital euro payment accounts", which seems to suggest a book-entry logic, which could lead to the digital euro being considered as a claim owed, in principle, to the account holder - but such a hypothesis of a claim owed to the PSP holding the account is to be ruled out, since the digital euro is central bank money and not</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>commercial money. The proposal further states (recital 9, article 2(11), article 4(2)) that the digital euro would constitute a direct liability of the ECB or the Eurosystem towards digital euro users.</p> <p>This situation therefore presents a risk of contradictory interpretation by courts because of lack of legal clarity. Furthermore, as the text stands, it does not allow for clear communication on the rights of users linked to the holding of digital euro: this nature should therefore be clarified in the draft regulation and would require further guidance from the Commission and the Council legal services, in particular on the legal difficulties involved in choosing between one of the two options (claim on the Eurosystem or property right).</p> <p><b>Finally, given the importance that the use of blockchain or DLT technologies would have in the settlement infrastructure, on its possible operation, on the methods of managing the data linked to the digital euro, and even on its legal qualification, in order to have an informed debate in the Council, precise clarifications from the ECB and the Eurosystem to the Council on the technologies envisaged for the infrastructures underlying the digital euro will be awaited in order to be able to build a regulatory architecture that can be thought through in an informed manner taking into account the ECB's preparatory work and to ensure the legal relevance of the regulatory framework that will be envisaged.</b></p>
The digital euro is hereby established as the digital form of the single currency.	<p>SE: (Comments): It is not entirely clear what type of asset the digital euro is supposed to be seen as, a digital form of cash or a claim on the issuer (which might have implications regarding insolvency and</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>international private law).</p> <p>If the single currency in the proposal relates to the euro as a unit of value, the current text seems to rule out commercial bank money as a digital form of the euro, which might not be the case.</p> <p>NL: (Drafting): This Regulation establishes the legal framework which facilitates the issuance of the digital euro by the Eurosystem as the digital form of the single currency.</p> <p>NL: (Comments): <u>NL Comment:</u> The issuance of the digital euro should be based on an existing legal basis within the Treaty and should not be presented as the assignment of a new task to the ECB under secondary EU law. We suggest to rephrase this provision.</p> <p>DE: (Comments): What exactly does this mean? Does it, according to the Commission’s understanding, contain a mandate to the ECB to actually issue a digital euro? Or could the ECB decide to not issue a digital euro?</p> <p>If the ECB were to decide whether and when to issue a digital euro, from the Commission’s point of view, which would be legal basis upon which the ECB could base such a decision? To what extent do the Digital Euro’s design and technical characteristics affect the choice of legal basis?</p> <p>We feel it is important to answer this question now, because it might have repercussions for the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	Digital Euro Regulation.  BE: (Drafting): <b>The digital euro is hereby established as the digital form of the single currency.</b>
Article 4  Issuance of the digital euro	
1. In accordance with the Treaties, the European Central Bank shall have the exclusive right to authorise the issue of the digital euro, and the European Central Bank and the national central banks may issue the digital euro.	BE: (Drafting): 1. In accordance with the Treaties, the European Central Bank <del>shall have</del> <b>has</b> the exclusive right to authorise the issue of the digital euro, and the European Central Bank and the national central banks may issue the digital euro.  BE: (Comments): This provision merely confirms the competence of the Eurosystem, under the Treaties, to issue a digital euro.  FR: (Comments): With regard to the practical issuance of a digital euro, the proposed regulation simply refers to

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>primary law and recognises that the Eurosystem has this competence on the basis of the powers conferred to it by the Treaties (recital 8 and Article 4(1) of the proposal), without indicating the precise legal basis for this competence. While it is clear that only the article underpinning the Commission's power to adopt the text, i.e. Article 133 TFEU, is required in the endorsement of the proposal, it seems necessary to clarify further the legal acts that will be necessary to enable the actual issuance of a digital euro, given the political importance that this process would have. In particular, the relationship between the legal basis of the present draft regulation, the legal basis necessary for issuance and the appropriateness or even the legal need for an article in this regulation to this effect will have to be analysed in detail. <u>The opinion of the Commission and the Council's Legal Service on these elements will be welcome</u> to assist the discussion in the Council, notably on the articulations of articles 127, 128 and 133 of the TFEU.</p>
<p>2. The digital euro shall be a direct liability of the European Central Bank or of national central banks towards digital euro users.</p>	<p>SE: (Comments): Does this imply a direct responsibility/liability for the ECB/national central banks towards digital euro users, e.g. if funds are not correctly recorded or if digital euro data is compromised or disappears on the ECB records?</p> <p>BE: (Drafting): 2. The digital euro <del>shall be</del> <b>is</b> a direct liability of the European Central Bank or of national</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>central banks towards <b>holders of digital euro users</b>.</p> <p><b>Article 4a</b> <b>Digital euro users</b></p> <p><b>The following persons may use digital euro:</b></p> <p>(a) <b>natural and legal persons residing or established in the Member States whose currency is the euro;</b></p> <p>(b) <b>natural and legal persons who opened a digital euro account at the time they resided or were established in the Member States whose currency is the euro, but no longer reside or are established in such Member States;</b></p> <p>(c) <b>visitors;</b></p> <p>(d) <b>natural and legal persons residing or established in Member States whose currency is not the euro, subject to the conditions laid down in Article 18;</b></p> <p>(e) <b>natural and legal persons residing or established in third countries, including territories under a monetary agreement with the Union, subject to the conditions laid down in Articles 19 and 20.</b></p> <p><b>For the purpose of point (a), residents shall include both Union citizens and third country nationals who benefit from residence rights pursuant to Union law or national law.</b></p> <p><b>The European Central Bank may restrict the access to and use in time of the digital euro for the digital euro users referred to in points (b) and (c) subject to the conditions laid down in Article 16 (2). Those timeframes shall be determined in relation to the residence or visiting status of the digital euro users.</b></p> <p>BE:</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): It is more accurate to state that the digital euro is a liability towards persons that are effectively holding digital euro.</p> <p>Furthermore, the Regulation only determines in an indirect way who can use digital euro, i.e. the persons mentioned in Article 13 to whom PSPs may provide digital euro payment services. We propose deteling this mention in Article 13 and inserting instead a new Article 4a mentioning who can be digital euro users. In this way, Chapter II contains provisions on the issuance of the euro and to whom, while Chapter IV contains provisions on the distribution (i.e. the link between the issuer and the digital euro user). This approach appears more logical, while the limits that the Eurosystem may impose on certain users are as such independent of the distribution mechanism.</p> <p>LU: (Comments): The concept of direct liability towards users in the context of the digital euro should be further clarified; what would be the corresponding legal claim of the digital euro holder against the central bank? Would the issuance of the digital euro result in an increase of the assets side of the central bank balance sheet or would this result in a decrease of the other liabilities (such as cash in circulation)?</p>
Article 5	
Applicable law	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>DE: (Comments): We would kindly ask the Commission to elaborate on how the digital euro will be subject to the directives and regulations listed in Art. 5 (2)–(5) without any changes to these legal acts (with the noted exception of amending the definition of “funds” in the COM’s PSD3/PSR proposals), especially when considering that all EU member states voted on those legal acts within the Council, while only member states whose currency is the euro will vote on this Regulation.</p>
<p>1. The digital euro shall be governed by the provisions of this Regulation, supplemented by the delegated acts that the Commission is empowered to adopt pursuant to Articles 11, 33, 34, 35 and 38, and by the implementing acts that the Commission is empowered to adopt pursuant to Article 37.</p>	<p>FI: (Comments): Is there really a delegated act in the article 33</p>
<p>2. Within the framework of this Regulation, the digital euro shall also be governed by the detailed measures, rules and</p>	<p>NL: (Comments): <u>NL Comment:</u> The regulation does not constitute an exhaustive legal regime for the digital euro. Part of the legal framework will also consist of national civil law (e.g. in relation to the pledge</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>standards that may be adopted by the European Central Bank pursuant to its own competences. Where these detailed measures, rules and standards have an impact on the protection of individuals' rights and freedom with regard to the processing of personal data, the European Central Bank shall consult the European Data Protection Supervisor prior to their adoption.</p>	<p>of digital euro holdings, the insolvency of PSP's or the implementation of PSD2). This should also be reflected in the Regulation.</p> <p>SI: (Drafting): <del>Within the framework of this Regulation,</del> The digital euro shall also be governed by the detailed measures, rules and standards that may be adopted by the European Central Bank pursuant to its own competences. Where these detailed measures, rules and standards have an impact on the protection of individuals' rights and freedom with regard to the processing of personal data, the European Central Bank shall consult the European Data Protection Supervisor prior to their adoption.</p> <p>SI: (Comments): We would understand that there will not be another framework to govern the digital euro, therefore the part "Within the framework of this Regulation" seems obsolete.</p> <p>DE: (Comments): We reserve potential further comments on this para., including on the ECB proposal to develop an ECB-owned payment scheme for the digital euro.</p> <p>BE: (Drafting): 2. <del>Within the framework of</del> <b>In addition to</b> this Regulation, the digital euro shall <del>also</del> be governed by the detailed measures, rules and standards that may be adopted by the European Central Bank <b>and the national central banks</b> pursuant to <del>its</del> <b>their</b> own competences <b>in</b></p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><b>accordance with the Treaties.</b> Where these detailed measures, rules and standards have an impact on the protection of individuals’ rights and freedom with regard to the processing of personal data, the European Central Bank shall consult the European Data Protection Supervisor prior to their adoption.</p> <p>BE: (Comments): The competences of the Eurosystem with regards to the digital euro directly derive from the Treaties, rather than from the present Regulation.</p> <p>PT: (Drafting): 2. <del><i>Within the framework of this Regulation, the</i></del> <b>The</b> digital euro shall also be governed by the detailed measures, rules and standards that may be adopted by the European Central Bank pursuant to its own competences. Where these detailed measures, rules and standards have an impact on the protection of individuals’ rights and freedom with regard to the processing of personal data, the European Central Bank shall consult the European Data Protection Supervisor prior to their adoption.</p> <p>PT: (Comments): For the moment and as preliminary comment, we see a tension in the proposal between the recognition of ECB competences “under the Treaties” and the draft Regulation’s placing of the ECB under the Regulation and of any regulatory acts adopted pursuant to it. The formula of Article 5(2) does not seem appropriate and needs careful and further discussion. Competences pursuant to the Treaty cannot be placed under level 1 legislation and level 2 regulatory acts. Instead, each system / institution shall act within their respective spheres of competence, in a</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>more horizontal and complementary way. For this reason, as for the need of finding the right balance in terms of limits to the use of the digital euro as a store of value, we believe this aspect deserves further analysis.</p> <p>FR: (Comments): The digital euro should allow the European payment industry to continue to thrive and innovate, in line with the comprehensive payment package presented simultaneously. Therefore, the appropriateness of the market interventions put forward by the Commission must be calibrated in light of these implications. The equilibrium between the private sector and the public sector should be carefully preserved : the distribution model shall foster the development of Europe of payments while maintaining a viable role for the payments industry in the long run.</p> <p>While it seems appropriate to provide for rules and minimum technical standards to ensure that digital euro transactions are facilitated and can be operated smoothly by all stakeholders, it is important to ensure that the degree of extension of the scheme that would specify these rules and standards, currently being studied by the ECB, is adequate and proportionate to allow the private sector to make the most of its experience and expertise in defining the rules applicable to areas where its intervention is more relevant than the intervention of the public sector, independently of the governance of such scheme. In particular, any possibility given to the ECB and the Eurosystem to lay down rules and standards applicable to commercial aspects, pricing, interfaces and any other aspect currently managed by the private sector will have to be duly</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	justified by the Eurosystem and the ECB, with a view to explaining why a public intervention is warranted and brings value. In any event, safeguards must be provided in this article to frame the ECB's ability to issue rules and standards, particularly with regard to its mandate in the Treaties and the economic principles and rights set out in the Treaties and the Charter of Fundamental Rights of the European Union.
<p>3. In accordance with Article 4(25) of Directive (EU) 2015/2366 of the European Parliament and of the Council, of 25 November 2015, on payment services in the internal market, as replaced by Directive (EU) <i>[please insert reference – proposal for a Directive on payment services and electronic money services in the internal market - COM/2023/366 final]</i> and Regulation (EU) <i>[please insert reference – proposal for a Regulation on payment services in the internal market - COM/2023/367 final]</i> of the European Parliament and of the Council, of</p>	<p>SI: (Comments): Is this provision necessary? As the digital euro is considered as a form of funds in the PSR proposal, transactions with the digital euro will be considered as payment transactions and therefore transactions with the digital euro will fall within the scope of the PSR, Regulation (EU) 2021/1230 and Directive (EU) 2015/849. For the sake of clarity we believe a recital would suffice. <b>In addition, the PSR may not be in force before this regulation and, to be on the safe side, amendment to PSD2 regarding the changed definition of “funds” should be considered.</b></p> <p>IT: (Comments): IT: we believe that efforts should be made in order to ensure that all interactions between this Regulation and Directive 2015/2366 (or to the forthcoming PSD3 Directive) are carefully assessed and properly drafted in the text. In the light of the above, at this stage we propose to clarify if the services described in annex 2 of the proposal are integral part of those provided in annex 1 to the Directive 2015/2366 or, alternatively, if they represent new payment services to</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
XX/XX/2023, the provisions of that Directive shall apply to digital euro payment transactions.	<p>be added to the annex 1. Such a clarification appears to be necessary also in order to guarantee a smooth conduction of supervisory activities by competent authorities, including the proper drafting of administrative acts authorising the provision of payment services (under Directive 2015/2366), as well as of basic and additional digital euro payment services</p> <p>DE: (Comments): We have considerable doubts that PSD 2 can or should be applied to the digital euro without modifications. Under PSD 2, the legal relationship between account servicing PSPs and consumers in many cases is very different from the relationship envisaged by Recital (9) between digital euro users and PSPs: Under PSD 2, a positive credit balance in a payment account typically is a claim of the account holder against the PSP founded in the law of obligations. Consequently, it would fall into the insolvency estate of the PSP in case of the account managing PSP's insolvency (thus the need for deposit insurance). Account balances can be directly "credited" and "debited" under PSD 2. The account balance is the root of title (of the claim of the account holder against the account servicing PSP); when it is changed (through credits or debits), the amount "owned" by the account holder changes. By contrast it appears to us that the services by PSPs as envisaged by this draft Regulation seem to be similar to offering custodial wallets rather than payment accounts in the sense of PSD 2. The settlement appears to take place in the central ledger operated by the ECB (for online transactions, see Article 30 (2)) or in the local storage devices of the payer and payee (for offline transactions, see Article 30 (3)). The insolvency of a PSP would not affect digital euro holders (as stated at the end of recital (9)). Given these considerable conceptual differences, we are sceptic to what extent a direct application of PSD 2 rules to the digital euro would be appropriate. For example:</p> <ul style="list-style-type: none"> <li>• Is the regime of prudential regulation under PSD 2 appropriate for the digital euro, if in case</li> </ul>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>of the digital euro, digital euro users are not exposed to insolvency risk from a PSP?</p> <ul style="list-style-type: none"> <li>• Are modifications to the liability regime under PSD 2 (e.g. Artt. 73, 74 PSD 2) necessary in light of the fact that the ECB performs the settlement of digital euro payment transactions; e.g. what consequences will mistakes at ECB level have?</li> </ul> <p><u>We would kindly ask for a comprehensive analysis by the Commission on (1) how all the different rules of PSD 2 would apply to the digital euro, (2) whether modifications would be necessary and (3) to what extent such modifications have already been proposed in the PSD3/PSR proposal.</u></p> <p>Please also refer to our comprehensive comment above at Recital (9).</p> <p>BE: (Comments): See our comment to Recital 9: payment service providers (PSPs) do not provide the entire range of services typically associated with payment accounts as defined in PSD2. Notably, the digital euros are not held in the ledgers of the the PSPs but only in the ledgers of the Eurosystem. As a result, PSPs do not provide settlement services and they should rather be considered as payment initiation service providers (PISPs) and account information service providers (AISPs) within the meaning of PSD2. As a result, we doubt that all the provisions of PSD2 are to be observed by PSPs. The Regulation should therefore identify which provisions of PSD2 are relevant. It may also be necessary to apply some targeted amendments to PSD2 with regards to digital euro payment services. At this stage, we do not make concrete drafting suggestions in this respect.</p> <p>PT: (Drafting): 3. In accordance with Article 4(25) of Directive (EU) 2015/2366 of the European Parliament and of the Council, of 25 November 2015, on payment services in the internal market, as replaced by Directive (EU) <i>[please insert reference – proposal for a Directive on</i></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><i>payment services and electronic money services in the internal market - COM/2023/366 final]</i> and Regulation (EU) [please insert reference – proposal for a Regulation on payment services in the internal market - COM/2023/367 final] of the European Parliament and of the Council, of XX/XX/2023, the provisions of that Directive shall apply to digital euro payment transactions, <b>save where otherwise specified under this Regulation.</b></p> <p>PT: (Comments): This provision presents the digital euro as an instrument falling (fully) under the scope of PSD2. The assertion is very difficult to square with the notion echoed by Recital 9, and clearly voiced by the Commission, that the digital euro, legally, is like cash. Hence, we fear that this mixed and hybrid approach, if not properly fine-tuned, might lack internal coherence and clarity. We hence call for a clarification of these different dimensions, notably with a view to emphasising the cash-like features of the legal and institutional design, which seems to be in line with the main objectives of the proposed Regulation. In view of the nature of the digital euro – which is a central bank liability and is settled at the central bank level – it seems to us that the introduction of specific and adjusted rules (in particular on the rules applying in the case of insolvency of the intermediary; and the issues of liability between the ECB/NCB and the PSP) may be justified.</p> <p>FR: (Comments): <u>The application of PSD2 to the digital euro seems appropriate to ensure that digital euro transactions benefit from the same protective framework for consumers, particularly in terms of combating fraud and the liability of PSPs, but also for legal clarity for payment service providers themselves.</u></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>The Commission seems to have decided to apply the provisions of PSD2 only to "payment transactions" on the basis that, as proposed in the PSD revision package, the digital euro would be considered as a fund within the meaning of Article 4(25) of PSD2 – which is not actually the case under the current drafting of Article 4(25) of PSD2 that only include banknotes and coins. <u>From a legal point of view</u>, the inclusion of the digital euro as funds would mean that digital euro accounts would be considered as payment accounts within the meaning of PSD2, which would therefore go further than just applying the provisions relating to "payment transactions" : a majority of the PSD2 provisions would be applicable to the digital euro. The Commission's opinion on its original intention in this area would be welcome.</p> <p><u>Consequently, it seems necessary to clarify the application of the following structural provisions, among others, in view of the potential difficulties they could present. The Commission's opinion on these elements would be welcome, given the complexity of the link between the "single currency" package and the "payment services" package. In particular, we believe that any deviation from the application of PSD2 must be justified with serious and well-founded grounds.</u></p> <ul style="list-style-type: none"> <li>- How do the provisions of Article 2 of PSD2, particularly as regards one-leg transactions, fit in with the provisions of Chapter VI of this Regulation?</li> <li>- How do the exemptions provided for by the PSD2 (Article 3 and Article 32 of the PSD2), in particular the exemption for a limited network or a limited range of goods and services, relate to the distribution provided by PSPs as set out in Article 13 of this Regulation? In particular, the possibility or not for exempted payment institutions to distribute a digital euro should be clarified.</li> <li>- If digital euro payment accounts were to be considered as payment accounts within the meaning of PSD2, this would mean that these accounts would have to be accessible to Open Banking players, both payment initiation service providers (PISP) and account information service providers (AISP). In order not to hinder the development of open banking, which is a vector of innovation, European integration thanks to its intrinsic pan-European potential, and</li> </ul>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>even strategic autonomy, it would seem appropriate to allow the digital euro to benefit from the services offered by open banking, so that the digital euro could benefit from those increasingly used technologies. Nevertheless, several key elements would have to be clarified. For instance, how will digital euro accounts be accessible to these players (article 13), how will legal tender apply to open banking services (in particular should merchants be obliged to accept PISP solutions based on digital euro), and how will the personal data management framework fit in with the framework provided by PSD2 and notably the EBA's RTS in that regard ?</p> <ul style="list-style-type: none"> <li>- The application of strong customer authentication, provided for by PSD2 and which is proving to be a robust tool in the fight against fraud, should be clarified, particularly in relation to Article 32 of this Regulation.</li> <li>- More broadly, as the fact that digital euro accounts would not present the same risks as payment accounts, given the very different nature of the underlying assets, public central bank money being a priori intrinsically less risky than private money, the prudential framework, particularly as regards capital and own funds requirements for payment institutions, might need to be reviewed. The Commission's views on the subject would be welcome in order to identify the opportunities and risks in this area, particularly in terms of level-playing field. In particular, the safe-guarding requirements for funds (PSD2 article 10) seem irrelevant in the context of digital euro funds.</li> <li>- Just as importantly, the liability regime for PSPs vis-à-vis their customers and their use of payment instruments (cf. Articles 70 et seq. of PSD2 as well as Articles 88, 89 and 90) needs to be fully thought through in order to fully protect the consumer and provide for a liability framework for PSPs adapted to their activities, to avoid any risk of litigation, particularly between PSPs, the Eurosystem and the ECB. As the draft regulation does not provide for a contract between the ECB and the PSPs, but does include provisions governing the role of the PSPs and their interactions with the digital euro, the regulation will have to provide for all these aspects of liability. In particular, these elements will have to provide for the sharing of responsibilities between PSPs and the ECB/Eurosystem, notably in the event that blocks in the</li> </ul>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>validation and processing chain of a digital euro payment transaction for which they are responsible cause PSPs not to comply with their obligations under PSD2.</p> <p><u>Lastly, with regard to the link between the review of the Payment Services Directive and the single currency package, it would seem easier for better law making to take account of the amendments accepted as part of the payment package review and to indicate in the digital euro regulation those that would apply to the digital euro, rather than amending the PSD/PSR package on the basis of the difficulties that the introduction of a regulatory framework for the digital euro might raise.</u></p> <p>In addition, it would seem appropriate to carry out the same exercise as described above for PSD2 to articulate the SEPA Regulation, including in particular the provisions applicable to the instant transfer provided for by the new Regulation currently being negotiated, and the Digital Euro Regulation. In particular, any deviation from the application of such regulation must be justified with serious and well-founded grounds.</p>
<p>4. In accordance with Article 2(10) of Regulation (EU) 2021/1230 of the European Parliament and of the Council of 14 July 2021 on cross-border payments in the Union, as amended by Regulation (EU) <i>[please insert</i></p>	<p>SI: (Comments): Is this provision necessary? As the digital euro is considered as a form of funds in the PSR proposal, transactions with the digital euro are considered as payment transactions and therefore transactions with the digital euro fall within the scope of the PSR, Regulation (EU) 2021/1230 and Directive (EU) 2015/849. For the sake of clarity we believe a recital would suffice.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p><i>reference – proposal for a Regulation on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro - COM/2023/368 final], the provisions of that Regulation shall apply to digital euro payment transactions.</i></p>	<p>BE: (Comments): Similar comment: it should be verified whether all the provisions of this Regulation should apply to digital euro payment transactions, and whether some targeted amendments would be required.</p>
<p>5. Without prejudice to Articles 37 of this Regulation, Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds shall apply to digital euro payment transactions.</p>	<p>NL: (Comments): <u>NL Comment</u>: we support that online payments in digital euro's are subject to the same AML/CFT-regime as other online digital payments.</p> <p>SI: (Comments): Is this provision necessary? As the digital euro is considered as a form of funds in the PSR proposal, transactions with the digital euro are considered as payment transactions and therefore transactions with the digital euro fall within the scope of the PSR, Regulation (EU) 2021/1230 and Directive (EU) 2015/849. For the sake of clarity we believe a recital would suffice.</p> <p>IT: (Drafting): 5. Without prejudice to Articles 37 of this Regulation, Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015, on the prevention of the use of the financial</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>system for the purposes of money laundering or terrorist financing and <b><u>Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets</u></b> shall apply to digital euro payment transactions <b><u>and to digital euro payment services.</u></b></p> <p>IT: (Comments): IT - The application of Directive (EU) 2015/849 ('AMLD') should not be limited to euro payment transactions but should cover all payment services related to digital euro, such as – above all – the opening of a digital euro account, which implies the starting of a business relationship and triggers CDD measures. In this context a proper coordination among this Regulation, Directive PSD2 and the scope of application of AMLD must be ensured.</p> <p>BE: (Comments): Similar comment: it should be verified whether all the provisions of this Directive should apply to digital euro payment transactions, and whether some targeted amendments would be required.</p> <p>PT: (Comments): Please refer to our comment to Recitals (10) and (78). Furthermore, we are of the opinion that this provision is not necessary. The AML/CFT legal framework is not applicable to specific activities <i>per se</i> (case in point, digital euro payment transactions), but rather to specific entities in the context of the services they provide. Therefore,</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	having in mind that the AML Directive and transfer of funds Regulation are both applicable to PSPs and the definition of “funds” will encompass the digital euro (as per Recital (22) above), this provision will be redundant.
Article 6 Competent authorities	
1. The Member States shall designate one or more competent authorities to ensure compliance with Chapter III and Article 17 in their territory. They shall inform the Commission thereof, indicating any division of functions and duties.	<p>PL: (Drafting): PL: 1. The Member States whose currency is the euro shall designate one or more competent authorities to ensure compliance with Chapter III and Article 17 in their territory. They shall inform the Commission thereof, indicating any division of functions and duties. Member States which have signed an arrangement pursuant to the Article 18 shall also fulfill the above requirements with respect to ensuring compliance with Article 17 in their territory.</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation. We suggest that Member States which have signed an arrangement pursuant to the Article 18 should also designate competent authorities to ensure compliance with Article 17 in their territory.</p> <p>LT:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments): What “to ensure compliance” actually means? What has to be evaluated regarding such compliance? This requirement does not ensure cross-border pan-european legal tender compliance. How dispute management will be implemented on pan-european level?</p> <p>IT: (Comments): <b>IT</b> - We deem that this provision, that makes reference (quite generically) to tasks, powers and responsibilities of the competent authorities, should be carefully verified. As regards Chapter III, the competent authority would be called upon to ensure compliance with obligations that concern primarily the mandatory acceptance by payees of digital euro for payments. While we fully understand the purpose of this monitoring and enforcing mechanisms, in some Member States this new approach would imply a radical change of perspective since these infringements are currently considered of a civil law nature and they are enforced primarily (if not exclusively) by courts, that are more suited to assess, for any given transaction, if the payee illegitimately refused to receive the payment in digital euro. Furthermore, we believe that it is not sufficiently clear how, according to the provision, a competent authority could perform such a task; would it, for instance, be responsible to ensure that the digital euro is accepted in every payment transaction according to its legal tender status? As regards Article 17, it obliges payment services providers not to apply fees at all for the basic digital euro payment services provided to natural persons, and to apply fees within the limits stipulated therein in the other cases. In our opinion, further analysis is needed in order to verify if and how the task to ensure compliance with such obligations, as drafted in this proposal, could overlap with the monitoring and enforcing powers entrusted to competent authorities under PSD3, that are already entrusted with the task of supervising payment services providers. In any case, we believe that the lack of any specification, in the proposal, on the powers that the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>competent authorities need to be given to carry out their mandate may hinder legal certainty and the harmonised application of the Regulation throughout the euro area.</p> <p>LU: (Comments): The powers, obligation and duties of the national competent authorities should be further detailed in this regulation.</p>
<p>The Member States shall lay down the rules on penalties applicable to infringements of Chapter III and Article 17 and shall take all measures necessary to ensure that these rules are implemented, including the power of competent authorities to access the necessary data. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.</p>	<p>PL: (Drafting): PL: The Member States whose currency is the euro shall lay down the rules on penalties applicable to infringements of Chapter III and Article 17 and shall take all measures necessary to ensure that these rules are implemented, including the power of competent authorities to access the necessary data. The penalties provided for shall be effective, proportionate and dissuasive. Member States whose currency is the euro shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them. Member States which have signed an arrangement pursuant to the Article 18 shall also fulfill the above requirements with respect to penalties applicable to infringements of Article 17 in their territory.</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation. We suggest that Member States which have signed an arrangement pursuant to the Article 18</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>should also lay down the rules on penalties applicable to infringements of Article 17 and shall take all measures necessary to ensure that these rules are implemented.</p> <p>IT: (Comments): <b>IT</b> - We suggest to consider the possibility to provide for more specific rules on the sanctioning regime; at the moment the proposal leaves this matter completely to Member States, which may generate different approaches between Member States and, therefore, lack of harmonisation.</p> <p>DE: (Drafting): The Member States shall lay down the rules on penalties applicable to infringements of <del>Chapter III and</del> Article 17 and shall take all measures necessary to ensure that these rules are implemented, including the power of competent authorities to access the necessary data. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.</p> <p>DE: (Comments): (Cf. our comment on recital (11) above): We have reservations against the idea of obliging Member States to introduce administrative penalties applicable to the non-acceptance of a digital euro. According to the principle of freedom of contract, traders and retailers are in principle free to decide on what terms they wish to conclude a contract. A refusal to accept digital euro, if no other means of payment is agreed upon by the parties, may lead to a breach of contract/incurrence in default of acceptance, and thus be rectified by sanctions according to the private law of Member States as enforced by Member States' civil courts.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>In addition, there is no empirical evidence as to what extent penalties applicable to the non-acceptance of digital euro by individual retailers or merchants would serve the goals of this Regulation. To the contrary, in the context of ELTEG's work on the role of euro banknotes and coins, six Member States reported that they already have national provisions penalising refusal of payment with legal tender notes/coins without significant differences in terms of cash acceptance when compared to Member States without such sanctions.</p> <p>We reserve potential further comments on this para. with regard to its application in the context of Article 17, which we would share together with our more general position on the compensation model.</p> <p>BE: (Comments): See our comment to Recital 11: while supporting an effective sanctioning regime, the Regulation should contain further provisions ensuring a minimum level of harmonisation in this regard. We do not provide concrete drafting suggestions at this stage, but this topic should be further elaborated on.</p>
<p>2. Directive (EU) 2015/2366 of the European Parliament and of the Council, of 25 November 2015, on payment services in the internal market, as replaced by Directive (EU)</p>	<p>SI: (Drafting): Without prejudice to this Regulation, Articles ... of Directive 2015/2366 shall apply to the supervision by competent authorities, the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States, concerning compliance by Payment Services Providers of their obligations pursuant to Chapters</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p><i>[please insert reference – proposal for a Directive on payment services and electronic money services in the internal market - COM/2023/366 final]</i>, shall govern the supervision by competent authorities, the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States, concerning compliance by Payment Services Providers of their obligations pursuant to Chapters IV, V, VI and VII of this Regulation.</p>	<p>IV, V, VI and VII of this Regulation <i>mutatis mutandis</i>.</p> <p>SI: (Comments): Regarding the wording: “shall govern the supervision by competent authorities, the sanctions regime and supervisory arrangements” we suggest replacing and using wording similar to other acts (e.g. EMD2).</p> <p>PL: (Drafting): PL: 2. Directive (EU) 2015/2366 of the European Parliament and of the Council, of 25 November 2015, on payment services in the internal market, as replaced by Directive (EU) <i>[please insert reference – proposal for a Directive on payment services and electronic money services in the internal market - COM/2023/366 final]</i>, shall govern the supervision by competent authorities, the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States, concerning compliance by payment service providers of their obligations pursuant to Chapters IV, V, VI and VII of this Regulation.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>FR: (Comments): It seems unclear how the ECB, the EBA and the national payment authorities will share</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	responsibility for digital euro payments. The Commission's opinion on the division of responsibilities would be welcome in order to map the responsibilities of each of the competent authorities. In particular, the regulation could be prescriptive regarding the exchange of information required to ensure adequate supervision.
<p>3. Directive (EU) 2015/849 as replaced by Directive (EU) <i>[please insert reference – proposal for Anti-Money Laundering Directive - COM/2021/423 final]</i> shall govern the supervision by competent authorities, the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States, concerning the activities of Payment Services Providers in relation to the digital euro for the purpose of ensuring compliance with Chapter IX of Regulation (EU) No [x ] on the establishment of the digital euro.</p>	<p>SI: (Comments): Same as above for the bolded part of the first sentence we suggest replacing and using wording similar to other acts</p> <p>Technical note for the bolded part of the last sentence: different wording from the previous paragraph.</p> <p>PL: (Drafting): PL: 3. Directive (EU) 2015/849 as replaced by Directive (EU) <i>[please insert reference – proposal for Anti-Money Laundering Directive - COM/2021/423 final]</i> shall govern the supervision by competent authorities, the sanctions regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States, concerning the activities of payment service providers in relation to the digital euro for the purpose of ensuring compliance with Chapter IX of this Regulation.</p> <p>PL: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	PL: Re-drafting proposals, technical, non-material  PT: (Comments): Please to our comment to Article 5 (5), <i>mutatis mutandis</i> .
4. For the purposes of supervising compliance with Chapters IV, V and VII of this Regulation, the competent authorities referred to in paragraph 2 shall cooperate with the European Central Bank.	SE: (Comments): Is further clarification on how this cooperation is supposed to be carried out needed?  SI: (Comments): It is not clear what is covered by the term "cooperation".  BE: (Comments): It is not clear what kind of cooperation is envisaged, and how this should be done in practice.  We do not provide concrete drafting suggestions as this stage, but this topic should be further elaborated on.
5. Member States shall ensure that adequate measures are in place to raise awareness among the public about the	CZ: (Comments): We do nt consider that this provision needs to be in legislative text. It would be enough to

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>availability and features of the digital euro and possibilities of access to the digital euro.</p>	<p>include this appeal into recital. Moreover, which measures are “adequate”? It can be also better explained in the recital.</p> <p>PL: (Drafting): PL: 5. Member States whose currency is the euro shall ensure that adequate measures are in place to raise awareness among the public about the availability and features of the digital euro and possibilities of access to the digital euro.</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation. Additionally, it should be discussed whether this obligation should apply also to Member States which have signed an arrangement pursuant to the Article 18</p> <p>IT: (Drafting): <b>IT 5. Member States shall ensure that adequate <u>financial education</u> measures are in place to raise awareness among the public about the availability and features of the digital euro, how to access <u>and use to</u> the digital euro <u>and whom to complain in case of problems. Member States shall ensure that specific digital financial literacy initiatives are designed to reach people with disabilities, functional limitations, or limited digital skills, as well as for the elderly.</u></b></p> <p>IT: (Comments): <b>IT</b> See whereas 13.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>CHAPTER III LEGAL TENDER</p>	<p>FI: (Comments): Regulation on legal tender of euro cash and digital euro should be aligned and built on the same core principles, taking in to account the different characteristics of electronic and cash payments.</p> <p>DE: (Comments): We reserve further comments on all the proposals concerning legal tender made in this regulation, which we will share once we have finalized our political view on legal tender in general and acceptance obligations in particular.</p> <p>PT: (Comments): A possible alignment with the proposal for a Regulation on the legal tender of euro banknotes and coins should be considered. For instance, we are wondering whether it is adequate not to introduce any monitoring procedures on the acceptance of digital euro payments. This stands in clear contrast with the ambitious monitoring and enforcement structures and rules proposed in the said Regulation, which are absent from this proposal.</p>
<p>Article 7 Legal tender status</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>1. The digital euro shall have legal tender status.</p>	<p>FR: (Comments): The digital euro should be granted legal tender since it will be a public currency and in order to guarantee its widest acceptance and hence its attractiveness. Yet, its <u>legal and practical consequences</u> appear to require further analysis. The legal tender status enjoyed by physical cash is attached to these physical payment instruments. Indeed, in the case of cash, it is not possible to distinguish between the payment instrument and the currency. This is corroborated by the fact that money in itself does not have legal tender status, but some of its specific forms do: it is in this sense that euro banknotes have legal tender status, under article 128 of the Treaty on the Functioning of the European Union, and that coins were given legal tender status by the regulation of 3 May 1998 on the introduction of the euro. However, in the case of the digital euro, a distinction can be made between the digital euro, as a currency entered on the liabilities side of the central bank's balance sheet, and the payment instruments that will enable transfers to be made between accounts in digital euro. However, Article 7 does not remove this ambiguity, merely stating that the digital euro would have legal tender. Would the legal tender status be attached to the currency itself and that all instruments used to move accounts would therefore have legal tender, to be mandatorily accepted by merchants ? This could have particularly problematic side effects: in particular, if value-added services or private payment instruments were to be developed on the digital euro, would they benefit from legal tender, whereas the same services on payment accounts in commercial bank money would not? Clarifications by the Commission would be welcomed in that regard.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>2. The legal tender status of the digital euro shall entail its mandatory acceptance, at full face value, with the power to discharge from a payment obligation.</p>	<p>NL: (Comments): <u>NL Comment</u>: The Netherlands understands the decision of the Commission to give the digital euro legal tender status with mandatory acceptance for both online and offline payments. Generally, we are of the view that the aim should be to create a digital euro that is interesting enough for merchants to accept it as means of payments, even without the mandatory acceptance. It is important to discuss the consequences and feasibility of mandatory acceptance for several types of merchants, e.g. micro-enterprises and locations with integrated payment solutions and whether a transition period for mandatory acceptance could be required for the first issuance of the digital euro.</p> <p>DE: (Drafting): 2. The legal tender status of the digital euro shall entail its mandatory acceptance <b><u>in principle</u></b>, at full face value, with the power to discharge from a payment obligation.</p> <p>DE: (Comments): To our understanding, the CJEU judgment of 26 January 2021 in Joined Cases C 422/19 and C 423/19, Hessischer Rundfunk, EU:C:2021:63, only calls for ‘acceptance in principle’ not for absolute acceptance (points 49, 55 and 67), meaning that cash as a means of payment ‘cannot generally be refused’ (point 46). Similarly, the Commission Recommendation of 2010 implies a mandatory acceptance of cash only in principle as ‘the creditor of a payment obligation cannot refuse euro banknotes and coins unless the parties have agreed on other means of payment.’ For reasons of consistency, the same should apply to a digital euro.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>In addition, in the Impact Assessment report of 28 June 2023, SWD(2023) 233 final (Box E, p. 38) the key principles of legal tender are defined as ‘mandatory acceptance in principle, at full face value, with the power to discharge payment obligations’.</p> <p>See also Recital (14).</p>
<p>3. In accordance with the mandatory acceptance of the digital euro, the payee shall not refuse digital euro tendered in payment to comply with that obligation.</p>	<p>DE: (Drafting): 3. In accordance with the mandatory acceptance <b>in principle</b> of the digital euro, the payee shall not refuse digital euro tendered in payment to comply with that obligation.</p> <p>DE: (Comments): See our comment at Article 7 (2) above.</p> <p>BE: (Drafting): 3. In accordance with the mandatory acceptance of the digital euro, <del>the a</del> <b>payee residing or established in the euro area</b> shall not refuse digital euro tendered in payment <del>to comply with that</del> <b>in view of the discharge of a payment</b> obligation.</p> <p>BE: (Comments): To clarify that the obligation refers to the payment obligation that the payer intends to discharge.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>4. In accordance with the acceptance at full face value of the digital euro, the monetary value of digital euro tendered in payment of a debt shall be equal to the value of the monetary debt. Surcharges on the payment of debt with the digital euro shall be prohibited.</p>	
<p>5. In accordance with the power of the digital euro to discharge from a payment obligation, a payer shall be able to discharge himself from a payment obligation by tendering digital euro to the payee.</p>	<p>DE: (Drafting): 5. In accordance with the power of the digital euro to discharge from a payment obligation, <b><u>it shall be possible for a payer to discharge himself from such obligation in a payer shall be able to discharge himself from a payment obligation by tendering</u></b> digital euro <b><u>to the payee.</u></b></p> <p>DE: (Comments): Whether the mere ‘tendering’ of legal tender legally ‘discharges’ a payer from his/her payment obligation might differ amongst the legal systems in Member States. Therefore, the language should be more general allowing all Member States to accommodate such rules in their respective legal systems.</p> <p>In addition, the drafting suggestion is in accordance with the CJEU judgment of 26 January</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>2021 in Joined Cases C 422/19 and C 423/19, Hessischer Rundfunk, EU:C:2021:63, where it is set out that ‘it must be possible to discharge a payment obligation in cash’ (point 49 and 56).</p> <p>BE: (Drafting): 5. In accordance with the power of the digital euro to discharge from a payment obligation, a payer shall <del>be able</del> <b>have the right</b> to discharge <del>himself</del> from a payment obligation by tendering digital euro to the payee.</p> <p>BE: (Comments): Editorial drafting suggestions. The word “himself” is not mentioned in the corresponding provision of the Cash Legal Tender Regulation.</p> <p>FR: (Drafting): 5. In accordance with the power of the digital euro to discharge from a payment obligation, a payer <del>shall be able to</del> <b>can</b> discharge himself from a payment obligation by tendering digital euro to the payee.</p> <p>FR: (Comments): Given the legal status of the digital euro and the obligations incumbent on merchants as a result, it seems a balanced approach to provide for an obligation in principle to be able to pay for the payer. However, this paragraph could imply an obligation <u>to be able to pay</u> with digital euros,</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	and the practical consequences are unclear - particularly with regard to the obligation that might arise from opening a digital euro account and the need, where applicable, to have it loaded when making a purchase. Clarifications from the Commission would be particularly interesting to ensure that no such obligation is foreshadowed for the payer. Further clarifications to understand the relationship with Article 12(2) would be welcome as well: this paragraph makes explicit the payer's ability to choose when digital euros and cash are accepted by the merchant, without however articulating the obligation for the payer <u>to be able</u> to pay in both cash and digital euros.
Article 8 Territorial scope of legal tender status	IT: (Comments): We would make a scrutiny reservation on this Article, especially paragraph 1 on offline payments, which should be further discussed given its implications with the proposal on the legal tender of banknotes and coins, the other EU rules applicable to cash and the national civil law systems. See also comments under Recital (17) above.
1. The digital euro shall have legal tender status for offline payments of a monetary debt denominated in euro that take place within the	BE: (Drafting): 1. The digital euro shall have legal tender status for offline payments of a monetary debt denominated in euro that take place within the euro area. <b>An offline digital euro payment is</b>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
euro area.	<p><b>considered to take place in the euro area when both payer and payee are in each other's physical proximity in the euro area.</b></p> <p>BE: (Comments): It should be clarified when an offline digital euro payment is considered to take place in the euro area.</p>
<p>2. The digital euro shall have legal tender status for online payments of a monetary debt denominated in euro to a payee residing or established in the euro area.</p>	
<p>Article 9 Exceptions to the obligation to accept the digital euro</p>	<p>DE: (Comments): We reserve further comments on this article, which we will share once we have finalized our political view on legal tender in general and acceptance obligations in particular.</p>
<p>By way of derogation from Article 7(3) and Article 8, a payee shall be entitled to refuse</p>	<p>BE: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
digital euro in any of the following cases:	<p>By way of derogation from Article 7(3) and Article 8, a payee <b>residing or established in the euro area or who is the recipient of an offline digital euro payment that takes place in the euro area</b>, shall be entitled to refuse digital euro in any of the following cases:</p> <p>BE: (Comments): The exception should cover both the cases mentioned under Article 8, i.e. also an offline digital euro payment taking place in the euro area, where the payee is not residing or established in the euro area.</p>
<p>(a) where the payee is a an enterprise which employs fewer than 10 persons or whose annual turnover or annual balance sheet total does not exceed EUR 2 million, or is a non-profit legal entity as defined in in Article 2, point (18), of Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>35</sup>, unless it accepts comparable digital means of payment;</p>	<p>NL: (Comments): <u>NL Question</u>: What are “comparable digital means of payment”?</p> <p>PL: (Drafting): PL: (a) where the payee is a an enterprise which employs fewer than 10 persons or whose annual turnover or annual balance sheet total does not exceed EUR 2 million, or is a non-profit legal entity as defined in in Article 2, point (18), of Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>36</sup>, unless it accepts comparable digital means of payment;</p>

<sup>35</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>LT: (Comments): In our opinion, the exception “unless it accepts comparable digital means of payment” <b>for microenterprises might cause an adverse effect on digital payments.</b> As small enterprises might fall back to being fully cash-only due to burden of providing digital euro. This could be especially unproportional for even smaller enterprises. Some options to mitigate this could include: removing the clause “unless it accepts comparable digital means of payment”, <b>leaving the possibility for MS to apply exceptions for smallest enterprises irrespective of their acceptance of digital payments, adding additional exception for even smaller enterprises</b> (e.g. with less than 200k turnover), or MS compensating for digital euro infrastructure to the smallest enterprises.</p> <p>DE: (Comments): We would kindly ask the Commission to elaborate whether accepting SEPA credit transfers is considered a “comparable digital means of payment”.</p> <p>PT: (Comments): We support introducing exceptions to the mandatory acceptance principle, considering the need</p>

<sup>36</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>for proportionality in its application.</p> <p>FR: (Comments): The introduction of an exemption for small merchants and businesses raises questions about (i) the political objectives linked to the use of the euro, especially in its digital form and (ii) the interplay between the legal tender of digital euro and legal tender of euro cash. Indeed, access to central bank money, particularly in rural areas, could be reduced in the medium term by the combination of (i) a potentially reduced access to cash in a few years' time and (ii) an inability to pay in digital euros in small shops. Yet, one of the objective of the digital euro is to foster financial inclusion. Therefore, we would appreciate the Commission's comments on how to find the best equilibrium between some flexibility in the legal tender of the digital euro and fostering financial inclusion.</p> <p>Besides, we would like to know how the thresholds in this article, in terms of headcount and turnover/balance sheet, have been defined.</p> <p>At the same time, and in order to objectify the need and relevance of this exemption, a quantification of the entities within its scope would be welcome.</p> <p>Ultimately, the adequate scope of this exception to mandatory acceptance will depend on the additional costs and operational burden that acceptance of digital euro payments would entail for merchants. If acceptance of digital euro payments does not require specific devices but is rather based on widely accessible acceptance technologies (e.g. static QR Code displayed on sheet of paper or on a smartphone, NFC acceptance with smartphone), then exception to mandatory acceptance should be more restricted so as to remain eventually justified and proportionate.</p> <p>Finally, if such exemption were to be retained, legal clarity should be provided for the scope of</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	“comparable digital means of payment” in recital 18.
<p>(b) where a refusal is made in good faith and where such refusal is based on legitimate and temporary grounds in line with the principle of proportionality in view of concrete circumstances beyond the control of the payee;</p>	<p>NL: (Comments): <u>NL Comment:</u> The Netherlands is of the opinion that there may be legitimate permanent grounds (now or in the future) that make it impossible for merchants and retailers to accept a digital euro, for situations that cannot be foreseen at this stage. It should be considered whether additional exceptions for such unforeseen circumstances should be possible under strict conditions.</p> <p>DE: (Drafting): (b) where a refusal is made in good faith and where such refusal is based on legitimate and temporary grounds in line with the principle of proportionality in view of concrete circumstances <del>beyond the control of the payee</del>;</p> <p>DE: (Comments): We do not see the need to further limit the scope of this exception by referencing circumstances only that are ‘beyond the control of the payee’. In our view, this would be part of the case-by-case analysis whether ‘legitimate and temporary grounds’ in view of the concrete circumstances justify an exception.</p> <p>BE: (Drafting):</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(b) where a refusal is made in good faith, <del>and where such refusal is</del> based on legitimate and temporary grounds in line with the principle of proportionality in view of, objectively justifiable grounds due to concrete circumstances beyond the control of the payee, proportional to these grounds and of a temporary nature;</p> <p>BE: (Comments): We propose to more clearly spell out the various elements that should be observed for a payee to refuse a payment in digital euro.</p>
<p>(c) where the payee is a natural person acting in the course of a purely personal or household activity;</p>	<p>SI: (Comments): What about natural persons acting in a professional capacity but not established as an enterprise (i.e. self-employed natural persons - e.g. independent cultural workers who are neither consumers nor enterprises)? They need to be included in point (a) of this article.</p> <p>FR: (Comments): As legal tender would mean that each creditor would have to be able to accept the discharge of his debtor's obligations in digital euros, without no dedicated provision, it should be possible for a payer to pay a debt, including a rent or a deed in digital euros. This would have immediate consequences for the debtors' obligations to equip themselves or be paid. Therefore,</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	clarifications from the Commission on the scope of such exemption would be welcomed.
<p>(d) where, prior to the payment, the payee has agreed with the payer on a different means of payment, subject to Article 10.</p>	<p>DE: (Drafting): (d) where, prior to the payment, <del>the</del> payee <u>and payer has have</u> agreed <del>with the payer</del> on a different means of payment, subject to Article 10.</p> <p>DE: (Comments): The previous wording could imply that payee and payer are not acting on an equal footing.</p>
<p>For the purposes of point (b), the burden of proof to establish that legitimate and temporary grounds existed in a particular case and that the refusal was proportionate shall be on the payee.</p>	<p>SE: (Drafting): For the purposes of point (b), the burden of proof to establish that <u>such</u> legitimate and temporary grounds existed in a particular case and that the refusal was proportionate shall be on the payee</p> <p>SE: (Comments): For clarification reasons</p> <p>DE: (Drafting): For the purposes of point (b), the burden of proof to establish that legitimate and temporary grounds existed in a particular case and that the refusal was proportionate shall be on the payee. <b><u>These exceptions to the obligation to accept digital euro payments are without prejudice to</u></b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><b><u>the possibility for Member States to adopt additional exceptions in national legislation in accordance with existing Union law.</u></b></p> <p>DE: (Comments): Amendment needed for the purpose of clarification (see also Recital 19).</p> <p>BE: (Drafting): For the purposes of point (b), the burden of proof to establish that legitimate and <b>temporary objectively justifiable</b> grounds existed in a particular case and that the refusal was proportionate <b>and temporary</b>, shall be on the payee.</p> <p>BE: (Comments): See our previous comment.</p>
<p>Article 10</p> <p>Prohibition of the unilateral exclusion of payments in the digital euro</p>	<p>DE: (Comments): We reserve further comments on this article, which we will share once we have finalized our political view on legal tender in general and acceptance obligations in particular.</p> <p>PT: (Comments): This provision is essential to avoid circumvention, namely by clarifying that unilateral</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	exclusions of digital euro payments are not admissible. It is difficult to understand why a similar provision was not included in the proposal for a Regulation on the legal tender of euro banknotes and coins.
<p>Payees subject to the obligation to accept the digital euro shall not use contractual terms that have not been individually negotiated or commercial practices which have the object or the effect to exclude the use of the digital euro by the payers of monetary debts denominated in euro. Such contractual terms or commercial practices shall not be binding on the payer. A contractual term shall be regarded as not individually negotiated where it has been drafted in advance and where the payer has therefore not been able to influence the substance of the term, particularly in the context of a pre-formulated standard contract.</p>	<p>FI: (Comments): This might possibly interfere too deeply in the principle of contractual freedom and the legal jurisprudence of Finnish contract law. In the legal tender of euro cash, ex ante unilateral exclusions are not prohibited as explicitly as in with digital euro.</p> <p>BE: (Drafting): Payees subject to the obligation to accept the digital euro shall not use contractual terms that have not been individually negotiated, nor commercial practices which <del>have the object or the effect to</del> exclude the use of the digital euro by the payers of monetary debts denominated in euro. Such contractual terms or commercial practices shall not be binding on the payer. A contractual term shall be regarded as not individually negotiated where it has been drafted in advance and where the payer has <del>therefore</del> not been <b>able given a reasonable opportunity to influence the substance of the terms or is left with no other choice than to accept the terms, particularly in the context of a pre-formulated standard contract.</b></p> <p>BE: (Comments): Editorial drafting suggestions and further clarifications.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>FR: (Comments): Limiting the possibility of circumventing the legal tender status of the euro by unilaterally imposing on consumers, in particular by means of general terms and conditions of sale, the refusal of a payment in digital euros is welcome in terms of its objective: this will avoid making the legal tender status of the single European currency less effective. In practice, however, the relationship between this article and paragraph (d) needs to be clarified, particularly in terms of the criteria used in Article 10 to ensure its effectiveness.</p>
<p>Article 11 Additional exceptions of a monetary law nature</p>	<p>NL: (Comments): <u>NL Comment:</u> What is meant with additional exceptions of a ‘monetary law nature’. This should be clarified, in order to avoid confusion about its meaning in this context. The digital euro should not be used as a monetary instrument by the ECB.</p> <p>LT: (Comments): In our view, MS should have the possibility to identify additional exceptions.</p> <p>PT: (Drafting): <b><i>Article 11</i></b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><b><i>Additional exceptions of a monetary law nature</i></b></p> <p>PT: (Comments): Considering the nature of the exceptions referred to in this provision, and the fact this is a critical part of the present regulatory regime, we believe that these additional exceptions should in principle be included in the level 1 text. Therefore, we propose the deletion of this provision.</p>
<p>The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation by identifying additional exceptions of a monetary law nature to the principle of mandatory acceptance. Those exceptions shall be justified by an objective of public interest and proportionate to that aim, shall not undermine the effectiveness of the legal tender status of the digital euro, and shall only be permitted provided that other means for the payment of monetary debts are available.</p>	<p>NL: (Comments): <u>NL Comment:</u> All the exceptions must be objective and enforceable. We have questions about the room for additional exceptions for mandatory acceptations under the proposals. We are in favor of the proposal giving the Commission the powers to establish additional exceptions to the obligation to accept a digital euro, but have questions on the formulation and demarcation of powers. It is important that member states themselves also have the freedom to introduce additional exceptions to the acceptance obligation that fit specific situations in their national payment landscape. Member states should communicate clearly about any such exceptions (among each other and to the market).</p> <p>FI: (Comments): Reservations on the provision of delegated acts as we are not sure does this objective of the public interest, and wording make commission to take national specificities in to account.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>When preparing those delegated acts, the Commission shall consult the European Central Bank.</p>	<p>DE: (Drafting): The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation by identifying additional exceptions of a monetary law nature to the <del>principle of</del> mandatory acceptance <b><u>in principle. In so far as they are necessary for the use of the euro as the single currency.</u></b> Those exceptions shall be justified by an objective of public interest and proportionate to that aim, shall not undermine the effectiveness of the legal tender status of the digital euro, and shall only be permitted provided that other means for the payment of monetary debts are available. When preparing those delegated acts, the Commission shall consult the European Central Bank.</p> <p>DE: (Comments): We would ask the Commission to explain in more detail what kind of cases the expression “exceptions of a monetary law nature” is supposed to refer to, including some possible examples. We reserve our view on this matter until we have better understood this section’s purpose from the Commission’s explanation.</p> <p>In any case, according to the CJEU, the Union’s competence laid down in Article 133 TFEU empowers the EU legislature to specify the legal rules governing the status of legal tender accorded to banknotes denominated in euro by Article 128(1) TFEU, ‘in so far as that is necessary for the use of the euro as the single currency’ (CJEU judgment of 26 January 2021 in Joined Cases C 422/19 and C 423/19, Hessischer Rundfunk, EU:C:2021:63, point 51). Therefore, any delegated act to be adopted by the Commission under this Regulation may only be adopted in so far as it is necessary for the use of the (digital) euro as the single currency.</p> <p>PT:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting):  <del><i>The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation by identifying additional exceptions of a monetary law nature to the principle of mandatory acceptance. Those exceptions shall be justified by an objective of public interest and proportionate to that aim, shall not undermine the effectiveness of the legal tender status of the digital euro, and shall only be permitted provided that other means for the payment of monetary debts are available. When preparing those delegated acts, the Commission shall consult the European Central Bank.</i></del></p> <p>FR:            (Comments):</p> <p>We question the need for the Commission to be allowed by delegated acts to further specify additional exceptions, without extensive discussions at the Council level. We therefore suggest deleting the provisions set out here and replacing them with a report on the exemptions as provided for at the end of the negotiations and a possible new proposal from the Commission to adopt them, to be included in article 16.</p> <p>However, this article shall recall the possibility for Member States, pursuant to their own powers in areas of shared competence, to adopt national legislation introducing exceptions to the mandatory acceptance deriving from the legal tender status in accordance with the conditions laid down by the Court of Justice of the European Union in the judgment in Joined Cases C-422/19 and C-423/19, as we believe it shall not be left to recitals.</p> <p>Indeed , in France, some payments in cash are forbidden regardless of any threshold, for other public policy reasons. For instance, it is the case for:</p> <ul style="list-style-type: none"> <li>- the payments of any purchase of ferrous and non-ferrous metals by a professional (cf.</li> </ul>



**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>Article L. 112-6, I, paragraph 3, of Monetary and Financial Code)</p> <ul style="list-style-type: none"> <li>- the payments made by judicial administrators and judicial representatives to the institutions mentioned in the Labour Code (cf. Article L. 112-6-2 of Monetary and Financial Code)</li> </ul> <p>the payments of wages and salaries by judicial administrators and judicial representatives when they were, before the opening of the collective procedure, carried out by bank transfer, subject to Article L. 112-10 of Monetary and Financial Code (cf. Article L. 112-6-2 of Monetary and Financial Code) of any delivery of cereals by cooperative producers (cf. Article L. 112-8 of Monetary and Financial Code).</p>
<p>Article 12</p> <p>Interaction between the digital euro and euro banknotes and coins</p>	
<p>1. The digital euro shall be convertible with euro banknotes and coins at par.</p>	<p>FR: (Comments): The principle of conversion appears legitimate given that it is the same form of public money. However, in practice, what are the obligations arising from this conversion requirement, both for PSPs and for merchants? Does this article mean that the funding/defunding from/into cash</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	service will have to be priced free of charge, as proposed by article 17(1) (see comments there)?
<p>2. Payees of a monetary debt denominated in euro shall accept payments in digital euro according to the provisions of this Regulation, irrespective of whether they accept payments in euro banknotes and coins in accordance with Regulation (EU) [<i>please insert reference – proposal on the legal tender status of euro banknotes and coins – COM (2023) 364 final</i>].</p> <p>Where the acceptance of euro banknotes and coins and of the digital euro is mandatory in accordance with the provisions of this Regulation and Regulation (XXX on the legal tender of euro banknotes and coins), the payer is entitled to choose the means of payment.</p>	<p>BE: (Drafting):</p> <p>2. Payees of a monetary debt denominated in euro shall accept payments in digital euro according to the provisions of this Regulation, irrespective of whether they <b>are obliged to</b> accept payments in euro banknotes and coins in accordance with Regulation (EU) [<i>please insert reference – proposal on the legal tender status of euro banknotes and coins – COM (2023) 364 final</i>]. Where the acceptance of euro banknotes and coins and of the digital euro is mandatory in accordance with the provisions of this Regulation and Regulation (XXX on the legal tender of euro banknotes and coins), the payer is entitled to <b>choose the means of payment pay with euro banknotes and coins, with the digital euro or with both.</b></p> <p>BE: (Comments): Editorial drafting suggestions.</p>
CHAPTER IV	DE:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
DISTRIBUTION	(Comments): We reserve further comments on all the proposals in this chapter, which we will share once we have finalized our political view on the proposed distribution and compensation models.
Article 13 Payment service providers	AT: (Comments): AT: We ask to add clear rules on liability in cases of fraud to Art 13. Currently, there is no clear allocation of liability for fraud between the ECB, the national central banks, the payment service providers and possible other parties. Crucially, such rules should <b>not</b> incorporate a mechanism that holds intermediaries accountable for any disruptions or losses caused by fraud irrespective of the nature of the intermediary's behaviour. Liability rules should instead be based on the <b>principle of fault</b> , meaning that intermediaries are only liable, if <b>they are at fault</b> .  CY: (Comments): Definition of roles for central banks, regulatory authorities and financial institution shall be clearly defined, outlining which have the authority and responsibility for different aspects of digital euro.
1. Within the framework of Directive 2015/2366, payment service providers may	SI: (Comments): Technical comment: We suggest aligning the wording throughout the proposed Regulation.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
provide the digital euro payment services set out in Annex I to:	<p>IT: (Comments): IT: It should be better clarified if payment services provided in annex I and II of this draft regulation represent new services, different from those contained in annex I of Directive 2366/2015 or if, on the contrary, they are the same as annex I of Directive 2366/2015 although denominated in digital euros. In the first case new reserved activities arise and they need to be specifically regulated by the new PSD directive. Furthermore, we fail to see why, according to Article 14(1), only credit institutions that provide payment services as referred to in points (1), (2) or (3) of Annex I to PSD2 (in perspective, PSD3) are obliged to provide basic digital euro payment services to natural persons residing in the Member States whose currency is the euro, while the same obligation does not apply to payment services providers that provide the very same payment services as referred to in points (1), (2) or (3) of Annex I to the same directive. Indeed, according to Article 13(1), payment services providers are free to decide whether to offer digital euro payment services (and, therefore, also basic digital euro services) to the aforementioned natural persons. In light of the above we suggest a thorough discussion on the issue at stake.</p> <p>DE: (Comments): In our understandig Article 13 (1) refers to already licensed PSPs (see definition in Article 2 point (7)). As payment institutions are a category of PSPs they may provide the payment services set out in Annex I of PSD 2 and according to this provision also the digital euro payment services set out in Annex I of this proposal. Whereas pursuant to Article 18 (2) PSD 2 payment institutions may hold payment accounts that are used exclusively for payment transactions, under this proposal payment institutions could manage digital euro payment</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>accounts held by digital euro users that might also serve as a store of value (Article 15 and 16 of this proposal). Pending the instruments to limit the use of the digital euro as a store of value as per Article 16 (1), payment institutions might manage digital euro payment accounts providing access to significant amounts of digital euro, potentially entailing a liability of the payment institution (e.g. for unauthorised transactions) not accounted for by its authorisation as a payment institution.</p> <p>This is another example showing that a comprehensive analysis is needed on how the PSD 2 would interact with the digital euro and what modifications would be necessary (see our comments and recitals (9), (22), (23) above).</p> <p>BE: (Drafting):</p> <p>1. Within the framework of Directive 2015/2366, payment service providers may provide the digital euro payment services set out in Annex I to <del>to</del> <b>the persons referred to in Article 4a.</b></p> <p>BE: (Comments):</p> <p>See our suggestion above to insert a new Article 4a in Chapter II, mentioning the persons who can be digital euro users.</p> <p>PT: (Drafting):</p> <p>1. Within the framework of Directive 2015/2366, <b>without prejudice to Article 14(1)</b>, payment service providers may provide the digital euro payment services set out in Annex I to:</p> <p>PT: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Proposal of addition to better connect the two provisions since credit institutions that provide payment services will be obliged to distribute the digital euro, if requested by their clients.</p> <p>FR: (Comments): Under the <i>Market in crypto-assets</i> regulation, e-money token issuers are electronic money institutions, considered to be payment service providers within the meaning of PSD2. Therefore, they could be considered to be included within the scope of this Article. Clarification from the Commission would therefore be welcome.</p>
<p>(a) natural and legal persons residing or established in the Member States whose currency is the euro;</p>	<p>DE: (Comments): With a view to the limitations of access to a digital euro for citizens and businesses outside the euro area, how does the Commission assess the impact on the four freedoms of the single market? To what extent could monetary sovereignty of the euro area be an argument to justify such limitations?</p> <p>BE: (Drafting): <del>(a) natural and legal persons residing or established in the Member States whose</del> <b>currency is the euro;</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>(b) natural and legal persons who opened a digital euro account at the time they resided or were established in the Member States whose currency is the euro, but no longer reside or are established in such Member States;</p>	<p>SE: (Drafting): natural and legal persons who <b>is holding</b> opened a digital euro payment account <b>opened</b> at the time they resided or were established in the Member States whose currency is the euro, but no longer reside or are established in such Member States</p> <p>SE: (Comments): To clarify that the digital euro payment account should still be at hand.</p> <p>DE: (Drafting): (b) natural and legal persons who opened a digital euro <b>payment</b> account at the time they resided or were established in the Member States whose currency is the euro, but no longer reside or are established in such Member States;</p> <p>DE: (Comments): Editorial change. But also cf. our comment on Article 2 (5).</p> <p>BE: (Drafting): <del>(b) natural and legal persons who opened a digital euro account at the time they resided or were established in the Member States whose currency is the euro, but no longer reside or are established in such Member States;</del></p> <p>PT: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>While we understand this is a problem of termination of acquired rights, we consider this possibility may raise significant issues. It is also difficult to grasp the rationale behind the second paragraph of this provision. For instance, will it be possible for the ECB/PSP to unilaterally close such digital euro payment accounts? And, if so, to where the funds will be transferred to? Who will be responsible to ensure the compliance with any restrictions in the use in time? The PSP with whom the contractual relationship was established or the ECB? Or what is intended is to convey the possibility of the ECB not allowing digital euro holdings for the users referred to in paragraphs (b) and (c) at the time of the first issuance. In any of these cases, the reference to “restrict the access to and use in time” needs to be clarified, as well as what happens when the ECB uses such a prerogative.</p>
(c) visitors;	<p>NL: (Comments): <u>NL Comment</u>: We wonder how this will work in practice. For example, how should the PSP monitor when the visitor leaves the eurozone?</p> <p>BE: (Drafting): <del>(c) — visitors; —</del></p> <p>PT: (Comments): We have doubts regarding the idea that visitors should be allowed to have such apparently easy access to the digital euro, whereas natural persons residing in Member States whose currency is not the euro cannot have such rather open access, noting that, for the latter, there would need to</p>



**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>be an agreement between the ECB and the national central bank of the Member State. In our view, the proposed solution raises therefore clear challenges in view of the principle of non-discrimination and is also not proportional.</p> <p>DK: (Comments): It is unclear how litra c interplays with litra d and e. If a natural person from either a non-euro MS or a third country visits a euro-MS they are entitled to use digital-euro services as visitors, cf. litra c. However, what will happen when they leave the euro-MS and return to their home country. Will they have to redeem all issued digital euros or can they keep them? And if they can keep them, can they use them online in a eurozone retailer and/or would they still be entitled to e.g. the waterfall service? The latter would effectively make the digital euro widely available to all European citizens contingent on visits to the euro-zone.</p> <p>Denmark would appreciate if the Commission could explain the interplay of these proposals in more detail, in order for us to form an opinion.</p> <p>LU: (Comments): The distribution of the digital euro to visitors should take into account all requirements and limitations applicable under the AML regulatory framework.</p>
(d) natural and legal persons residing or established in Member States whose currency is	BE: (Drafting):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
not the euro, subject to the conditions laid down in Article 18;	<del>(d) — natural and legal persons residing or established in Member States whose currency is not the euro, subject to the conditions laid down in Article 18;</del>
(e) natural and legal persons residing or established in third countries, including territories under a monetary agreement with the Union, subject to the conditions laid down in Articles 19 and 20.	BE: (Drafting): <del>(e) — natural and legal persons residing or established in third countries, including territories under a monetary agreement with the Union, subject to the conditions laid down in Articles 19 and 20.</del>
The European Central Bank may restrict the access to and use in time of the digital euro for the digital euro users referred to in points (b) and (c) subject to the conditions laid down in Article 16 (2). Those timeframes shall be determined in relation to the residence or visiting status of the digital euro users.	NL: (Comments): <u>NL Comment</u> : Please refer to our comment under (c) above.  DE: (Drafting): The European Central Bank may restrict the access to <del>and use in time of</del> the digital euro for the digital euro users referred to in points (b) and (c) subject to the conditions laid down in Article 16 (2). <del>Those timeframes shall be determined in relation to the residence or visiting status of the digital euro users.</del>  DE: (Comments):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>We do not support the possible limitation of the time period for which former residents or visitors to the Euro area can use the digital euro. Once we allowed a person access to the digital euro, that person should be able to use the digital euro indefinitely. We see restrictions on the (temporal) usability of a digital euro at odds with the concept of central bank money as the safest and most fungible form of money available. Such restrictions could impair the public's trust into the reliability and intrinsic value of a digital euro. This provision also contradicts Article 24 (2). A digital euro that has an expiration date attached to it in the hand of some users would be a form of programmable money, which we strictly oppose.</p> <p>BE: (Drafting): <del>The European Central Bank may restrict the access to and use in time of the digital euro for the digital euro users referred to in points (b) and (c) subject to the conditions laid down in Article 16 (2). Those timeframes shall be determined in relation to the residence or visiting status of the digital euro users.</del></p> <p>FR: (Comments): Clarification from the Commission on the articulation between the possibility left to the EBC provided for in this article to restrict the use of the digital euro with the notion of programmable money within the meaning of Article 24(2) would be welcome.</p>
For the purpose of point (a), residents shall include both Union citizens and third country	BE: (Drafting):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
nationals who benefit from residence rights pursuant to Union law or national law.	<del><b>For the purpose of point (a), residents shall include both Union citizens and third country nationals who benefit from residence rights pursuant to Union law or national law.</b></del>
<p>2. Payment service providers that provide servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users to manually or automatically fund or defund their digital euro payment accounts from or to non-digital euro payment accounts, or euro banknotes and coins when a payment services provider provides cash services, subject to any limitations that the European Central Bank may adopt in accordance with Article 16 of this Regulation.</p>	<p>SI: (Drafting): Payment service providers that provide <b>account</b> servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users to manually or automatically fund or defund their digital euro payment accounts from or to non-digital euro payment accounts, or euro banknotes and coins when a payment services provider provides cash services, subject to any limitations that the European Central Bank may adopt in accordance with Article 16 of this Regulation.</p> <p>SI: (Comments): We suggest different wording.</p> <p>PL: (Drafting): PL: 2. Payment service providers that provide servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users to manually or automatically fund or defund their digital euro payment accounts from or to non-digital euro payment accounts, or euro banknotes and coins when a payment service provider provides cash services, subject to any limitations that the European Central Bank may adopt in accordance with Article 16 of this Regulation.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>DE: (Drafting): 2. Payment service providers that provide <b>account</b> servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users to manually or automatically fund or defund their digital euro payment accounts from or to non-digital euro payment accounts, or <del>euro banknotes and coins</del> when a payment services provider provides cash services, <b>from or to euro banknotes and coins</b>, subject to any limitations that the European Central Bank may adopt in accordance with Article 16 of this Regulation.</p> <p>DE: (Comments): The first change is an editorial correction.</p> <p>The remaining changes are needed, because the provision of cash services by the ASPSPs is only relevant for the funding and defunding from or to euro banknotes and coins. The new sentence structure clarifies that and resembles e.g. the German version of the COM proposal.</p> <p>BE: (Drafting): 2. Payment service providers that provide <b>account</b> servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users to manually or automatically fund or defund their digital euro payment accounts from or to non-digital euro payment accounts, or <b>from or to</b> euro banknotes and coins when a payment services provider provides</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>cash services, subject to any limitations that the European Central Bank may adopt in accordance with Article 16 of this Regulation.</p> <p>BE: (Comments): Editorial drafting suggestions. Futhermore, see our comment to Recital 9: it is important to clarify that PSPs do not provide the entire range of services typically associated with payment accounts as defined in PSD2. Notably, PSPs do not provide settlement services and they should rather be considered as payment initiation service providers (PISPs) and account information service providers (AISPs) within the meaning of PSD2. As a result, we doubt that all the provisions of PSD2 are to be observed by PSPs. The Regulation should therefore identify which provisions of PSD2 are relevant. It may also be necessary to apply some targeted amendments to PSD2 with regards to digital euro payment services. At this stage, we do not making concrete drafting suggestions in this respect. Finally, the Regulation should contain a definition of “cash services”. In order to ensure that PSPs that have outsourced their provision of cash services to third parties remain subject to the obligation to allow funding or defunding of the digital euro account with or to euro banknotes and coins, we would propose a definition along the following lines: “any service where a withdrawal or a deposit of banknotes or coins leads to a debit respectively a credit of an account held with a payment service provider; in such case, the cash service is considered to be offered by that payment service provider”.</p> <p>FR: (Comments): This article could be interpreted as an obligation for institutions providing payment services to provide cash deposits and withdrawals in digital euros for all digital euro account holders and not just for their customers. Such obligation would require both contractual arrangements</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>between PSP under an umbrella scheme, an interconnected transaction scheme and the setting up of an interbank withdrawal and deposit scheme with a dedicated fiduciary channel. All these mechanisms could prove costly. <u>We would welcome clarification from the ECB and the Commission on the opportunities covered by this article and on the practical implementation arrangements that this would impose on the private sector.</u></p> <p>LU: (Drafting): Payment service providers that provide <b>account</b> servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users to manually or automatically fund or defund their digital euro payment accounts from or to non-digital euro payment accounts, or euro banknotes and coins when a payment services provider provides cash services, subject to any limitations that the European Central Bank may adopt in accordance with Article 16 of this Regulation.</p> <p>LU: (Comments): In order to ensure consistency with the PSD the reference should be made to <b>account</b> servicing payment services.</p>
<p>3. Payment service providers shall make available funding and defunding functionalities to digital euro users:</p>	<p>DE: (Comments): We feel that a recital clarifying the relation between para. 2 und para. 3 could be useful for the future harmonious application and interpretation of Article 13 of this Regulation.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
(a) at any point in time, on a continuous basis, where funding and defunding take place through non-digital euro payment accounts;	
(b) when a payment service provider provides cash services where funding and defunding take place through euro banknotes and coins.	<p>DE: (Comments): We wonder to what extent it is envisaged to also allow funding/de-funding transactions to take place at ATMs deployed by Independent ATM Deployers? Independent ATM Deployers play an important role in securing sufficient access of citizens to cash in some areas; should digital euro users be able, e.g., to draw cash from the digital euro payment accounts at such ATMs?</p> <p>We also would appreciate a clarification whether PSPs would need to offer funding/de-funding services against cash to all digital euro users or to their own customers only?</p> <p>FR: (Comments): It seems that this article would imply a free of charge conversion from cash to digital euro, while this is not currently the case for funding/defunding commercial bank accounts with cash. We would welcome more clarification by the Commission/ECB on the need to include this in the basic services that would be free of charge, as it could also be a way to circumvent fees for funding/defunding commercial bank accounts with cash.</p> <p>IE:</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	(Comments): How does this affect a PSP that does not provide cash services at all? Are they exempt from the requirement to provide such functionality?
4. Payment service providers providing account servicing payment services within the meaning of Directive 2015/2366 shall enable digital euro users:	PT: (Comments): According to our understanding PSPs are obliged to provide these functionalities to users but users are not obliged to use/activate them. We are still assessing the implications this might have for the legal tender status of the digital euro, as the user might not be able to transfer an amount of digital euros which is above the holding limit of the beneficiary (since no waterfall mechanism is activated) and therefore the payer cannot be discharged from its payment obligation.
(a) to have their digital euros in excess of any limitations the European Central Bank may adopt in accordance with Article 16 automatically defunded to a non-digital euro payment account, where an online digital euro payment transaction is received;	CZ: (Comments): According to Article 13 (3) a) digital euro users are not obliged to hold payment account. How should be proceed the transaction of the amount which exceed the holding limit? Should the transaction be rejected as a whole? Or only in the amount exceeding the limit?  BE: (Drafting):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(a) to have their digital euros in excess of any limitations the European Central Bank may adopt in accordance with Article 16 automatically defunded to a non-digital euro payment account, where <b>these digital euros are received as a result of an online digital euro payment transaction is received</b>;</p> <p>BE: (Comments): Editorial drafting suggestions.</p>
<p>(b) to make an online digital euro payment transaction where the transaction amount exceeds their digital euro holdings.</p>	<p>IT: (Comments): IT – We believe that the PSP’s commitment to make a reverse waterfall should be better clarified (for example using the wording of recital 36).</p> <p>DE: (Drafting): (b) to make an online digital euro payment transaction where the transaction amount exceeds their digital euro holdings, <b><u>provided that the excess amount of the transaction is available on the payer’s non-digital euro payment account linked as referred to in the following sentence.</u></b></p> <p>DE: (Comments): We feel that the proposed addition is necessary for clarification purposes.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>For the purpose of points (a) and (b), and upon prior approval by the digital euro users, payment service providers shall link each digital euro payment account to a single non-digital euro payment account designated by the digital euro users. Digital euro users shall be allowed to have that designated non-digital euro payment account with a different payment service provider than the one where a given digital euro payment account is held.</p>	<p>DE: (Comments): With regard to the term “prior approval” as contained in the drafting proposal: Please specify how the approval of the digital euro user shall be obtained by the PSP and which requirements shall apply to this process? Would such a transaction fall under the provisions of the PSD2, especially trigger a SCA (in the case of a different PSP? The same PSPs)? In our view this needs to be clarified, at least in a recital.</p> <p>FR: (Comments): While it would be interesting for consumers to be able to connect a digital euro account to any commercial bank money account to make it easier to use, leaving such a facility in the hands of users could require a substantial change in the account-keeping architecture of payment service providers, with transfers to be set up on an automatic basis. The opinion of the ECB and the Commission on the appropriateness of such a possibility in the light of the possible costs for PSPs would therefore be welcome.</p> <p>Such article should provide for a clear liability regime - when a reverse waterfall occurs, notably in terms of fraud or a malfunction of a payment transaction – between the PSP offering the digital euro services and the account servicing payment services provider.</p>
<p>5. The digital euro distributed by payment</p>	<p>DE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
service providers shall be convertible at par with scriptural money and electronic money denominated in euro.	(Comments): It could be considered to introduce a definition of “scriptural money” within PSD 3 deliberations. The term “scriptural money” is used both in PSD 2 as well as here without further definition, even though the term is not unambiguous in not clearly determining which institutions are accepted to be creators of scriptural money.
6. For the purpose of digital euro payment services, digital euro users shall only enter into a contractual relationship with PSPs. Digital euro users shall not have any contractual relationship with the European Central Bank or the national central banks.	<p>NL: (Comments): <u>NL Comment:</u> We understand and support the concept that the Eurosystem will not directly provide services to the digital euro users. However, we suggest to change the words “shall not have any contractual relationship” to “shall not enter into a contract”. We doubt whether under no circumstances there will be a contractual relationship between the end-user and the Eurosystem. First and foremost because this Regulation (and the possible regulations/guidelines from the ECB) will not constitute an exhaustive legal framework and, consequently, the digital euro will also be governed by national civil law. In order to give effect to the procedure laid down in Article 31 paragraph 2 of the Regulation certain national central banks should have the possibility to take recourse to national contract law arrangements without expressly entering into contracts with end-users.</p> <p>CZ: (Comments): In the Czech Republic, the Czech National Bank can maintain payment accounts for its employees. As we understand this provision, it will not be possible to maintain an euro-account by CNB for its employees. Do we understand it correctly?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PL: (Drafting): PL: 6. For the purpose of digital euro payment services, digital euro users shall only enter into a contractual relationship with payment service providers. Digital euro users shall not have any contractual relationship with the European Central Bank or the national central banks.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>FI: (Comments): In recital (26) ECB and NCBs should be able to provide digital euro payment accounts and payment services. “European Central Bank and national central banks of Member States whose currency is the euro, as part of the Eurosystem, when not acting in their capacity as monetary authority... .. should be able to provide digital euro payment accounts and the related digital euro payment services...”. Is there discrepancy with this idea?</p> <p>DE: (Drafting): 6. For the purpose of digital euro payment services, digital euro users shall only enter into a contractual relationship with <del>PSPs</del> <b>their respective payment service providers</b>. Digital euro users shall not have any contractual relationship with the European Central Bank or the national central banks.</p> <p>DE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	(Comments): Editorial suggestion, also to reflect the privity of contract.
7. Digital euro users may have one or several digital euro payment accounts with the same or different payment service providers.	<p>NL: (Comments): <u>NL Comment</u>: As mentioned above, we were wondering why the Commission abandoned the option to have only one digital euro account per user?</p> <p>SI: (Comments): We are concerned about the difficulty of implementing multiple accounts. We therefore recommend that the technical feasibility of implementing multiple accounts should be checked with the ECB.</p> <p>LT: (Comments): Since digital euro would be a free public service, <b>it could be limited to a single account</b> (similar to PAD logic). In our view, <b>multiple accounts could be an additional service provided by PSPs for a fee.</b> Implementation of multiple accounts could be expensive and with no clear benefit.</p> <p>IT: (Comments): <b>IT</b> - Even though the possibility to have several accounts would increase the end user's choices, allowing them to open multiple digital euro accounts at one or more PSPs, the following</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>drawbacks would arise:</p> <ul style="list-style-type: none"> <li>- the usability of the digital euro could be degraded, since individuals would need to manage a plurality of accounts, each of which with a potentially different limit (and – as a consequence - also different triggers for the waterfall operations automatically generated by the PSPs);</li> <li>- the digital euro solution as a whole would become more complicated and the increased complexity could undermine the acceptability of the solution by the end users;</li> <li>- for PSPs, the management of the verification of the limits and the consequent handling of waterfall operations would become more complex, as the limit would no longer be a defined fixed parameter but a dynamic attribute different for each account;</li> <li>- finally, by a technical point of view allowing users to have multiple accounts would introduce complexities since it would require the management of a central repository in order to (i) record the limits of the accounts held by each individual; (ii) verify that the sum of these limits for a given individual (natural person) never exceeds the overall limit value defined by the ECB.</li> </ul> <p>In light of the above, we propose to provide individuals with the possibility of opening a single digital euro account with a single PSP (while leaving the possibility to open different accounts only to businesses, for which a holding limit equal to zero could be envisaged). See also comments under recital (25), (39), (77).</p> <p>AT: (Comments): AT: In principle, we are <b>sceptical</b> of the digital euro users' <b>possibility</b> to have <b>several digital euro payment accounts</b>, as the <b>technical and legal complexity</b> associated with such possibility could be <b>detrimental</b> to the <b>take-up</b> of the digital euro.</p> <p>In particular, there is a <b>number of open questions</b> with regard to the possibility of <b>several payment accounts</b> which concern i.a. the allocation of the <b>individual holding limits</b> to multiple payment accounts pursuant to Art 16 para 6 and its <b>implementation in practice</b>.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Since the <b>technical and legal complexity</b> associated with the possibility to have multiple digital euro payment accounts could <b>hinder the take-up</b> of the digital euro, <b>we would favour the removal</b> of such <b>possibility</b> from the <b>prescriptive part</b> of the text and <b>support a mandate</b> for the Commission to assess the <b>introduction</b> of such <b>possibility</b> and its <b>potential effects</b> in a <b>review</b> pursuant to Article 41 at a <b>later stage</b>.</p> <p>FI: (Comments): Is it possible to open several offline digital euro wallets? If so, does it have implications on the AML/TF/Tax aspects?</p> <p>DE: (Comments): Could the Commission kindly explain, how holding limits across several accounts would be monitored, including the exact operation of the single access point (also see our comment on Article 35 (8)). We are sceptical regarding the value of this function if it leads to a solution that is suboptimal from a data protection point of view.</p> <p>PT: (Comments): We are still assessing the trade-off between competition and the freedom of users versus the technical challenges posed by the possibility of users having multiple digital euro holdings, particularly given the need to impose holding limits. Nevertheless, a possible alternative to this possibility, which raises, in our view, significant concerns of technical implementation, would be the switching mechanism, allowing users to easily change from the payment service provider.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Additionally, it will be necessary to clarify: (i) what happens if holding limits are exceeded (especially in the case the user does not have a non-digital euro payment account linked with their digital euro payment account); (ii) in those situations where multiple PSPs are involved, how the responsibility for a user exceeding the holding limits will be assessed.</p> <p>LU: (Comments): The possibility of having multiple accounts with different PSPs makes the checks that have to be performed in relation to the holding limits very complex and creates potential loopholes for circumventing these thresholds by the users.</p>
<p>8. Payment service providers shall make available to the public, free of charge, accessible information about the specific features of digital euro payment services and the conditions of their distribution.</p>	<p>BE: (Drafting): 8. Payment service providers shall make available to the public, free of charge, accessible information about the specific features of digital euro payment services, <b>fees</b> and the conditions of their distribution.</p> <p>BE: (Comments): PSPs may charge fees for services other than the basic free-of-charge services. The PSPs should also be transparent about these fees.</p> <p>PT: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	For the sake of legal certainty and effective enforcement of this requirement, we believe it is necessary to provide further specification.
Article 14 Access to the digital euro in Member States whose currency is the euro	
1. For the purpose of distributing the digital euro to natural persons referred to in Article 13(1)(a), credit institutions that provide payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 shall, upon request of their clients, provide those persons with all basic digital euro payment services as referred to in Annex II.	<p>SE: (Drafting): For the purpose of distributing the digital euro to natural persons referred to in Article 13(1)(a), credit institutions that provide payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 shall, upon request of their clients, provide those persons with all basic digital euro payment services as referred to in Annex II</p> <p>SE: (Comments): Is a clarification needed to establish that this only applies to credit institutions in the euro area? How does this article apply to non-euro area banks' branches in the euro area?</p> <p>NL: (Comments): <u>NL Comment</u>: We are of the view that mandatory distribution of a digital euro should be assessed in connection with the compensation model. PSPs (mainly banks) that are obliged under this provision to offer basic digital euro payment services <u>free of charge</u> may have a</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>competitive disadvantage. It should be considered and discussed whether such obligation should come with some form of compensation for costs instead of these basic digital euro payment services being free of charge. As explained above, our concern is that fees for regular payment products will rise as a result of the increased costs for banks.</p> <p>SI: (Comments): We propose to add a tool to prevent the financial exclusion of enterprises that are denied the opening of a payment account (and therefore face extreme difficulties to operate in the EU).</p> <p>LT: (Comments): In our view, an uniform perception of this provision – how and when a PSP should be prepared to open digital euro account. What exactly “upon request” means? Does PSP open digital euro account (and initiate technical preparation) only when client requests for it OR <b>all PSPs should be ready to open digital euro account and make it operational whenever client might request it?</b> More clarification is needed on when PSP is obliged to be ready to open the account and make it operational. The statement “upon request of <b>their</b> clients” – supposes that a request could only come from already existing clients of that PSP. Would that be in line with Article 13 (7) „ users may have one or several digital euro payment accounts with the same or <b>different</b> payment service providers“?</p> <p>AT: (Comments): AT: We encourage a <b>discussion</b> on the <b>range of basic digital euro services</b> referred to in <b>Annex II</b>, in particular whether the <b>scope</b> of these <b>services</b> is sufficiently clear, whether there</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>really is a <b>need</b> that <b>payment service providers provide all</b> of these <b>services</b> or conversely, whether there are <b>any basic services</b> which are <b>missing in Annex II</b> but could be essential for the take up of the digital euro.</p> <p>FI: (Comments): Does this obligation also cover credit institutions which are incorporated in non-euro MS but which are providing basic payment services in euro MS? Banking markets are highly integrated in the Nordic-Baltic area, and some business structures, such as branches, has it's own specific features to be addressed.</p> <p>DE: (Drafting): 1. For the purpose of distributing the digital euro to natural persons referred to in Article 13(1)(a), credit institutions that provide payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 shall, upon request of their clients, <b><u>for whom they already provide payment services on a contractual basis, also</u></b> provide those persons with all basic digital euro payment services as referred to in Annex II.</p> <p>DE: (Comments): Our understanding of this provision: a CI that provides account servicing payments services is obliged to provide all basic digital euro payment services to individuals and legal persons, who are clients of that CI already (e.g. non-digital account holders). Is this understanding correct? If not, we would like to ask for clarification. If it is correct, we would like to ask the following questions: 1. Does this obligation apply unconditionally? Shouldn't be there limited cases where a CI may</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>be required or free to refuse an application for a digital euro account (e.g. if the CI is in a legal dispute with the client or if there are pending AML/CFT suspicions or investigations)?</p> <p>2. Do any restrictions on the termination of a digital euro account apply?</p> <p>3. Do any special conditions regarding the application process to open a digital euro account (a certain time period until the opening, simplified authentication procedures) apply?</p> <p>4. How would the obligation be enforced? Art. 6 (2) points towards PSD2 for supervision and sanctions regime. However, PSD2 – unlike PAD – does not seem to contain specific supervisory instruments to effectuate the opening of accounts by CIs. Are competent authorities supposed to be authorized to enforce the obligation vis-à-vis a credit institution?</p> <p>Also, if our understanding is correct, the reference to “clients” is not sufficient in our view to clarify that – apart from paragraph 2 – no legal obligation is introduced to establish new payment service contracts (cf. also recital 28 in that regard). The word “client” could, for example, also refer to a person who took out a loan with the credit institution. We are open for other drafting suggestions, specifying the scope of paragraph 1, and delineating it from paragraph 2.</p> <p>BE: (Drafting):</p> <p>1. For the purpose of distributing the digital euro to natural persons referred to in Article <del>13(1)</del> <b>4a(a)</b>, credit institutions that provide payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 shall, upon request of their clients, provide those persons <b>as a minimum</b> with all basic digital euro payment services as referred to in Annex II.</p> <p>BE: (Comments):</p> <p>See our suggestion to insert a new Article 4a in Chapter II, mentioning the persons who can be</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>digital euro users. Furthermore, we propose to clarify that the basic digital euro payment services must be provided as a minimum by the said credit institutions, leaving the possibility of also providing additional digital euro payment services subject to an agreement between the PSP and the client.</p> <p>PT: (Comments): For the moment, we support the mandatory distribution of digital euro payment services by credit institutions, as foreseen in this provision.</p> <p>FR: (Comments): A more in-depth analysis of the Commission might be very much welcome on the need to add mandatory distribution provisions, since no clear case has been made so far that it would be needed whereas this would represent a precedent on contractual freedom related to offering payment and banking services. (it is worth noting that there is currently no mandatory distribution for cash).</p> <p>The need to add a distribution obligation for credit institutions to their customers should be adequately justified, given that (i) this would be unprecedented for public money, as there is no obligation to do so for cash, (ii) restricting the scope of the obligation to these institutions only and not to payment institutions or any actor providing payment services as mentioned in Annex 1 of PSD2 could be contrary to the principle of equality before the law. However, considering that merchants and end-users will demand digital euros, the banking and payment services market will have to adapt to provide such services. An estimate of the costs for market players would certainly help measure the concrete impact of mandatory distribution on their economic model.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>For instance, in line with the spirit of the PAD Directive, this obligation could be replaced by a mechanism to compensate for market failures in the event of less-than-perfect distribution, with the designation of institutions in the event of a user being refused a digital euro account.</p> <p>In any event, <u>if no mandatory distribution obligations were to be retained</u>, the provision of digital euro basic services could be considered as a basic services as in PAD. Indeed, for instance, in the case of cash, a payment account is required to withdraw cash. In such case, the provision of a digital euro account and other relevant basic services should be included in the list of the basic services of Article 17 of PAD, alongside already existing basic services.</p> <p>If mandatory distributions were to be retained, the double obligation both (i) under PAD to provide basic services for a payment account and (ii) the obligation to provide a digital euro account would have to be reflected upon. An alignment of the two obligations could be studied in a meaningful way to avoid having to instruments for the same objective.</p> <p>In keeping with the point mentioned above on the scope of exemptions to mandatory acceptance, we think it would also be useful to define more precisely the scope of mandatory distribution by credit institutions. Specifically, we should clarify whether credit institutions would be required to make available to end-users all initiation technologies (e.g. NFC, QR Code) or whether providing one of them would be considered sufficient to comply with this obligation.</p> <p>LU: (Comments): It is not clear why this obligation applies only to credit institutions and not to PSPs generally.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>2. For natural persons referred to in Article 13(1)(a) that do not hold a non-digital euro account, Chapter IV of Directive (EU) 2014/92 on access to payment account with basic features shall apply, with the exception of Articles 17 and 18, to the access to digital euro account with basic services by consumers.</p>	<p>SE: (Drafting): For natural persons referred to in Article 13(1)(a) that do not hold a <u>payment account in euro at a credit institution as referred to in Article 14(1)</u> <del>non-digital euro account</del>, Chapter IV of Directive (EU) 2014/92 on access to payment account with basic features shall apply, with the exception of Articles 17 and 18, to the access to digital euro account with basic services by consumers.</p> <p>SE: (Comments): For clarification reasons.</p> <p>NL: (Comments): <u>NL Comment</u>: we understand this choice in light of inclusiveness of the digital euro. However, we wonder how the Commission and ECB envisage this in practice. Should there be sufficient opportunities for such users to change cash for digital euro's in a digital euro account? Does this option offer more privacy and anonymity?</p> <p>DE: (Drafting): For natural persons referred to in Article 13(1)(a) that do not hold a non-digital euro account, <b><u>who are acting as consumers</u></b>, Chapter IV of Directive (EU) 2014/92 <del>on access to payment account with basic features</del> shall apply, with the exception of Articles 17 and 18, to <del>the</del> <b><u>provide</u></b> access to digital euro <b><u>payment</u></b> account with basic services <del>by for</del> consumers.</p> <p>DE: (Comments):</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Our understanding of this provision: For individuals that do not hold a non-digital euro account their right of access to a digital euro account is designed at a parallel to the right of access to a PABF of the PAD. Is this understanding correct? If not, we would like to ask for clarification. If it is correct, we would like to ask the following questions:</p> <ol style="list-style-type: none"> <li>1. In PAD not all CI are obliged to offer PABF. Would that be different with a digital euro account?</li> <li>2. Would the procedure chosen to enforce the provision of a PABF carry over to the enforcement of the right to open a digital-euro account (including the choice of the competent authority in charge)? Or would the supervision and enforcement of this section be governed by PSD2 (through the reference in Article 6 (2), cf. our comment on Article 14 (1) above)?</li> </ol> <p>In any case, we have some editorial changes (cf. recital 28 sentence 2: <i>“This is without prejudice to the application of Chapter IV of the Payment Account Directive on access to payment account with basic features to the access to digital euro account with basic features to <b>consumers</b> which are not client of a credit institution.”</i>)</p> <p>As the Directive was mentioned before, the number should be sufficient, without naming (also only part of) its title.</p> <p>A definition of the term “consumer” should be integrated into Article 2 now, please see our proposal above.</p> <p>BE: (Drafting):</p> <ol style="list-style-type: none"> <li>2. For natural persons referred to in Article <del>13(1)</del><b>14</b>(a) that do not hold a non-digital euro account, Chapter IV of Directive (EU) 2014/92 on access to payment account with basic features shall apply, with the exception of Articles 17 and 18, to the access to digital euro account with</li> </ol>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>basic services by consumers.</p> <p>BE: (Comments): See our suggestion to insert a new Article 4a in Chapter II, mentioning the persons who can be digital euro users.</p> <p>PT: (Comments): We have concerns regarding the approach followed in this context, as it does not seem to tackle the reasons why people do not have a non-digital euro payment account. In result, it seems to hamper (instead of facilitating) the access by such individuals to digital euro basic services. As such individuals will have to present their request to access to digital euro payment accounts to specific designated entities, as referred in the following paragraph.</p> <p>FR: (Comments): The link between the digital euro regulation and the Payment Account Directive (PAD) is unclear and should be further explored to identify more precisely the provisions of the PAD that would apply to digital euro accounts and those that would not (e.g. account switching).</p>
<p>3. Member States shall designate the authorities referred to in Article 1, point (f), of the Directive (EU) 2015/2366, or post office</p>	<p>NL: (Comments): <u>NL Question</u>: Please give some clarification on these authorities and how they will distribute the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
giro institutions referred to in Article 1, point (c), of the Directive (EU) 2015/2366 to:	<p>digital euro in practice. For example, will people be able to change cash to digital euro's and in which form? What exactly will be the powers and obligations of such authorities?</p> <p>PL: (Drafting): PL: 3. Member States whose currency is the euro shall designate the authorities referred to in Article 1, point (f), of the Directive (EU) 2015/2366, or post office giro institutions referred to in Article 1, point (c), of the Directive (EU) 2015/2366 to:</p> <p>PL: (Comments): PL: We suggest to clarify the scope of this obligation. Additionally, it should be discussed whether this obligation should apply also to Member States which have signed an arrangement pursuant to the Article 18.</p> <p>FI: (Drafting): 3. Member States <del>can shall</del> designate the <del>authorities</del> <b>payment service providers</b> referred to in Article 1, <del>point (f), of the Directive (EU) 2015/2366, or post office giro institutions referred to in Article 1, point (c), of the Directive (EU) 2015/2366 to:</del></p> <p>FI: (Comments): Member States should be allowed flexibility to formulate and implement policies adapted to national circumstances. Finland has neither post office giro institutions nor sepcific authorities capable of delivering these seviles without very significant public investments on delivery infrastructure. Therefore, we have strong reservations on the COM proposed approach as it</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>might make the digital euro distribution unreasonably inefficient in terms of costs and benefits.</p> <p>FR: (Comments): As part of its inclusive banking policy, France tasked La Banque Postale, a credit institution linked to the post office network in France, to support an "accessible banking mission" (mission d'accessibilité bancaire" - MAB) whose main goal is to support the pre-banking of people who are unable to use standard means of payment and do not have access to traditional banking services, for a wide variety of reasons (illiteracy, cognitive difficulties, language barriers, etc.). Under the scheme, La Banque Postale has specific obligations, which allow the specific Livret A savings account to be used by these people as a quasi-current account (i) access to the Livret A, without restriction, in accordance with a principle known as universality, to be delivered by La Poste upon request, (ii) the provision, free of charge, of basic services, adapted to the use of the Livret A as a quasi-current account, with easier access to cash and the impossibility of being overdrawn, (iii) extensive human support, whether at the counter or when using ATMs, in order to deal with difficulties of use linked to disabilities, a lack of independence or the language barrier encountered by some non-French-speaking customers. A network of interpreters and mediators has been developed for this purpose. The scheme benefits 1.4 million people in France. Therefore, in order to avoid duplicating banking inclusion measures and ensure their</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	effectiveness, and given that the digital euro, because of its digital nature, could prove unsuitable for fulfilling the entire banking inclusion mission already assigned to the MAB, it seems essential to coordinate the existing system with the obligation proposed by the Commission, which will require further consultation of stakeholders.
(a) provide basic digital euro payment services to natural persons referred to in Article 13(1)(a) that do not hold or do not wish to hold a non-digital euro payment account;	<p>LT: (Comments): How the compliance of this provision would be ensured? Centralised digital euro services does not foresee a database to check for clients relationship with PSPs. In our opinion this statement not relevant from the practical implementation point of view because <b>any person should be able to open digital euro account with the designated public authority.</b></p> <p>DE: (Comments): We do not fully understand the consequences of this provision.</p> <ol style="list-style-type: none"> <li>1. Should the authorities provide consumers with a digital euro account?</li> <li>2. If so, would these authorities then be obliged under AML/CFT regime to perform customer due diligence?</li> <li>3. If so, we don't quite understand the purpose of this section: To our understanding, banked individuals derive the right to open a digital euro account from para. 1, unbanked individuals from para. 2. Which gap is this provision attempting to close? Which individuals are supposed to be addressed by this provision?</li> <li>4. Are these authorities allowed/obliged to offer individual digital euro payment services without</li> </ol>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>opening a digital euro account for customers (e.g. provision of a card for offline digital euro use and funding of the card against cash)? In such cases, would these authorities remain obliged under AML/CFT regime to perform customer due diligence?</p> <p>BE: (Drafting): (a) provide basic digital euro payment services to natural persons referred to in Article <del>13(1)</del> <b>4a(a)</b> that do not hold <del>or do not wish to hold</del> a non-digital euro payment account;</p> <p>BE: (Comments): See our previous comment.</p>
<p>(b) provide basic digital payment services and provide digital inclusion support provided face-to-face in physical proximity to persons with disabilities, functional limitations or limited digital skills, and elderly people.</p>	<p>IT: (Drafting): <b>IT</b> (b) provide basic digital <b>euro</b> payment services and <del>provide</del> digital inclusion support <b><i>offered</i></b> <del>provided</del> face-to-face in physical proximity to persons with disabilities, functional limitations or limited digital skills, and elderly people</p> <p>IT: (Comments): IT - re-drafted for the sake of clarity</p> <p>BE: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(b) <del>provide basic digital payment services and</del> provide digital inclusion support <b>for the services referred to under (a)</b>, provided face-to-face in physical proximity to persons with disabilities, functional limitations or limited digital skills, and elderly people.</p> <p>BE: (Comments): We assume this concerns only digital euro payment services, so that the first part of the sentence can be deleted. Furthermore, we also assume the the face-to-face support should only be provided with regards to the digital euro services offered by these authorities (and, thus, not with regard to digital euro services offered by other PSPs).</p>
<p>4. Payment service providers referred to in paragraphs 1 to 3 shall provide digital inclusion support to persons with disabilities, functional limitations or limited digital skills, and elderly persons. Without prejudice to paragraph 3, point (b), digital inclusion support shall comprise a dedicated assistance for onboarding to a digital euro account and using all basic digital euro services.</p>	<p>NL: (Comments): <u>NL Comment</u>: We share the view that a digital euro should be accessible, inclusive and user-friendly, also for people in vulnerable positions or people who have difficulty with the digitization of payment systems. We support the proposal that there should be sufficient opportunities for people without a regular non-digital euro payment account to gain access to digital euro basic payment services. Please also refer to our comments to Article 22.</p> <p>IT: (Drafting): IT (...) Without prejudice to paragraph 3, point (b), digital inclusion support shall comprise a dedicated assistance for onboarding to a digital euro account <del>and</del> using all basic digital euro services <i>and activating individual protection measures including redress mechanisms in case of</i></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><u>need.</u></p> <p>IT: (Comments): <b>IT-</b> We believe that vulnerable people need to have support also to complain and activate individual protection measures if something goes wrong.</p> <p>FI: (Comments): What does the “dedicated assistance” mean and how it should be interpreted?</p> <p>BE: (Drafting): 4. Payment service providers referred to in paragraphs 1 to 3 shall provide digital inclusion support to persons with disabilities, functional limitations or limited digital skills, and elderly persons. Without prejudice to paragraph 3, point (b), digital inclusion support shall comprise <b>but not be restricted to</b> a dedicated assistance for onboarding to a digital euro account and using all basic digital euro services.</p> <p>BE: (Comments): Editorial drafting suggestion.</p>
5. The anti-money laundering authority of the Union (‘AMLA’) established under	NL: (Comments):



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Regulation (EU) [<i>please insert reference - proposal for a Regulation creating an EU Authority for anti-money laundering and countering the financing of terrorism ('AMLA') - COM/2021/421 final</i>] and the European Banking Authority shall jointly issue guidelines specifying the interaction between AML/CFT requirements and the provision of basic digital euro payment services with a particular focus on financial inclusion of vulnerable groups including asylum seekers or beneficiaries of international protection, individuals with no fixed address or third country nationals who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons.</p>	<p><u>NL Question:</u> Do the requirements for providing a basic digital euro account correspond to the requirements set for a basic payment account in the Payment Account Directive (Directive 2014/92/EU)?</p> <p>LT: (Comments): In case of compliant with AML / CFT mitigation objectives <b>should be introduced a concrete control mechanism which ensures that natural and / or legal persons</b> (asylum seekers or beneficiaries of international protection, individuals who lives permanently, individuals with no fixed address or third country nationals who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons and other EA visitors) and <b>no longer lives in the EA, shouldn't have access to offline digital euro payments.</b></p> <p>DE: (Comments): If guidelines are defined regarding the interaction of AML and the provision of digital euro basic services, how would those guidelines be operationalized with regard to the provisions in paras. 1 and 2? To our understanding, this provision calls for additional clarifications regarding the right to access digital euro services (e.g. with regard to refusals, see our comments to number 1).</p> <p>IE: (Comments): To note, it is currently unclear if the EBA will have a role to play in these matters once AMLA is established.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
CHAPTER V USE OF THE DIGITAL EURO AS A STORE OF VALUE AND AS A MEANS OF PAYMENT	DE: (Comments): We reserve further comments on all the proposals in this chapter, which we will share once we have finalized our political view on instruments to limit the store of value function of a digital euro and the compensation model.
Article 15 Principles	AT: (Comments): In order for the digital euro to be a success story, it is pivotal that this key design feature is broadly discussed and that any decision on such key feature is subject to a democratically legitimized legislative process.  FR: (Comments): For comments on the substance, see the following lines. As a preliminary remark, from a purely legislative point of view, it would seem more appropriate for the readability of the law to place the principles in the recitals and to merge the hard and prescriptive rules with Articles 16 and 17. However, clarification from the Commission on the choice of placing these principles in a dedicated article would be appreciated.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>1. With a view to enabling natural and legal persons to access and use digital euro, to defining and implementing monetary policy and to contributing to the stability of the financial system, the use of the digital euro as a store of value may be subject to limits.</p>	<p>LT: (Comments): In the Regulation <b>should be clearer define that digital euro is a means of payment that can't be remunerated</b>. In our view interest rates as monetary policy instrument for a digital euro can't be introduced (at least in this Regulation context).</p> <p>DE: (Drafting): With a view to enabling natural and legal persons to access and use digital euro <b>while <u>maintaining, to defining and implementing monetary policy and to contributing to the stability of the financial system, the availability of credit and the transmission of monetary policy</u></b>, the use of the digital euro as a store of value may be subject to limits. <b><u>This regulation does not establish the digital euro as an instrument of monetary policy.</u></b></p> <p>DE: (Comments): The effects of a digital euro with unrestricted store of value function reach far beyond financial stability and include, in particular, intermediaries' capability of providing credit to the real economy in light of potentially changing refinancing costs. Any implementation of instruments for limiting the digital euro's store of value function need to take into consideration these wider consequences. This includes potential consequences on the transmission of monetary policy. However, Art. 133 TFEU is not an appropriate legal basis to create new instruments of monetary policy, therefore a digital euro must not be used to actively "define and implement monetary policy" as suggested by the Commission's proposal; this should be explicitly clarified.</p> <p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting):</p> <p>1. With a view to <del>enabling natural and legal persons to access and use digital euro, to defining and ensuring the effective implementing implementation of</del> monetary policy and to <del>contributing to maintaining</del> the stability of the financial system, the use of the digital euro as a store of value may be subject to <b>quantitative</b> limits.</p> <p>BE:</p> <p>(Comments):</p> <p>The limits should safeguard, amongst others, the intermediary role of credit institutions within the monetary system which is vital for the execution of monetary policy by the Eurosystem. However, the Regulation seems to emphasise financial stability considerations, while financial stability is mere an ancillary task of the Eurosystem. Furthermore, setting limits while being obliged to ensure the usability and acceptance of the digital euro, as stipulated in Article 16(2)(b) of the Regulation, should not supersede the primary Eurosystem objective of preserving price stability. It should therefore be clarified that the limits set by the ECB should ensure the effective implementation of monetary policy.</p> <p>Finally, it should be clarified that any limits should only be of a quantitative and not of a qualitative nature. The latter may lead to the creation of a digital euro as programmable money, which is explicitly excluded by the Regulation. Further drafting may be needed in this respect.</p> <p>PT:</p> <p>(Drafting):</p> <p>1. With a view to enabling natural and legal persons to access and use digital euro, to <b>ensuring consistency with the singleness of the</b> monetary policy and to contributing to the stability of the financial system, the use of the digital euro as a store of value <b>shall may</b> be subject to limits.</p> <p>PT:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): We consider that specific references to monetary policy definition and implementation are questionable and seemingly inconsistent with the legal association with euro banknotes (or “cash”) (e.g. Recital 9 and Article 4). It should be clarified that the intention of the EU legislator is not to introduce new monetary instruments, which is a matter pertaining to primary law, but instead to ensure that the euro maintains its monetary anchor role. We would hence consider it preferable and clearer to adapt Article 15 in light of Article 37, which refers to the impact on and interaction with the ECB’s monetary stance. The use of “may” seems to contradict the use of “shall” in Article 16(1), as it seems reasonable to establish that the instruments to be developed by the ECB are implemented.</p> <p>FR: (Comments): See comments on Article 16</p> <p>LU: (Comments): A broad discussion will be necessary concerning the choice and the design of tools aimed at limiting the digital euro's store of value function and at protecting financial stability</p>
<p>2. With a view to ensuring an effective use of the digital euro as a legal tender means of payment, and to avoiding excessive charges for merchants subject to the obligation to accept the</p>	<p>SI: (Comments): We understand that the reference should be to Chapter III. Please double-check.</p> <p>PL:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>digital euro under Chapter II while providing compensation for the relevant costs incurred by payment services providers for the provision of digital euro payments, the level of charges or fees to be paid by natural persons or merchants to payment service providers, or between payment service providers, shall be subject to limits.</p>	<p>(Drafting):            PL: 2. With a view to ensuring an effective use of the digital euro as a legal tender means of payment, and to avoiding excessive charges for merchants subject to the obligation to accept the digital euro under Chapter II while providing compensation for the relevant costs incurred by payment service providers for the provision of digital euro payments, the level of charges or fees to be paid by natural persons or merchants to payment service providers, or between payment service providers, shall be subject to limits.</p> <p>PL:            (Comments):            PL: Re-drafting proposals, technical, non-material</p> <p>LT:            (Comments):            From the consumer rights protection approach, it is important to ensure that costumers wouldn't experience more costs in comparison to other payments providers. Also, it important to mitigate smartly the level playing field and the competition related issues.</p> <p>IT:            (Comments):            IT: We would suggest clarifying the definition of fees and charges considered in this article, as the "natural person" should not be charged for the provision of basic services according to Article 17(1).</p> <p>BE:            (Drafting):            2. <b>Without prejudice to Article 17(1), <del>W</del>with</b> a view to ensuring an effective use of the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>digital euro as a legal tender means of payment, and to avoiding excessive charges for <del>merchants</del> <b>payees</b> subject to the obligation to accept the digital euro under Chapter III while providing compensation for the relevant costs incurred by payment services providers for the provision of digital euro payments <del>services</del>, the level of charges or fees to be paid by <del>natural persons or merchants</del> <b>these payees</b> to payment service providers, or between payment service providers, <del>shall</del> <b>may</b> be subject to limits.</p> <p>BE: (Comments): Editorial drafting suggestions: Chapter III puts the obligation to accept on certain payees, not on merchants as such. Futhermore, we are of the opinion that it is premature to decide to effectively subject fees to a limit. We are therefore in favour of letting the market play more freely than currently envisaged and to only regulate fees if market failure can be objectively established a few years (e.g. 2 years) after the launch of the digital euro. Subjecting fees to limits should therefore be a possibility, but not a hard obligation.</p> <p>FR: (Comments): The articulation of this article, which states that the level of fees to be paid by natural persons to PSP shall be subject to limits with article 17.1, should be clarified by the Commission, since basic services would be free of charge according to the proposal.</p> <p>Does the Commission intend to cap the fees that might be charged by PSPs on additional services?</p> <p>LU:</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	(Comments): This key-design feature of the digital euro will have to be carefully framed and the consequences and the level of charges on both PSPs and merchants will have to be analysed further.
<p>Article 16</p> <p>Limits to the use of the digital euro as a store of value</p>	<p>DE: (Comments): We will likely have further comments on this paragraph, which we will share together with our general position on instruments limiting the store of value function of a digital euro and, in particular, on the question to which extent member states should play a role in this context.</p> <p>FR: (Comments): Articles 16(6) and 16(7) foresee the possibility for end-users to have several payments accounts and also to have joint accounts (i.e. one account held by multiple users). While we recognise the desirability of being able to have several digital euro accounts, in particular to ensure that consumers can enjoy frictionless competition, and that PSPs can easily attract new customers without exclusion, it should be noted that taken together, these possibilities could generate additional complexity for the digital euro architecture due to the need for the Eurosystem to ensure that all users comply with the overall holding limit in particular with more complex data collection and real-time checks to be carried out. The opinions of the Commission, the ECB and the Eurosystem on the practical and technological feasibility of the proposal would therefore be useful in enabling a decision to be taken on the basis of the respective advantages and disadvantages in this area.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>1. For the purpose of Article 15(1), the European Central Bank shall develop instruments to limit the use of the digital euro as a store of value and shall decide on their parameters and use, in accordance with the framework set out in this Article. PSPs providing account servicing payment services within the meaning of Directive 2015/2366 to natural and legal persons referred to in Article 12(1) shall apply these limits to digital euro payment accounts.</p>	<p>SE: (Comments): Would there be any difference between natural and legal entities, as regards these instruments and parameters?</p> <p>NL: (Comments): <u>NL Comment</u>: We support that the ECB can use instruments to protect the stability of the financial system in relation to the digital euro. We are of the view that the use of such instruments should not fundamentally change the role of the digital euro in the financial system without prior political decision making. In light thereof, we wonder whether there should be additional parameters for the mandate of the ECB to apply instruments that limit the store of value function of the digital euro. This should be further discussed in the working parties.</p> <p>PL: (Drafting): PL: 1. For the purpose of Article 15(1), the European Central Bank shall develop instruments to limit the use of the digital euro as a store of value and shall decide on their parameters and use, in accordance with the framework set out in this Article. Account servicing payment service providers under Directive 2015/2366 shall apply these limits to digital euro payment accounts of natural and legal persons referred to in Article 13(1).</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>LT: (Comments): Keeping in mind the EU’s political and institutional landscape (according to TFEU) <b>the decision on the instruments to limit the use of the digital euro</b> for the online and offline payments, as a store of value and their parameters <b>should be adopted together with the European Council</b> because of such instruments’ importance to overall EU / EA’s financial stability issues and AML / CFT mitigation objectives. In our view, <b>the democratic inter-institutional decision-making mechanism</b> on the possible holding limits adoption for the online and offline retail digital euro payments <b>should be introduced</b>.</p> <p>AT: (Comments): AT: We generally agree with the principles set out in Art. 15 and 16, in particular with regards to limiting the digital euro’s store of value function. In order to address concerns raised in our general remarks (in particular from a financial stability perspective) we strongly ask that <b>all fundamental decisions on the design</b> of the digital euro including personal holding limits should be taken via the <b>ordinary legislative procedure</b> (Art. 289 &amp; 294 TFEU). The current proposal does not reflect this and delegates key decisions as regards the design of the digital euro to the ECB, <b>in particular the determination of holding limits</b>.</p> <p>It is, however, of <b>major importance</b> to us that the <b>European legislators set personal holding limits at level 1</b>. Different ways for setting the holding limits at level 1 could be considered. Among others, there could be a fixed amount in the level 1 text or a range in the level 1 text for determining a fixed amount based on an additional legal act. In any case, the holding <b>limits</b> shall be <b>set and changed</b> by the <b>EU legislators</b> and <b>not</b> by the <b>ECB alone</b>.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>CY: (Comments): The account limits for a D€ would be one issue that needs careful consideration given the easy switch from bank deposits to D€ holdings. Limits for a D€ should be set after consultation with all Member States in order to ensure a level playing field.</p> <p>Also, provisions for future change of the limit should be included in case it needs to be revised, ensuring all member states must be consulted in such scenario.</p> <p>BE: (Drafting): 1. For the purpose of Article 15(1), the European Central Bank <del>shall</del> <b>may</b> develop <b>and implement</b> instruments to limit the use of the digital euro as a store of value and <del>shall</del> <b>decide</b> on their <del>parameters and use conditions and features</del>, in accordance with the framework set out in this Article. <del>PSPs</del> <b>Payment service providers</b> providing account servicing payment services within the meaning of Directive 2015/2366 to natural and legal persons referred to in Article <del>12(1)</del> <b>4a</b> shall apply these limits to digital euro payment accounts.</p> <p>BE: (Comments): As correctly mentioned in Article 15(1), the digital euro may be subject to such limits, but there should be no hard obligation. It is up to the Eurosystem to decide if such limits are effectively required in view of ensuring the effective implementation of monetary policy and maintaining financial stability, and if so under which conditions and with which features.</p> <p>PT: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>1. For the purpose of Article 15(1), the European Central Bank shall develop and implement instruments to limit the use of the digital euro as a store of value and shall decide on their parameters and use, in accordance with the framework set out in this Article. PSPs providing account servicing payment services within the meaning of Directive 2015/2366 to natural and legal persons referred to in Article 132(1) shall apply these limits to digital euro payment accounts.</p> <p>PT: (Comments): The digital euro may have a disruptive effect if its use is not limited, namely to prevent the materialization of possible risks to financial stability. Further solutions of ensuring the necessary safeguards are developed and implemented need to be exploited, as well as the participation of Member States in such decisions, respecting the ECB's competences, under the Treaties. Although it is established that PSPs shall ensure the application of such limits, the proposal seems to be absent as to possible consequences of a failure to comply with such obligation. Please also see comment in recital 32.</p> <p>FR: (Comments): <b><u>Financial stability is a shared competency between the ECB and Member States, therefore it should not be left to the ECB only to develop instruments to limit the use of the digital euro as a store of value : it should involve co-legislators.</u></b> The digital euro bears potentially significant financial stability risks related to the potential transfert of deposits out of banks' balance sheets. Since this is a clearly established competence of Member States in financial matters and since it could also affect the financial robustness of credit institutions and, more generally, their competitiveness, co-legislators should be involved in defining the right instruments to mitigate them. Moreover, this decision would have a structuring effect on the use</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>of the euro and the digital euro regulation must be explicit in order to reflect a highly political balance in this respect, which cannot be a purely parametric issue. It would therefore be preferable for a simple holding limit and its level to be included in the legislation. In view of possible needed readjustments, depending on the actual use of the digital euro, and the more precise quantification of bank run risks, the regulation could also provide for review clauses to give sufficient flexibility to modify the holding limit, and for the ECB to be involved in the decision-making process.</p> <p>The advice of the Council's legal services on the proper articulation of competences between the ECB and the co-legislators in this area could be sought, particularly in view of precedents (sharing of competences in determining exchange rates, financial regulations more generally or, for example, the regulation on crypto-assets, particularly Article 23, which limits the use of non-euro stablecoins directly in the text for reasons of financial stability and monetary sovereignty, without direct intervention by the ECB).</p> <p>In addition, mechanisms to make the holding limit more flexible, particularly if a revision of the cap were necessary, should also be considered - the opinion of the Council's legal services on the legal framework of these mechanisms could also be sought, in view of the respective competences of the ECB and the co-legislators.</p> <p>Lastly, with regard to payments between companies, the aim is to facilitate payments between companies by using the digital euro so that it is actually used: it will therefore be necessary to ensure that friction is minimised, which still requires consultation with the private sector. The opinion of the ECB and the Commission would be welcome.</p> <p>LU: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Ensuring the democratic legitimacy of the digital euro by reaching a fair and appropriate distribution of competences and powers between co-legislations and the ECB will represent a key aspect towards the success of the project.</p> <p>In this context, the powers to adopt, design and implement instruments limiting the store of value function of the digital euro should not remain solely in the competence of the ECB but should arise from an inter-institutional dialogue and cooperation.</p>
<p>2. The parameters and use of the instruments referred to in paragraph 1 shall:</p>	<p>FI: (Comments): We would welcome discussion on the objectives and definitions of parameters as their desired influence on the design or level of holding limits are hard to assessed.</p> <p>BE: (Drafting): 2. The <del>parameters and use</del> <b>conditions and features</b> of the instruments referred to in paragraph 1 shall:</p> <p>BE: (Comments): Editorial drafting suggestion.</p>
<p>(a) safeguard the objectives set out in</p>	<p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
Article 15(1), in particular financial stability;	(Drafting): (a) safeguard the objectives set out in Article 15(1), <del>in particular financial stability</del> ;  BE: (Comments): There is no need to specifically repeat the financial stability objective.
(b) ensure the usability and acceptance of the digital euro as a legal tender instrument;	
(c) respect the principle of proportionality.	
3. The parameters and use of the instruments referred to in paragraph 1 shall be applied in a non-discriminatory manner and uniformly across the euro area.	BE: (Drafting): 3. The <del>parameters and use conditions and features</del> of the instruments referred to in paragraph 1 shall be applied in a non-discriminatory manner and uniformly across the euro area. <b>The European Central Bank may, however, apply different instruments and different conditions and features for each type of digital euro users as referred to in Article 4a.</b>  BE: (Comments): It should be ensured that the Eurosystem can apply different limits depending on the type of

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	digital euro user as mentioned in Article 13(1) (Article 4a).
<p>4. Any holding limits on digital euro payment accounts adopted pursuant to paragraph 1 shall apply to both offline and online holdings. Where a digital euro user uses both an offline and online digital euro, the limit that applies to online digital euro shall equal the overall limit determined by the European Central Bank minus the holding limit for offline digital euro set by digital euro users. A digital euro user may set its offline holding limit at any amount between zero and the holding limit set in accordance with Article 37.</p>	<p>SI: (Comments): The technical feasibility of this should be explored with the ECB, as it implies complexity in the calculation of both limits.</p> <p>LT: (Comments): In our view practical implementation of this provision could be complex and expensive, <b>considering that person could have several digital euro accounts</b>. Since this would be free public service, <b>the number of accounts could be limited to 1</b>. Also, this would make ensuring limits between online and offline less complex.</p> <p>Secondly, Digital euro offline payments should be fully compliant with the requirements for cash payments (<b>Directive (EU) 2015/849</b>). The additional safeguards ensuring AML / CFT objectives for the offline digital euro payments are also welcoming.</p> <p>Finally, the <b>decision on the instruments to limit the use of the digital euro for the online and offline payments should be adopted together with the European Council</b>.</p> <p>FI: (Comments): How shall the holding limits apply to merchants and especially in the case of offline payments? If the total holding limit for merchants is set to be for example 0 euros, how could the merchant</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>then be able to accept offline payments?</p> <p>DE: (Comments): How exactly would compliance with holding limits be enforced, especially where individuals have multiple accounts and different nationalities?</p> <p>Please also see our comment on Article 35 (8).</p> <p>BE: (Drafting): 4. Any holding limits <del>on digital euro payment accounts</del> adopted pursuant to paragraph 1 shall apply to <b>the total of a digital euro user's both</b> offline and online holdings. <del>Where a</del> A digital euro user <del>uses</del> <b>may set his or her offline digital euro holding limit at any amount between zero and the holding limit set in accordance with paragraph 1. both an offline and online digital euro, the limit that applies to</b> The online digital euro holding limit shall equal the overall limit determined <del>by the European Central Bank in accordance with paragraph 1</del> minus the holding limit for offline digital euro set by <del>the digital euro users. A digital euro user may set its offline holding limit at any amount between zero and the holding limit set in accordance with Article 37.</del></p> <p>BE: (Comments): Editorial drafting suggestions.</p>
5. Visitors to the euro area as referred to in	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>Article 13(1), point (c), and natural and legal persons as referred to in Article 13(1), points (b), (d) and (e), shall be subject to limits as regards the use of the euro as a store of value that are not higher than the ones effectively implemented in the euro area for natural and legal persons residing or established in Member States whose currency is the euro. The parameters and use of the instruments shall be applied in a non-discriminatory manner and uniformly across Member States whose currency is not the euro. When deciding on the use of the instruments in those Member States and setting the parameters, the European Central Bank shall consult national central banks of Member States whose currency is not the euro.</p>	<p>PL: (Drafting): PL: [Only minor redrafting is provided here; see comments column for issues that need to be covered in redrafting]</p> <p>5. Visitors to the euro area as referred to in Article 13(1), point (c), and natural and legal persons as referred to in Article 13(1), points (b), (d) and (e), shall be subject to limits as regards the use of the digital euro as a store of value that are not higher than the ones effectively implemented in the euro area for natural and legal persons residing or established in Member States whose currency is the euro. The parameters and use of the instruments shall be applied in a non-discriminatory manner and uniformly across Member States whose currency is not the euro. When deciding on the use of the instruments in those Member States and setting the parameters, the European Central Bank shall consult national central banks of Member States whose currency is not the euro.</p> <p>PL: (Comments): PL: This point needs to be rewritten for better clarity. Currently it is not clear, for example: - whether the second sentence refers to all (possible) digital euro users mentioned in Article 13(1), points b, c, d and consequently the parameters of the instruments applicable to all these groups of users should be the same for digital euro users from all non-euro Member States (e.g. same maximum value of digital euro holding) - whether the third sentence means that the ECB should consult non-euro Member States' central banks only when setting limits for natural and legal persons mentioned in Article 13(1), point (d) or when setting limits for all possible digital euro users mentioned in first sentence - whether, when a non-euro Member State applies for digital euro distribution, under article 18, the limits for digital euro users in that country should be consulted by the ECB only with the central bank of the applying non-euro Member State or with all non-euro Member States' central</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>banks</p> <p>LT: (Comments): In EA visitors access to digital euro case, a concrete control mechanism, which ensures that natural and / or legal persons who are no longer lives in the EA shouldn't have access to <u>offline</u> digital euro payments is needed.</p> <p>BE: (Drafting): 5. <del>Visitors to the euro area as referred to in Article 13(1), point (c), and natural and legal persons as referred to in Article 13(1), points (b), (d) and (e), shall be subject to limits as regards the use of the euro as a store of value that are not higher than the ones effectively implemented in the euro area for natural and legal persons residing or established in Member States whose currency is the euro.</del> The instruments to limit the use of the euro as a store of value for digital euro users referred to in Article 4a(b), (c), (d) and (e), shall not be less strict than the instruments for the digital euro users referred to in Article 4a(a).</p> <p>5a. The <del>parameters and use conditions and features</del> of the instruments shall be applied in a non-discriminatory manner and uniformly across Member States whose currency is not the euro. When deciding on the use of the instruments in those Member States and setting the <del>parameters conditions and features</del>, the European Central Bank shall consult national central banks of Member States whose currency is not the euro.</p> <p>BE: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>Editorial drafting suggestions.</p> <p>DK: (Comments): In order to protect the monetary and financial stability in non-euroarea Member States we suggest that when determining the limits that prevent the use of the digital euro as a store of value for the use of the digital euro in non-euroarea Member States, national conditions and the national central bank's recommendation in this regard should be taken into account.</p> <p>On the conditions for the visitors to access an account, we refer to our comment on Article 13(1).</p> <p>LU: (Comments): The distribution of the digital euro to visitors should take into account all requirements and limitations applicable under the AML regulatory framework.</p>
<p>6. In case a digital euro user has multiple digital euro payment accounts, the digital euro user shall specify to the payment service providers with which the digital euro payment accounts are held how the individual holding limit is to be allocated between the different</p>	<p>SI: (Comments): A design that allows digital euro users to have multiple digital euro accounts is different from the digital euro features decided by the ECB so far. Therefore, the feasibility of multiple digital euro accounts needs to be carefully assessed.</p> <p>IT: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
digital euro payment accounts.	<p><b>IT</b> – see our comment at art. 13(7): we propose to provide individuals/natural persons with the possibility of opening a single digital euro account with a single PSP, while leaving the possibility to open different accounts only to businesses/legal persons, for which a holding limit equal to zero could be envisaged.</p> <p><b>DE:</b> (Comments): We wonder how the individual holding limit in such cases will be monitored and by whom. From Art. 35 (1)(d) we deduce that this would be an obligation of the PSPs which could obtain the necessary data from the ECB or may in line with recital 25 sentence 2 receive support from the ECB “<i>in performing their task of enforcing any holding limits</i>”, but further clarification should be provided on that point.</p> <p>Please also see our comment at Article 13 (7).</p> <p><b>PT:</b> (Comments): In our perspective, this paragraph provides for an example of the intricacy resulting from the multiple holdings per user approach followed by this proposal. The complexity resulting from such an approach may discourage PSPs from providing digital euro services – as they will be required to comply with this requirement, in a personalized manner (because users will have the last say in this context) – and users from choosing to have a digital euro payment account (as they will not only have to understand how this new form of cash works, but also how limits will apply).</p> <p><b>LU:</b> (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>This measure is not sufficient and cannot adequately ensure that the holding limits are respected by the digital euro users.</p> <p>The possibility of having multiple accounts with different PSPs makes the checks that have to be performed in relation to the holding limits very complex and creates potential loopholes for circumventing these thresholds by the users.</p>
<p>7. Where a digital euro payment account is held by more than one digital euro user, any holding limit on the related digital euro payment account adopted pursuant to paragraph 1 shall amount to the sum of the individual holding limits allocated to its users.</p>	<p>SI: (Comments): On page 50, point (39) it is stated that: “Where a digital euro payment account is legally held by only one digital euro user, but can be technically accessed to and used by several persons, upon de facto or legal mandate given by the digital euro user, any holding limit applied to the digital euro payment account should remain equal to the holding limit defined for a digital euro payment account held by a single digital euro user, to avoid any circumvention of the holding limits.” How does technical access and use differ from this point (7), i.e. from the fact that one digital euro payment account is held by more than one digital euro user?</p> <p>LT: (Comments): Since this would be a free public service, <b>account users could be limited to a single one for free.</b> Any <b>additional users could be a paid service</b> (unless any other legal requirements determines co-ownership). It also does not follow the logic of digital euro being similar to banknote. If digital euro is held by more than one user, then it also needs to be ensured that several payment instruments are provided.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>IT: (Comments): <b>IT</b> – The wording of this paragraph is not clear because it seems to open up the possibility that, for payment account held by more than one digital euro user, the sum of the individual holding limits can be higher than the one set by the ECB. We believe it is essential to clarify this point and, if the combination of holding limits is confirmed, there should be further discussion on its implications on monetary policy.</p> <p>FR: (Comments): The current wording of this article is unclear regarding the holding limit of the joint account. Does the holding limit applied to the joint digital euro payment account equal to the overall holding limits of digital euro users (i.e. having a joint account would use up their holding limits and they could not have other digital euro payment accounts besides the joint account) or to the amount that users decide to allocate to the joint account?</p> <p>LU: (Comments): What would be the holding limit and its allocation in case one user has both a “personal” and a “joint” digital euro account?</p>
8. Within the framework of this Regulation, the digital euro shall not bear	<p>NL: (Comments): <u>NL Comment</u>: We support that the digital euro shall not bear interest. It is unclear to us what is</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
interest.	<p>meant/intended by including the wording “within the framework of this Regulation”; this should be clarified.</p> <p>IT: (Comments): <b>IT</b> – This is a critical point and we would currently raise a scrutiny reservation since the language seems too prescriptive and there could be merit in leaving more flexibility in the Regulation.</p> <p>AT: (Comments): AT: We would like to reiterate that we fully support this provision ensuring that the <b>digital euro does not bear interest at any time</b>. In order to avoid legal ambiguity we should work on the wording here, as “within the framework of this Regulation” could result in unintended legal assumptions and consequences.</p> <p>FI: (Comments): Does this include negative interest rates as well as positive?</p> <p>DE: (Drafting): <del>Within the framework of this Regulation,</del> <u>The</u> digital euro shall not bear interest.</p> <p>DE: (Comments): At the CWG on 19 July 2023, the Commission explained that the legislative proposal’s intention</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>is that the ECB cannot remunerate the digital euro in any form. Against this background, the qualification “Within the framework of this Regulation” should be deleted to avoid ambiguity. The Commission explained that the qualification was necessary to make sure that within private contracts, parties could agree to charge each other interest on the digital euro. However, in such cases (e.g. loan agreements etc.) it wouldn’t be “the digital euro” as such that would be interest bearing, but rather a monetary debt (for which the parties could of course stipulate that it shall be settled in digital euro at the time of settlement). In other words: We don’t consider the qualification necessary to allow for such cases.</p> <p>PT: (Comments): The segment “within the framework of this Regulation” needs to be clarified. See our comment in recital 37.</p> <p>DK: (Comments): Denmark believes this is an important feature of the proposal and should be kept.</p> <p>FR: (Comments): It is essential to clarify that (i) the no interest policy applies to positive and negative rates and (ii) that the ECB shall not be able to adopt a remuneration policy on digital euro accounts outside the framework of this Regulation, as well. More generally, it should be stated – in this article or maybe in the recitals – that the digital euro cannot be an instrument of monetary policy.</p> <p>LU:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments): Does this mean that the digital euro could or would bear interest in the future under a different legal framework? Cash, for example, can bear interests if placed on a savings account. In the same vein, the intention of the regulation should be further clarified here; it has to be explained if the digital euro could, at a later stage, be used as a store of value and thus bear the corresponding interests.</p>
<p>Article 17 Fees on digital euro payment services</p>	<p>NL: (Comments): <u>NL Comment</u>: We are of the view that mandatory distribution should be accompanied by a reasonable division of costs. Regarding the compensation model, implementation costs and fees are an important topic for banks, payments service providers and merchants. We have questions on how the compensation model would work in practice since the proposal requires fees and charges to be uniform and proportionate throughout the euro area. We believe that the differences in the design of the payment infrastructure and the payment landscape in each Member State should be taken into account. Moreover, we have questions on the consequences of the compensation model for banks, payment service providers and merchants. We have concerns that the rules for free basic digital euro payment services and transaction-based fees may have consequences for the fees of regular payment products, which fees may increase to absorb the costs of the mandatory distribution of a digital euro.</p> <p>CY: (Comments): While ensuring that intermediaries are incentivised to make the digital euro available to their</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>clients through digital euro payment services (excluding basic digital euro payment services), in the same manner as other electronic payment means, it should be ensured that fees or charges are not set higher than those requested for comparable private electronic means of payment.</p> <p>DE: (Comments): We reserve further comments on this paragraph, including on the questions whether we will support it at all; any technical comments are made under this reservation.</p> <p>As a general comment, we note that Article 17 seems to be geared towards payments at PoS or in e-commerce, with the assumption of an underlying compensation model that is similar in structure to the fee structures of today's card payments. We wonder how PSPs would be able to recover their costs in other use cases (e.g. P2P payments, M2M payments, industrial payments more generally, etc.)? Would PSPs be free to set fees in such use cases or would all the costs associated with such use cases need to be recovered through merchant service charges and inter-PSP-fees?</p> <p>EE: (Comments): EE: We doubt whether the determination of fees as proposed should be within the competence of the European Central Bank and whether the limitation of the fees charged by the European Central Bank is at all necessary and appropriate. The formation (if appropriate) and monitoring of fees is the task of the competition authorities of the Member States. Intervening in fees goes beyond the traditional function of central banks and harms the neutrality of their role.</p> <p>A decrease in incentives for payment intermediaries would harm the motivation of private sector service providers to offer and further develop other payment services.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>FR: (Comments): <u>On one hand</u>, in view of its impact on the payments market, on its financial soundness, on its stability and on innovation, direct regulatory intervention on the pricing architecture of payment services must be regarded with great caution, especially as digital euro services would be supported by a public asset promoted and partly financed by the ECB/Eurosystem. Indeed, the payment market remains a private competitive market, with very limited interventions on prices form regulators. Such interventions only focus on limited parts of pricing – i.e. confined solely on interchange fees for payment card transactions under the Interchange Fee Regulation (IFR) and on a cap on the pricing of the execution of instant credit transfers by aligning charges with the one of standard credit transfers (SCT Inst regulation under discussion) -. These interventions only took place after market failures had been identified, after a precise quantification on the need for strong regulatory intervention in view of their powerful economic effects and after continuous interactions with the private sector.</p> <p>In practice, the introduction of compensation between PSPs could prove to be unsuitable for all use cases and would force an economic model, with potentially exclusionary effects. For instance, for PSP that do not rely on B2C transactions - and who would therefore not benefit from the fees paid by merchants as proposed in the regulation, nor from the fees paid by their customers for basic services, and without the possibility of earning a return on customer funds, as is currently the case, since these would be in digital euros. All PSPs specialising in P2P payments would be forced to join forces with other players covering other use cases, for want of a viable business model, which is not satisfactory.</p> <p><b>In this sense, we would appreciate the ECB and the Commission to provide more justifications as to why it is necessary to intervene under the framework of this regulation</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><b>in the economic model of the digital euro.</b> Such intervention would affect commercial freedom of payment service providers and their capacity to price their clients according to risks. <b>The opinion of the Commission and the ECB on this matter would be very appreciated.</b> In particular, actual costs to be borne as well as deployment and high prices risks remain to be identified and quantified through an in-depth analysis.</p> <p><b><u>On the other hand,</u> the supervision of commercial practices in the area of payments at such a level would be unprecedented and would present practical and operational difficulties -</b> in particular in defining a notion of proportionality, objectifying and comparing prices, etc. - which could render it <b>inoperative</b>. In the area of payment, such an approach has never been adopted, as the public authorities are not equipped to supervise prices.</p> <p>Notably, the arrangement laid out in this article might be overly complex and not manageable for the ECB, as it would generate significant operational burden for both (i) PSP, which will have to submit data on costs and profitability of payment transaction, and (ii) the ECB, which will be responsible for developing a methodology to process this data and determine the level of MSC and inter-PSP fee. Furthermore, we question the competence for setting limits on fees falling to the ECB, both for legal and operational reasons. From a legal perspective, we consider a regulation should not confer new competences to the European Central Bank but can already refer to existing competences. In this case, this new competence cannot be easily linked to competences already granted to the ECB by primary law.</p> <p>From an early preliminary point of view, more flexible methods of limiting price abuses could be envisaged, such as mechanisms for publishing the prices charged by PSPs to merchants for instance.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	SE: (Comments): B2B transactions are not dealt with, is it correct that pricing would be free for such transactions?
1. For the purpose of Article 15(2), without prejudice to any possible fees charged on other digital euro payment services, payment services providers shall not charge fees to natural persons as referred to in Article 13(1), points (a), (b) and (c), for the provision of the basic digital euro payment services referred to in Annex 2.	NL: (Comments): <u>NL Comment</u> : We support that transactions should be free of charge to natural persons. That would be in line with the existing practices. In general, we do have concerns that due to <i>free</i> basic digital euro payment services, there is a risk that as a consequence the fees of regular payment products for everyone will rise.  PL: (Drafting): PL: 1. For the purpose of Article 15(2), without prejudice to any possible fees charged on other digital euro payment services, payment service providers shall not charge fees to natural persons as referred to in Article 13(1), points (a), (b) and (c), for the provision of the basic digital euro payment services referred to in Annex <del>2</del> <u>II</u> .  PL: (Comments): PL: Numbering convention aligned with the relevant Annex number.  AT: (Comments): AT: we support that <b>payment service providers shall not charge fees to natural persons</b> for

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>the provision of basic digital euro payment services. However, we ask for <b>clarification</b> of the <b>concept of costs</b> associated with the digital euro, which is laid out in <b>Art 17</b>, including more precise rules on the determination of limits for merchant service charges and inter-PSP fees.</p> <p>DE: (Drafting):</p> <p>1. For the purpose of Article 15(2), without prejudice to any possible fees charged on other digital euro payment services, payment services providers shall not charge fees to natural persons as referred to in Article 13(1), points (a), (b) and (c), <b>acting as consumers</b>, for the provision of the basic digital euro payment services referred to in Annex 2.</p> <p>DE: (Comments):</p> <p>We wonder if this could also apply to natural persons who act in their capacity as a commercial payee. This might lead to an unequal treatment with legal persons. Or shall the ban rather be applied to natural persons acting for purposes which are outside their trade, business, craft or profession (consumers) only? In such a case an ammendment of Art. 17 (1) as well as Art. 2 (insertion of definition for consumer) would be necessary.</p> <p>BE: (Drafting):</p> <p>1. <del>For the purpose of Article 15(2), without prejudice to any possible fees charged on other digital euro payment services,</del> <b>Payment</b> services providers shall not charge fees to natural persons as referred to in Article <del>134</del><b>a</b>(1), points (a), (b) [and (c)], for the provision of the basic digital euro payment services referred to in Annex 2.</p> <p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): Editorial drafting suggestions. We prefer a drafting in which Article 15(2) is without prejudice to this Article 17(1) – see suggestion above. Furthermore, we doubt that PSPs should not be allowed to charge a fee for the provision of basic digital euro payment services to visitors from outside the Union. We may provide further comments at a later stage.</p> <p>PT: (Comments): For the moment, we support the solution of ensuring the provision free-of-charge of digital euro basic services.</p> <p>LU: (Comments): The list of basic digital euro payment services in annex II seems to be too wide, in particular considering that they have to be provided free of charge. If all these services are to be provided free of charge, they cannot be unlimited.</p> <p>In order to not crowd out the existing payment services, a transaction limit should be foreseen also for both online and offline digital euro transactions. Moreover, a limit on the overall amount spent in a specific timeframe (e.g., day, week, month) should be foreseen. Otherwise, if not properly framed there can be critical consequences on the overlapping of the existing payment methods, and can have an adverse impact on the overall liquidity of the banking system and the credit provision to the economy by credit institutions. Introducing limits on the number and amount of individual transactions in digital euro or excluding point f) and g) from annex II seem to be two eligible alternatives.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>2. For the purpose of Article 15(2), any merchant service charge or inter-PSP fee in relation to digital euro payment transactions shall comply with the principle of proportionality. Any merchant service charge or inter-PSP fee shall not exceed the lowest of the following two amounts:</p>	<p>NL: (Comments): <u>NL Comment:</u> We are of the view that the cost of a digital euro should be proportional to its benefits. We have still many questions about the division of costs and the monitoring.</p> <p>LT: (Comments): We would like more clarity: a) on how the fees would be set and b) how the fee level would be estimate and the compliant of the principle of proportionality would be ensured?</p> <p>IT: (Comments): IT: We agree on the compliant of pricing with the principle of proportionality. However, on the specific rules, due to the technical aspects related to costs and pricing of retail payment services, we would suggest to give mandate to (or further discuss with) the ECB to define the methodology, including the definition of the necessary reporting framework to obtain relevant data (paragraph 4). In particular, figures estimated in the following points would not be comparable in case of inconsistencies between the relevant costs considered for the digital euro (e.g. compensation of investment costs included) and the relevant costs considered in the pricing of private digital means of payments (e.g. compensation of investment costs not included).</p> <p>FI: (Drafting): 2. For the purpose of Article 15(2), any merchant service charge <del>or inter-PSP fee</del> in relation to digital euro payment transactions shall comply with the principle of proportionality. Any</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>merchant service charge or inter-PSP fee shall not exceed the lowest of the following two amounts:</p> <p>FI: (Comments): In the Article 17(6) it is stated that MSC is the only charge per transaction PSPs may apply to merchants, therefore to streamline regulation, it could be more reasonable to regulate the level of MSC. This could provide better room for building right incentives for PSP's to distributing digital euro. In our understanding the comparable interchange fee regulation on card payments is not applicable on mobile payment solutions, which are not based on cards.</p> <p>DE: (Comments): Shouldn't we define "inter-PSP fee"?</p> <p>BE: (Drafting): 2. For the purpose of Article 15(2), any merchant service charge or inter-PSP fee in relation to digital euro payment transactions shall comply with the principle of proportionality. Any merchant service charge or inter-PSP fee shall not exceed <del>the lowest of the following two amounts:</del></p> <p>PT: (Comments): Both merchant service charges and inter-PSP fees should be clearly capped. Thus, we believe the proposal goes in the right direction but is stil insufficient. In this context, the proposal does not clarify a number of important aspects. For instance, will</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	the proposed limits be applicable since the beginning (i.e., at the issuance?) and how will such limits be enforced?
(a) the relevant costs incurred by payment services providers for the provision of digital euro payments, including a reasonable margin of profit;	<p>NL: (Comments): <u>NL Comment</u>: It is not sufficiently clear what is meant by “relevant costs”. For some costs it will be difficult to attribute these to either the digital euro or financial institutions own means of payment, e.g. investments in SCA. Also, it is unclear what is considered a “reasonable profit margin”.</p> <p>PL: (Drafting): PL: (a) the relevant costs incurred by payment service providers for the provision of digital euro payments, including a reasonable margin of profit;</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>IT: (Comments): IT. The nature of costs in relation to this article should be clarified. To this aim, we would suggest to further discuss or mandate the Eurosystem through an <i>ad hoc</i> methodology, as different types of costs may be considered in relation to different parameters (e.g. investment or operating costs, fixed or variable costs, etc.).</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>The definition of “a reasonable margin of profit” should be clarified (see comments on paragraph 5b).</p> <p>DE: (Comments): We wonder what the relevant costs in this regard exactly are and if costs for provisioning of new accounts, one-time investment costs as well as account maintenance fees are also covered by this. If not – how can those be remunerated?</p> <p>BE: (Drafting): <b>(a) — the relevant costs incurred by payment services providers for the provision of digital euro payments, including a reasonable margin of profit;</b></p> <p>BE: (Comments): We are of the opinion that it is hardly possible to determine the appropriate amount of maximum fees prior to the effective launch of the digital euro. We are therefore in favour of letting the market play more freely than currently envisaged and to only regulate fees if market failure can be objectively established a few years (e.g. 2 years) after the launch of the digital euro.</p> <p>PT: (Comments): It is not clear how this margin will be calculated (and if it should be pre-established), particularly because such a “reasonable margin of profit” may vary due to unforeseeable circumstances or on the MS retail payments market specificities.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>(b) fees or charges requested for comparable digital means of payment.</p>	<p>NL: (Comments): <u>NL Comment:</u> What is meant by “comparable digital means of payments”? This does not offer enough guidance, since e.g. the costs for card payments differ from the costs for credit transfers or direct debit transactions.</p> <p>LT: (Comments): „comparable digital means of payment“ – is mainly debit cards and instant payments at POI (according to Definitions) – the levels of these two fees are regulated. Because of that there is not much room to maneuver for the market.</p> <p>IT: (Comments): IT: It should be clarified which specific fees and charges for comparable digital means of payment should be taken into account (e.g. whether fees or charges for citizens are included). To consider similar fees or charges requested for comparable digital means of payment (e.g. MSC) as a benchmark for “the compensation for the relevant costs incurred by payment services providers for the provision of digital euro payments”, the underline assumption is that the definition of “relevant costs for the provision of digital euro payments” in paragraph 2(a) should be fully consistent with the relevant costs that are compensated by fees or charges for merchants as defined by the market. For example, for other digital means of payment, fees for funding and defunding could be charged to citizens, thus excluding the costs from the compensation by merchants (see also comments on paragraph 6).</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Drafting): <del>(b)</del>—the fees or charges requested by the payment service provider for the provision of payment services for comparable digital means of payment.</p> <p>BE: (Comments): On the other hand, we can agree that a payment service provider should not charge more than the fees he or she charges for the provision of payment services for comparable (non-digital euro) digital means of payment. It is, however, presently not clear to us how this rule should be applied if the payment service provider only provides digital euro payment services and not for other comparable means of payment.</p>
<p>3. The European Central Bank shall regularly monitor the information that is relevant for the purposes of the amounts referred to in paragraph 2, and publish periodically the amounts resulting from that monitoring with an explanatory report.</p>	<p>NL: (Comments): <u>NL Comment</u>: We question whether it is desirable that the ECB should monitor the fees and thereby set the fee level. What is the reason that the ECB is responsible for monitoring the fees instead of for instance DGCompetition (as is the case in the MIF Regulation)? Furthermore, how will this work when the Regulation enters into force? The ECB will not be able to immediately present a report with benchmark information, so how should market participants set the fees in compliance with paragraph 2?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Comments): We reserve the right to provide comments later on as to (a) the authorities that would be best suited to set maximum fees, whether it be the Eurosystem, the Commission through delegated acts or another authority, (b) the methodology for determining these fees, and (c) the authorities best suited to ensure compliance by PSPs.</p> <p>PT: (Comments): It is difficult to grasp the articulation between the regular monitor to be developed by the ECB and the limits imposed in the second paragraph. For instance, paragraph 4 seems to entail that compliance with such limits will be verified by the ECB [“(…)The European Central Bank may require payment service providers to provide all information necessary for the application of this Article and to verify compliance with it (…)”]. However, the proposal does not establish any sanctions for infringements with the rules foreseen in this Regulation. The following aspects are also not clear: Will the fees be determined by the ECB report? If yes, will the ECB report be enough to impose such fees? Or will another legal instrument be needed? With which periodicity should be ECB publish this report?</p>
<p>4. The European Central Bank may require payment service providers to provide all information necessary for the application of this Article and to verify compliance with it. Any</p>	<p>PT: (Comments): We have some doubts about the competences of the ECB/NCB to carry to require PSP to provide this information. We note that, in principle, the ECB should not receive additional tasks pursuant to secondary</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
information requested shall be sent by payment service providers within the time limit set by the European Central Bank. The European Central Bank may require that such information is certified by an independent auditor.	legislation, and it is unclear to us that there is a legal basis in the ESCB / ECB Statute for the ECB to exercise this power.
<p>5. The methodology to be developed by the European Central Bank for the monitoring and the calculations of the amounts referred to in paragraphs 2 and 3 shall be based on the following parameters:</p>	<p>NL: (Comments): <u>NL Question</u>: Who is going to enforce that fees do not become too high and which enforcement measures would apply?</p> <p>SI: (Comments): The wording of this provision is unclear. Does it mean that the ECB will limit fee or (merely) provide the methodology and/or data for the European Commission/legislators to limit fees? If the former, is this provision consistent with Article 114 TFEU? Our understanding is that such limits are to be set by the European Commission/legislator.</p> <p>IT: (Comments): IT: We suggest giving mandate to (or further discussing with) the ECB to define an appropriate methodology including the identification of parameters of the following points a) and b).</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PT: (Comments): We have concerns about the role given to the ECB as a price setter, since this goes beyond its usual competences and mandate. We also note that the proposed tasks, which would be extremely time-consuming and atypical.</p>
<p>(a) the amount of inter-PSP fees and merchant service charges as referred to in paragraph 2(a) shall be based on the relevant costs incurred for providing digital euro payment services by the most cost-efficient payment service providers representing collectively one fourth of digital euro distributed across the euro area in a given year, as reported to the European Central Bank by payment service providers, including a reasonable margin of profit;</p>	<p>NL: (Comments): <u>NL Comment</u>: The question remains what is considered “relevant costs” and “reasonable margin of profit”. Why did the Commission choose “one forth” of the PSPs distributing the digital euro?</p> <p>IT: (Comments): IT: Please note that this definition includes the “reasonable margin of profit” in the calculation of the relevant costs, while paragraph 5(b) provides a specific parameter to calculate the “reasonable margin of profit”. Therefore, it is not clear what should be taken into account in the calculation of the amounts referred to in paragraphs 2 and 3.</p> <p>PT: (Comments): The proposed criteria which refer to PSPs representing collectively one-fourth of digital euro distributed across the euro area in a given year raises many doubts, as it may result in only considering, for this purpose, PSPs based on MS of a larger dimension (i.e. with a larger target</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	market to distribute digital euro payment services). Additionally, the reference to "most cost-efficient payment service providers" is challenging and subjective.
(b) the reasonable margin of profit included in the maximum amount referred to in paragraph 2(a), shall be calculated on the basis of the margin of profit of the payment service providers charging the lowest margin of profit representing collectively one fourth of the digital euro distributed in the euro area in a given year, as reported to the European Central Bank by payment service providers;	IT: (Comments): IT: The definition of "reasonable margin of profit" is not straightforward. It should be clarified if the reasonable margin of profit is a theoretical estimation (e.g. expected margin of profit by payment service providers) or the actual margin of profit calculated as the actual MSC minus the relevant costs.
(c) the amount of inter-PSPs fees and merchant service charges as referred to in paragraph 2(b) shall be based on a representative group of payment services	PL: (Drafting): PL: (c) the amount of inter-PSPs fees and merchant service charges as referred to in paragraph 2(b) shall be based on a representative group of payment service providers providing comparable digital means of payment in the euro area;

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
providers providing comparable digital means of payment in the euro area;	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>IT: (Comments): IT: An <i>ad hoc</i> statistical reporting framework should be established to ensure the feasibility of monitoring, including the identification of the representative group of payment services providers, also to obtain relevant data.</p>
(d) the amounts referred to in paragraph 2 shall be uniform and applied in a non-discriminatory manner across the euro area.	<p>NL: (Comments): <u>NL Comment</u>: How will this uniformity be reached and/or agreed on? The demand for uniformity and at the same time the provision that these fees should not be higher than fees for comparable digital means of payment make it very complex.</p> <p>LT: (Comments): It is important to balance the fee level. As basic payment services are free, issuers might incur a loss in different countries. It could have different effects in various jurisdictions.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>6. The merchant service charge shall be the only charge per transaction that payment service providers may apply to merchants. Payment service providers shall not charge merchants for the funding and defunding of the digital euro, including digital euro payment transactions referred to in Article 13(4). Payment service providers shall include costs associated with funding and defunding in the relevant costs referred to in paragraph 2(a).</p>	<p>LT: (Comments): From our perspective, the analysis on the costs for merchants' infrastructure update in preparation for the digital euro is needed. Also, the possible compensation on other incentives for merchants on their costs could be evaluate. Possible incentives for merchants may well foster adoption, as regards to legal tender exemption Article 9(a).</p> <p>IT: (Comments): IT: Including the costs associated with funding and defunding in the relevant costs referred to in paragraph 2(a) could be inconsistent with using the fees or charges applied to comparable digital means of payment to set the limit in paragraph 2(b). Indeed, comparable digital payment instruments could charge separately the consumer or the merchants for this specific service (e.g. funding of a prepaid card), thus not affecting the merchant's fees for the transactions.</p> <p>DE: (Comments): We wonder to what extent it is envisaged to also allow funding/de-funding transactions to take place at ATMs deployed by Independent ATM Deployers? Independent ATM Deployers play an important role in securing sufficient access of citizens to cash in some areas; should digital euro users be able, e.g., to draw cash from the digital euro payment accounts at such ATMs? If so, Independent ATM Deployers would need to be able to recover their costs, as they would not have access to other revenue sources in the digital euro ecosystem.</p> <p>LU: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	The distribution of the digital euro shall be technical feasible and cost-covering for all PSPs, regardless of their size and current business model. Therefore, any limitation of the fees that PSPPs can perceive from their clients shall also take into account the level of the investments that have to be mobilized by market participants to adapt and adjust existing interfaces and systems.
7. No inter-PSP fee shall apply to the funding and defunding of the digital euro, including digital euro payment transactions referred to in Article 13(4).	
CHAPTER VI DISTRIBUTION OF THE DIGITAL EURO OUTSIDE THE EURO AREA	NL: (Comments): <u>NL Comment:</u> We are in favour of a staggered approach: first issue the digital euro in the eurozone or EU and at a later stage also outside the EU. The ECB should take into account geopolitical developments and we suggest that – for example – the ECB investigates the potential effects of cross currency use of the digital euro on capital flight from third countries to a digital euro and volatility of the relevant currencies. These effects should be considered prior to distribution of the digital euro outside the eurozone/EU.  LT:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): We would like to know if the same fees in the EA for digital euro payment services would apply for usage outside the EA? Would „free basic services“ apply outside EA in other EU countries, European internal market (EEA) and the third countries? In such case, how compliance will be enforced outside EA? If different fees to be set up, who sets them up?</p> <p>DE: (Comments): With a view to the limitations of access to a digital euro for citizens and businesses outside the euro area, how does the Commission assess the impact on the four freedoms of the single market? To what extent could monetary sovereignty of the euro area be an argument to justify such limitations?</p> <p>BE: (Comments): At this stage, we do not propose major drafting suggestions to this Chapter but we may do so in the future. For example, it is presently not clear to us how the rights of visitors as digital euro users relate to the provisions of this Chapter. This Chapter may therefore need to include specific provisions on visitors.</p>
<p>Article 18</p> <p>Distribution of the digital euro to natural and legal persons residing or established in Member</p>	<p>DK: (Comments): It is important to Denmark, that national specificities, such as the Danish opt-out of the third phase</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
States whose currency is not the euro	of the euro, are accounted for in the design of the framework for potential voluntary agreements between the ECB and the non-euro MS central banks.
<p>1. Payment service providers may only distribute the digital euro to natural and legal persons residing or established in a Member State whose currency is not the euro if the European Central Bank and the national central bank of that Member State have signed an arrangement to that effect.</p>	<p>SE: (Comments): Clarification of the relation between <u>arrangement</u> in Art 18(1)(2) and <u>agreement</u> in Art 18(3) would be beneficial.</p> <p>PL: (Comments): PL: It should be further specified whether the terms of the arrangement would be individually negotiated with the applying Member State; if yes, whether the negotiations would be between the ECB and that Member State's national central bank only, or whether there would be a role for that Member State's government. Furthermore, and related to our comments to Art 16 (5), it is not clear whether the arrangement would specify the limits for users or other terms and conditions for the use of the digital euro in the applying Member State.</p> <p>BE: (Drafting): 1. Payment service providers may only distribute the digital euro to <del>natural and legal persons residing or established in a Member State whose currency is not the euro</del> <b>digital euro users referred to in Article 4a(d)</b> if the European Central Bank and the national central bank of that Member State have signed an arrangement to that effect.</p> <p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments): Editorial drafting suggestions.</p> <p>DK: (Drafting): Payment service providers may only distribute the digital euro to natural and legal persons residing or established in a Member State whose currency is not the euro if the European Central Bank and the national central bank of that Member State have signed an arrangement to that effect. <b><u>The agreement should take national conditions and the protection of the member State's financial and monetary stability into account.</u></b></p> <p>DK: (Comments): At present, it is unclear to what extent an agreed use of the digital euro within non-euroarea Member States will be subject to the same rules that governs the use of the digital euro within the euroarea. For example, it is unclear whether the legal tender condition is to be implemented in national law. According to Article 18, paragraph 1 litra c the Member State whose currency is not the euro shall adopt all the national legislations necessary to ensure respect of the relevant requirements laid down in this Regulation or the rules and standards adopted pursuant to Article 5(2). Hence, there is a need to clarify to what extent the conditions in this Regulation should be adopted by non-euro Member States. In this regard, we suggest that it should be explicitly stated in the regulation, that such an agreement should take national conditions and the protection of the Member State's financial and monetary stability into account.</p> <p>FR: (Comments): In the current framework, there is no legal restriction preventing a non-resident from opening an</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>account with a bank in the euro zone, even if in practice few banks agree to do so. Moreover, the right to an account is open to national citizens, including non-residents. <u>The proposed restriction therefore seems to go further than existing law, which is undesirable.</u> Furthermore, it does not seem to fit in well with the possibility of opening an account to visitors (Article 13(1c) ) who are not resident or established within the euro zone, as well as to those who were but are no longer (Article 13(1) ). <u>The opinion of the ECB and the Commission on this point would be welcome.</u> <u>The provision of the service by PSPs from eurozone Member States could therefore not be conditional on the signing of an arrangement. Only the provision of these services by PSPs incorporated in these Member States could be conditional on the signing of such an arrangement and compliance with the Regulation on the provision of digital euro services by PSP incorporated in Member States whose currency is not the euro.</u></p>
<p>2. The signing of the arrangement referred to in paragraph 1 shall be subject to all of the following conditions:</p>	
<p>(a) the Member State whose currency is not the euro has notified to the other Member</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
States, the Commission and the European Central Bank the request to provide access to and use of the digital euro to natural and legal persons residing or established in that Member State.	
(b) in its request, the Member State whose currency is not the euro has undertaken:	
(i) to ensure that its national central bank shall abide by any rules, guidelines, instructions or requests issued by the European Central Bank in relation to the digital euro;	<p>SE: (Drafting): to ensure that its national central bank shall abide by <del>any</del> <b>reasonable</b> rules, guidelines, instructions or requests issued by the European Central Bank in relation to the digital euro;</p> <p>SE: (Comments): This issue was raised in the first CWP, would be useful with further discussion.</p> <p>DK: (Comments): How should article 18(2)(b) point (i) be interpreted? What is the Commission’s understanding of ‘abide by’ and what is the scope of ‘rules, guidelines, instructions or requests issued by the ECB in relation to the digital euro’.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	Also, it should be clarified whether it is the intention that the ECB based on article 18(2)(b) point (i) can issue “rules, guidelines, instructions or requests” beyond technical standards and procedures of the digital euro?
(ii) to ensure that its national central bank shall provide all information on the access to and use of the digital euro in that Member State that the European Central Bank may require.	
(c) the Member State whose currency is not the euro has adopted all the national legislations necessary to ensure respect of the relevant requirements laid down in this Regulation or the rules and standards adopted pursuant to Article 5(2).	SE: (Comments): What will be the process for determining which requirements are considered relevant? Clarification on this would be useful.  DK: (Comments): At present, it is unclear to what extent an agreed use of the digital euro within non-euroarea Member States will be subject to the same rules that governs the use of the digital euro within the euroarea. In this regard, we suggest to explicitly state which legislation that should be adopted in order to ensure respect of the relevant requirements laid down in the Regulation. In relation to this, we suggest to carefully consider which regulation that should be adopted by non-euroarea Member States in order to take national conditions and the protection of the Member State’s financial and monetary stability into account.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>In regards to the latter, the protection of the Member State's financial and monetary stability, we suggest that the limits that prevent the use of the digital euro as a store of value for the use of the digital euro in non-euroarea Member States, national conditions and the national central bank's recommendation should be taken into account.</p> <p>In order to ensure that the Danish opt-out of the euro is accounted for, it is likely that a voluntary agreement will require that credit institutions or payments service providers established in a non-euro MS should not have any obligations related to the provision or distribution of the digital euro in case this non-euro MS decides to have access to and use of the digital euro according to the procedure in article 18, but should only be given the possibility to do so.</p>
<p>3. The agreement referred to in paragraph 1 shall specify the necessary implementing measures and procedures, and the cases under which the agreement may be restricted, suspended, or terminated.</p>	<p>PL: (Drafting): PL: 3. The arrangement referred to in paragraph 1 shall specify the necessary implementing measures and procedures, and the cases under which the arrangement may be restricted, suspended, or terminated.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material.</p> <p>DE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting): 3. The <b>agreement arrangement</b> referred to in paragraph 1 shall specify the necessary implementing measures and procedures, and the cases under which the agreement may be restricted, suspended, or terminated.</p> <p>DE: (Comments): Paras. 1 and 2 use the term “arrangement”.</p>
<p>4. Payment service providers shall implement the limits set by the European Central Bank in accordance with Article 16(4) on the use of the digital euro by natural and legal persons residing or established in Member States whose currency is not the euro, which are applicable in those Member States.</p>	<p>PL: (Drafting): PL: 4. Payment service providers shall implement the limits set by the European Central Bank in accordance with Article 16(5) on the use of the digital euro by natural and legal persons residing or established in Member States whose currency is not the euro, which are applicable in those Member States.</p> <p>PL: (Comments): PL: Re-drafting proposals. Art. 16(5) refers to limits on the use of the digital euro in Member States whose currency is not the euro</p>
<p>Article 19 Distribution of the digital euro to natural and</p>	<p>FR: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
legal persons residing or established in third countries	In the current framework, there is no legal restriction preventing a non-resident from opening an account with a bank in the euro zone, even if in practice few banks agree to do so. Moreover, the right to an account is open to national citizens, including non-residents. <u>the proposed restriction therefore seems to go further than existing law, which is undesirable.</u> Furthermore, it does not seem to fit in well with the possibility of opening an account to visitors (Article 13(1c) ) who are not resident or established within the euro zone, as well as to those who were but are no longer (Article 13(1) ). <u>The opinion of the ECB and the Commission on this point would be welcome.</u> <u>The provision of the service by PSPs from eurozone Member States could therefore not be conditional on the signing of an arrangement. Only the provision of these services by PSPs incorporated in these Member States could be conditional on the signing of such an arrangement.</u>
1. The digital euro may only be distributed to natural and legal persons residing or established in third countries if the Union and the third country concerned have signed a prior agreement to that effect.	BE: (Drafting): 1. The digital euro may only be distributed to <del>natural and legal persons residing or established in third countries</del> <b>digital euro users referred to in Article 4a(e)</b> if the Union and the third country concerned have signed a prior agreement to that effect.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>2. The Council, on a recommendation from the Commission and after having consulted the European Central Bank, shall decide on the arrangements for the negotiation and the conclusion of the agreement referred to in paragraph 1, provided that all of the following conditions have been met:</p>	<p>PT: (Comments): Considering that, as per paragraph 3 of this article, the agreement between the Union and the third country shall specify the cases under which the agreement may be restricted, suspended, or terminated, namely, where the third country has been identified as having significant strategic deficiencies or compliance weaknesses in its national AML/CFT regime, we consider that AMLA should also be consulted regarding the arrangements for the negotiation and conclusion of the agreement.</p>
(a) the third country ensures that:	
(i) its national central bank and, where appropriate, its national competent authority shall abide by any rules, guidelines, instructions or requests issued by the European Central Bank in relation to the digital euro;	
(ii) its national central bank and, where	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
appropriate, its national competent authority shall provide all information on the use of digital euro in that third country that the European Central Bank may require;	
(b) the third country has adopted all the national legislations necessary to ensure respect of the rules and standards laid down in this Regulation or adopted pursuant to Article 5(2).	
(c) the third country ensures that intermediaries established or operating in the third country that distribute the digital euro are subject to supervisory and regulatory requirements, that are at least equivalent to those applied to payment service providers established in the Union.	DE: (Comments): We wonder whether “equivalence” is a realistic yardstick with a view to PSPs in third countries. Which concrete risks does this provision target and do these risks justify such a strict standard?



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>3. The agreement between the Union and the third country shall specify the necessary implementing measures and procedures, and the cases under which the agreement may be restricted, suspended, or terminated, in particular where the third country has been identified as a third country with significant strategic deficiencies in its national anti-money laundering and combating the financing of terrorism regime as referred to in Article 23 of Regulation <i>[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]</i> or as a third country with compliance weaknesses in its national anti-money laundering and combating the financing of terrorism regime as referred to in Article 24 of Regulation <i>[please insert reference – proposal for</i></p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p><i>Anti-Money Laundering Regulation - COM/2021/420 final</i>]. That agreement shall be complemented by an arrangement between the European Central Bank and the national central bank and, where appropriate, the national competent authority of the third country.</p>	
<p>4. Negotiations with third countries may be suspended on the basis of the grounds referred to in paragraph 3.</p>	
<p>5. Intermediaries established or operating in the third country shall implement the limits set by the European Central Bank in accordance with Article 16(5) on the use of the digital euro by natural and legal persons residing or established in the third country, which are applicable in that country.</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Article 20</p> <p>Distribution of the digital euro to natural and legal persons residing or established in third countries or territories under a monetary agreement with the Union</p>	<p>PL: (Drafting): PL: Article 20 Distribution of the digital euro to natural and legal persons residing or established in third countries or territories under a monetary agreement with the Union</p> <p>PL: (Comments): PL: Technical, re-drafting proposal.</p>
<p>1. Natural and legal persons residing or established in Andorra, Monaco, San Marino and the Vatican City State, the French overseas collectivities of Saint-Barthélemy, and Saint Pierre and Miquelon, or in any other third country or territory under a monetary agreement for the purpose of entitling the concerned third</p>	<p>BE: (Drafting): 1. Natural and legal persons residing or established in Andorra, Monaco, San Marino and the Vatican City State, the French overseas collectivities of Saint-Barthélemy, and Saint Pierre and Miquelon, or in any other third country or territory under a monetary agreement for the purpose of entitling the concerned third country or territory to use the euro as its official currency in accordance with Council Regulation (EC) No 1103/97<sup>39</sup> and Council Regulation (EC) No 974/98<sup>40</sup>, may <del>be distributed</del> <b>be users of</b> the digital euro, following an amendment of the respective monetary agreements to that effect.</p>

<sup>39</sup> Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro (OJ L 162, 19.6.1997, p. 1).

<sup>40</sup> Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
country or territory to use the euro as its official currency in accordance with Council Regulation (EC) No 1103/97 <sup>37</sup> and Council Regulation (EC) No 974/98 <sup>38</sup> , may be distributed the digital euro, following an amendment of the respective monetary agreements to that effect.	BE: (Comments): Editorial drafting suggestion.
2. Subject to further conditions that may be agreed upon between the Union and the third country or territory concerned, the distribution of the digital euro to natural and legal persons residing or established in third countries or territories governed by the monetary agreement referred to in paragraph 1 shall meet the requirements laid down in this Regulation.	

<sup>37</sup> Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro (OJ L 162, 19.6.1997, p. 1).

<sup>38</sup> Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Article 21</p> <p>Cross-currency payments</p>	<p>LT: (Comments): In our view <b>it could be clarify on cross-currency payments definition</b>: Digital interoperability options with other CBDCs or digital euro vs traditional currencies? And <b>what could be the impact on FX conversion rates?</b> Which framework applies to foreign PSPs?</p>
<p>1. Cross-currency payments between the digital euro and other currencies shall be subject to prior agreements between, on the one hand, the European Central Bank and, on the other hand, the national central banks of the Member States whose currency is not the euro and the third countries.</p>	<p>NL: (Comments): <u>NL Comment</u>: Please refer to our general comment to Article VI.</p> <p>DE: (Comments): Might there be a need to define what we mean with “cross-currency payments”? For example, would Art. 21 (1) also prevent cross-currency transactions via the traditional correspondent banking system absent an agreement with the respective country or central bank? And does this provision refer only to cross-currency payments from the digital euro to another (retail) CBDC or would it also include a payment from digital euro to, e.g. commercial bank money denominated in a different currency?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>2. The European Central Bank shall cooperate with national central banks of Member States whose currency is not the euro to enable interoperable payments between the digital euro and other currencies.</p>	<p>PL: (Comments): PL: In case of the interoperability of the payment systems for the purpose of cross-currency payments involving the digital euro, the term of “other currencies” should be clarified in the regulation. It is unclear whether it refers only to CBDCs issued by central banks of non-euro area Member States or to various digital forms of public and private money used in those Member States.</p> <p>PT: (Drafting): 2. The European Central Bank shall cooperate with national central banks of Member States whose currency is not the euro <b>and of third countries</b> to enable interoperable payments between the digital euro and other currencies.</p> <p>PT: (Comments): We would like to clarify if there is any reason for not including a reference to the third countries in this paragraph.</p>
<p>CHAPTER VII TECHNICAL FEATURES</p>	<p>DE: (Comments): Could the Commission please share their view on the question to what extent it may or may not be possible to use open source elements for the different moduls of the technical infrastructure underlying the digital euro?</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>We also note that this chapter does not address the question of liability, e.g. if there is a technical defect in the front-end or back-end infrastructure. We have some doubts to what extent questions around liability are sufficiently covered by PSD 2 (PSD 3 / PSR); see also our comment in Recital (9).</p> <p>Also, this section seems geared towards consumer use cases. With a view to potential industry-use cases such as B2B or M2M payments (as described in Recital (4)), we wonder whether the technical features listed here will be sufficient to address such use cases.</p> <p>Finally, in order to properly evaluate this section, it is crucial for the Eurosystem and the Commission to explain and discuss in-depth with the Council which technological options are being considered for the digital euro, what the technical infrastructure could look like, etc.</p> <p>BE: (Comments): We have some reservation as to the impact of this Chapter on the institutional independence of the Eurosystem when deciding on the technical features of the digital euro. We may propose further drafting suggestions at a later stage.</p>
Section 1 Digital euro functionalities	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
Article 22 Accessibility and use	NL: (Comments): <u>NL Comment</u> : We wonder how the inclusiveness of the digital euro will be concretely substantiated and to what extent the Regulation should include more explicit provisions for alternative designs than digital euro accounts – if any – in Chapter VII.
1. The digital euro shall:	BE: (Drafting): <b>1. — <del>The digital euro shall:</del></b>  BE: (Comments): While we support the objectives pursued here, these provisions should only serve as guiding principles for the Eurosystem when developing the digital euro. It appears too challenging, in the context of an already complex and highly novel project, for the Eurosystem to ensure compliance with all the requirements put here, and notably with all the requirements contained in Annex I of Directive 2019/882. Recital 54 suffices as guidance for the Eurosystem.
(a) have usage and service features that are	NL:



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
simple and easy to handle, including for persons with disabilities, functional limitations or limited digital skills, and older persons;	(Comments): We believe it is important that a digital euro is accessible, inclusive and user-friendly, also for people in a vulnerable position or who have difficulty with the digitization of payment systems.  BE: (Drafting): <del>(a) — have usage and service features that are simple and easy to handle, including for persons with disabilities, functional limitations or limited digital skills, and older persons;</del>
(b) be accessible for persons with disabilities by complying with the accessibility requirements laid down in Annex I of Directive 2019/882.	BE: (Drafting): <del>(b) — be accessible for persons with disabilities by complying with the accessibility requirements laid down in Annex I of Directive 2019/882.</del>
2. In their relationships with their payment services providers for the provision of digital euro payment services, digital euro users shall not be required to have or open non-digital euro payment accounts or accept other non-digital euro products.	PL: (Drafting): PL: 2. In their relationships with their payment service providers for the provision of digital euro payment services, digital euro users shall not be required to have or open non-digital euro payment accounts or accept other non-digital euro products.  PL: (Comments):

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>PL: Re-drafting proposals, technical, non-material</p> <p>DE: (Comments): If a user decides to access the digital euro without opening a non-digital euro account, how would this work in practice? Would it mean that they could fund their digital euro payment account by cash only? Would (and if so, which) AML/KYC-checks apply?</p> <p>BE: (Drafting): 2. In their relationships with their payment services providers for the provision of digital euro payment services, digital euro users shall not be required to have or open non-digital euro payment accounts or accept other non-digital euro products.</p> <p>BE: (Comments): Editorial drafting suggestion. We do wonder if this provision has been sufficiently thought through, notably how this will work in practice.</p>
<p>3. Each digital euro payment account shall have a unique digital euro payment account number.</p>	<p>IT: (Comments): IT – we understand that under this wording virtual account numbers, similar to virtual IBAN, would not be permitted. While we agree with this choice, it would be useful to clarify it in the text.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>IT – more in general, from a AML perspective, it would be very useful to have indications on whether there will be a standard to follow when issuing digital euro account numbers. If this is the case, who will set such standards? Will there be information which can be inferred by the payment account number, similar to those inferrable by traditional IBAN codes (i.e: would it be possible to understand, from the account number, who is the PSP responsible for monitoring a specific account)?</p> <p>FI: (Drafting): 3. Each digital euro payment account shall have a unique <b>IBAN</b> digital euro payment account number.</p> <p>FI: (Comments): Standardisation should be promoted as regards, in particular, the use of the international payment account number identifier (IBAN) as it would provide clear interpretation and easy alignment with other legislation such as Regulation (EU) 2021/1230 on on cross-border payments and Regulation (EU) 2015/847 on information accompanying transfers of funds</p> <p>DE: (Comments): Could the Commission kindly explain where and by whom such account number will be administrated? Will this be at the level of PSPs or at the level of the Eurosystem? What role would the account number play in connecting digital euro holdings as recorded in the Eurosystems settlement infrastructrue with their respective holders?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>4. Each digital euro payment account may be linked to one or more non-digital euro payment accounts that shall be designated by the digital euro user. For the purpose of Article 13(4), each digital euro payment account may only be linked to one non-digital payment account.</p>	<p>PL: (Drafting): PL: 4. Each digital euro payment account may be linked to one or more non-digital euro payment accounts that shall be designated by the digital euro user. For the purpose of Article 13(4), each digital euro payment account may only be linked to one non-digital euro payment account.</p> <p>PL: (Comments): PL: Re-drafting. Technical</p> <p>DE: (Drafting): 4. Each digital euro payment account may be linked to one or more non-digital euro payment accounts that shall be designated by the digital euro user. For the purpose of Article 13(4), each digital euro payment account may only be linked to one non-digital <b>euro</b> payment account.</p> <p>DE: (Comments): Editorial change.</p> <p>PT: (Comments): Please consider our previous comments on this matter.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>5. Payment service providers shall allow the use of digital euro payment account by more than one digital euro users.</p>	<p>AT: (Comments): AT: Since the <b>technical and legal complexity</b> associated with the digital euro users' <b>possibility to use one</b> digital euro payment <b>account</b> together with another digital euro user could <b>hinder the take-up</b> of the digital euro, we ask for a <b>removal</b> of such <b>possibility</b> from the <b>prescriptive part</b> of the text and <b>support a mandate</b> for the Commission to assess the <b>introduction</b> of such <b>possibility</b> and its <b>potential effects</b> in a <b>review</b> pursuant to Article 41 at a <b>later stage</b>.</p> <p>FI: (Drafting): 5. Payment service providers shall allow the use of digital euro payment account <b>for online transactions</b> by more than one digital euro users.</p> <p>FI: (Comments): Does this also include use of offline-wallets? If so, then it can create loopholes on the use of such payment instrument. To provide safeguards in this sense, we propose wording only, which allows this practice only for online use.</p>
Article 23	DE:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
Offline and online digital euro payment transactions	<p>(Comments): Could the Commission kindly clarify:</p> <p>(1) Is it necessary for users to have an online digital euro payment account to use the offline version?</p> <p>(2) Regarding the offline version: Is it necessary for the wallet to synchronize with the main ledger operated by the ECB from time to time (the ECB report on the results of the prototyping exercise suggests that this is, indeed, necessary)? If so, please explain</p> <p>(i) how often such data exchange is necessary; (ii) what is the purpose of such data exchange; (iii) what data needs to be exchanged for this purpose.</p> <p>We would also welcome a more general explanation of how the offline-version would work.</p> <p>PT: (Comments): The approach followed in this regard (i.e., the availability of the digital euro, since its first issuance, with both online and offline functionalities) is adequate, in our view.</p>
1. The digital euro shall be available for both online and offline digital euro payment transactions as of the first issuance of the digital euro.	<p>NL: (Comments): <u>NL Comment</u>: We support the proposal to enable offline (anonymous) payment transactions with digital euro from the first issuance. Should also be included in this paragraph that an offline payment should be made in physical proximity, since this is not yet specified in the provisions itself? We are of the view that this is</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>an important aspect in relation to mitigating AML/CFT-risks.</p> <p>FI: (Comments): We support an approach where the digital euro would enable electronic payments even without an internet connection. Offline functionality could increase the possibilities for electronic payments in more use cases.</p> <p>BE: (Drafting): <b><del>1. The digital euro shall be available for both online and offline digital euro payment transactions as of the first issuance of the digital euro.</del></b></p> <p>BE: (Comments): It is not clear to us if all use cases will have to be catered for from the moment of first issuance of the digital euro (whether online or offline), or whether there is some leeway for introducing different use cases at different times. If the latter should be allowed, it may be useful to clarify this in the Regulation.</p> <p>LU: (Drafting): The digital euro shall be available for both online and offline digital euro payment transactions <del>as of the first issuance of the digital euro.</del></p> <p>LU: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	It is not yet clear if, compatible technical devices will be broadly available at the moment of the first issuance, to guarantee and ensure a proper functioning of the digital euro in an offline environment. A staggered approach could be envisaged.
2. The digital euro, held online or offline, shall be convertible at par between each other, at the request of the digital euro users.	<p>LT: (Comments): What does „convertible“ mean: within same digital euro user account or between different accounts? i.e. can user initiate offline payment and could it be accepted at POS in online mode and vice versa?</p> <p>BE: (Drafting): [2. The digital euro, held online or offline, shall be convertible at par between each other, at the request of the digital euro users.]</p> <p>BE: (Comments): While we can endorse the at par convertibility, it seems superfluous to explicitly state it in the Regulation since online and offline digital euros are identical values. It would be sufficient to mention this in one of the Recitals.</p>
3. Before initiating a digital euro payment	



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>transaction in a proximity payment, the payee and the payer shall be informed of whether the digital euro payment transaction will be offline or online.</p>	<p>NL: (Comments): <u>NL Question:</u> For sake of clarification, are offline transactions always proximity payments?</p> <p>LT: (Comments): Is verbal agreement before payment initiation is enough or should there be more prominent information, like signs?</p> <p>DE: (Comments): Article 2 does not contain a definition for a “proximity payment” which this paragraph might call for.  Who shall be obliged to provide this information?</p> <p>BE: (Drafting): 3. Before initiating a digital euro payment transaction, <b>the front-end solution shall indicate both to in a proximity payment, the payee and the payer shall be informed of whether the digital euro payment transaction will can be executed offline or online, and request confirmation from the payer and payee on the preferred transaction mode.</b></p> <p>BE: (Comments): We propose to be more elaborate on the basic requirements to make an informed decision</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	between an offline or online digital euro payment.
<p>Article 24</p> <p>Conditional digital euro payment transactions</p>	<p>NL: (Comments): <u>NL Comment</u> : We support the possibility to make conditional payments. This is an existing functionality for regular payment accounts and – in combination with automatic funding and defunding – can facilitate transactions of a higher amount than a possible holding limit. This makes the digital euro a more attractive payment option for companies. Please refer to our comment in the recitals on communication in relation to this functionality.</p> <p>DE: (Comments): We support this feature; we think it is very important with a view to innovative use cases.</p> <p>BE: (Drafting): Article 24 <del>Conditional</del> <b>Conditioned</b> digital euro payment transactions</p> <p>BE: (Comments): See our comment to Recital 7: a conditional payment can be understood as a payment which has been executed but either (a) the final discharge of the underlying debt would be conditional upon the later occurrence or non-occurrence of an event (condition suspensive) or (b) the payment can</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	be unwound upon the later occurrence or non-occurrence of an event (condition résolutoire). In order to avoid any confusion, we propose to consistently use the term “conditioned payments”.
1. To ensure that payment service providers and digital euro users can use conditional digital euro payment transactions, the European Central Bank may:	BE: (Drafting): 1. To ensure that payment service providers and digital euro users can use <b>conditional</b> <b>conditioned</b> digital euro payment transactions, the European Central Bank may:
(a) adopt detailed measures, rules and standards in accordance with Article 5(2) that payment service providers can use to ensure interoperable conditional digital euro payment transactions;	BE: (Drafting): (a) adopt detailed measures, rules and standards in accordance with Article 5(2) that payment service providers <del>can</del> <b>should</b> use to ensure interoperable <b>conditional</b> <b>conditioned</b> digital euro payment transactions;  BE: (Comments): Editorial drafting suggestions.
(b) provide the functionalities in the digital euro settlement infrastructure necessary for the	BE: (Drafting):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
execution of conditional digital euro payment transactions, including for the reservation of funds.	(b) provide the functionalities in the digital euro settlement infrastructure necessary for the execution of <del>conditional</del> <b>conditioned</b> digital euro payment transactions, including for the reservation of funds.
2. The digital euro shall not be programmable money.	<p>NL: (Comments): <u>NL Comment</u>: This provision is absolutely vital and must be kept at all times. This is in line with the Eurogroup statement.</p> <p>DE: (Comments): We strongly support this provision.</p> <p>FR: (Comments): As the definition of programmable money remains very basic, and as fungibility may be limited in practice, given other regulatory provisions (for LCB/FT reasons, potential limitation of special payment instruments based on digital euro intended for specific uses), contractual reasons or for practical reasons (closure of conversion interfaces, limitation on conversion over time, etc..), it would be advisable to provide for an article dedicated to programmability issues in order to specify the contours of this prohibition and to clarify the notion of entitlement</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	introduced.
Section 2 Modalities of distribution	
Article 25 European Digital Identity Wallets	<p>NL: (Comments): <u>NL Comment:</u> It is important to ensure consistency with the different regulatory frameworks and ensuring data protection. As mentioned in previous comments, this proposal should not include any provisions or (technical) considerations that belong in the revised eIDAS regulation, in order to avoid conflicting rules about, for example, architecture, standards and technical operation, guidelines for use, certification or supervision of the EDI-wallet. Furthermore, the gradual development and implementation of the EDI-wallet is a point of attention. In order for PSPs to be able to comply with the provisions in this regulation on the digital euro, the EDI-wallet needs to be available and fully functioning first. This potential timing issue needs to be discussed and addressed in the proposal.</p> <p>BE: (Drafting): <del>Article 25</del> <del>European Digital Identity Wallets</del></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>1. Front-end services shall be interoperable with or integrated in the European Digital Identity Wallets.</p>	<p>NL: (Comments): <u>NL Comment</u>: If the PSPs are required to develop the interfaces and front-end services, it should already be clear what the EDI-wallet looks like and how the two can be interoperable. We wonder if the EDI-wallet and the introduction of the digital euro happen simultaneously and how this provision works out in practice. PSPs should have sufficient time for developing the technique before this provision enters into force.</p> <p>CZ: (Comments): We would like to ask for confirmation that also national verification schemes will be allowed to use.</p> <p>FI: (Comments): Requirements for the interoperability and integration of services utilizing the digital euro and wallet applications according to the eIDAS regulation should be clarified. Proposal on the digital euro shall not expand the mandatory functionalities of european wallet applications, which should be exhaustively defined in the eIDAS regulation.</p> <p>BE: (Drafting): <del>1. Front end services shall be interoperable with or integrated in the European Digital Identity Wallets.</del></p> <p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): While we support the objectives pursued here, these provisions should only serve as guiding principles for the Eurosystem when developing the digital euro. It appears too challenging, in the context of an already complex and highly novel project, for the Eurosystem to ensure full interoperability with European Digital Identity Wallets. Recitals 57 and 58 suffice as guidance for the Eurosystem.</p> <p>FR: (Comments): First, EUDIW and eIDAS negotiations are still ongoing : the eIDAS regulation must not be disturbed by possible links with the digital euro. Furthermore, the digital euro should not focus solely on the EUDIW as a means of identification and entry into relations, both because (i) existing solutions are already efficient and proven by payment service providers, and because (ii) the deployment of a digital euro both as a digital public currency and as a new means of payment, which will have its share of difficulties, should not be joined by the difficulties inherent in the EUDIW. Therefore, clarifications are needed from the Commission and the ECB on (i) the alignment of the provisional timetables between the digital euro and the introduction of a EU digital identity wallet, (ii) the technical possibilities in this respect and the possible difficulties associated with the concomitant introduction of the digital euro and this DIW service. In addition, consultations with stakeholders are underway to identify the opportunities and costs that this implementation would require, in particular to avoid placing too much technical burden on PSPs in a short space of time, which could prove detrimental to the launch of the digital euro. Nevertheless, the DIW</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>has the intrinsic potential to ensure more robust and centralised onboarding and to limit the different KYCs depending on the institution, which could facilitate the use of the digital euro in the long term.</p>
<p>2. On request by digital euro users, payment service providers distributing the digital euro shall ensure that those users can rely on the functionalities of their European Digital Identity Wallets in accordance with Article 6a of Regulation (EU) [<i>please insert reference – proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity – COM(2021) 281 final</i>];</p>	<p>NL: (Comments): <u>NL Comment</u>: We expressly support the voluntary nature of this provision. It should be completely up to the digital euro users to decide whether they want to make use of the EDI-wallet. Consumers should under no circumstances be forced to obtain an EDI-wallet in order to use be able to use the digital euro. Sufficiently attractive alternative means for identification and validation should be available for the use of the digital euro.</p> <p>BE: (Drafting): <del>2. — On request by digital euro users, payment service providers distributing the digital euro shall ensure that those users can rely on the functionalities of their European Digital Identity Wallets in accordance with Article 6a of Regulation (EU) [<i>please insert reference – proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity – COM(2021) 281 final</i>];</del></p> <p>BE: (Comments): See previous comment.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PT: (Drafting): <b>3. Paragraphs 1 and 2 of this Article shall be without prejudice to [please insert reference – proposal for a Regulation for Anti-Money Laundering Regulation – COM/2021/421 final] and [proposal for a Directive for Anti-Money Laundering - COM/2021/423].</b></p> <p>PT: (Comments): Risk-based customer due diligence measures play a key role in preventing ML/TF. It is unclear to us what the precise scope of this standard is, but it should be made clear that it is not intended to encroach on AML/CFT rules applicable to customer identification. In concrete, it should be clarified that any reliance by PSPs on the functionalities of European Digital Identity Wallets of their clients for the purpose of this Regulation should not in any way substitute the customer due diligence duties stemming from AML/CFT legislation, with which PSPs are obliged to comply. We propose adding a paragraph 3 to Article 25 in this regard.</p>
<p>Article 26 Interoperability</p>	<p>BE: (Drafting): <b>Article 26</b> <b>Interoperability</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>The European Central Bank shall seek to ensure to the extent possible the interoperability of standards governing digital euro payment services with relevant standards governing private digital means of payment. The European Central Bank shall seek to enable, to the extent possible and where appropriate, private digital means of payment to use rules, standards and processes governing the digital euro payment services.</p>	<p>SE: (Drafting): The European Central Bank shall seek to ensure to the extent possible the interoperability of standards governing digital euro payment services with relevant standards governing private <b>electronic</b> digital means of payment. The European Central Bank shall seek to enable, to the extent possible and where appropriate, private <b>electronic</b> digital means of payment to use rules, standards and processes governing the digital euro payment services.</p> <p>SE: (Comments): To align with PSD2, which refers to electronic means of payment</p> <p>FI: (Comments): In other legislative files, such as Digital Markets Act, the implementing provisions regarding interoperability are laid down by the Commission.</p> <p>BE: (Drafting): <del>The European Central Bank shall seek to ensure to the extent possible the interoperability of standards governing digital euro payment services with relevant standards governing private digital means of payment. The European Central Bank shall seek to enable, to the extent possible and where appropriate, private digital means of payment to use rules, standards and processes governing the digital euro payment services.</del></p> <p>BE: (Comments): While compatibility with private digital payment solutions is a laudable objective, it seems</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>hardly possible to reach this objective given the myriad of existing private payment solutions. It is therefore better not to mention this objective (neither as an Article nor as a Recital) and not to create unrealistic expectations.</p> <p>PT: (Comments): The interoperability between the standards governing digital euro payment services and the relevant standards governing private digital means of payments is an important aspect. This project should foster competition and innovation. Therefore, we consider it necessary to explore possible ways to support interoperability, in addition to the use of open standards, referred in the second paragraph.</p>
<p>For the purpose of the first subparagraph, interoperability may be supported inter alia by the use of open standards.</p>	<p>BE: (Drafting): <b><del>For the purpose of the first subparagraph, interoperability may be supported inter alia by the use of open standards.</del></b></p>
<p>Article 27 Dispute mechanism</p>	<p>EE: (Comments): EE: As a prerequisite for the smooth and efficient operation of digital euro, we support the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	creation and management of a general dispute mechanism.
<p>1. Without prejudice to the disputes concerning the lawfulness of the processing of personal data, disputes shall be governed by Directive 2015/2366. Directive (EU) 2020/1828 shall apply to the representative actions brought against infringements of provisions of this Regulation that harm or may harm the collective interests of consumers.</p>	<p>IT: (Comments): <b>IT</b> - we believe it should be better clarified the relationship between the mechanisms disciplined in Art. 27.2 and the procedures disciplined by art.101, notwithstanding the ADR systems regulated by Art. 102 of the PSD2 which remain under the purview of the national banking ADRs.</p> <p>BE: (Drafting): 1. Without prejudice to the disputes concerning the lawfulness of the processing of personal data, disputes <b>between digital euro users and payment service providers</b> shall be governed by Directive 2015/2366. Directive (EU) 2020/1828 shall apply to the representative actions brought against infringements of provisions of this Regulation that harm or may harm the collective interests of consumers.</p> <p>BE: (Comments): Editorial drafting suggestion.</p>
<p>2. The European Central Bank and the national central banks may make mechanisms</p>	<p>PL: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>available for payment services providers to facilitate the exchange of messages for the resolution of disputes. Those mechanisms may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</p>	<p>PL: 2. The European Central Bank and the national central banks may make mechanisms available for payment service providers to facilitate the exchange of messages for the resolution of disputes. Those mechanisms may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</p> <p>IT: (Comments): IT – coherence should be ensured with recital 60 and, more generally, the roles of ECB vis a vis the NCBs should be better clarified.</p> <p>BE: (Drafting): <del>2. — The European Central Bank and the national central banks may make mechanisms available for payment services providers to facilitate the exchange of messages for the resolution of disputes. Those mechanisms may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</del></p> <p>BE: (Comments): While agreeing with a possible involvement of the Eurosystem in the provision of dispute resolution mechanisms, this possibility for the Eurosystem directly stems from its competences pursuant to the Treaties and should not be repeated here. The references contained in Recital 60 are sufficient in this respect.</p> <p>PT: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>2. The European Central Bank and the national central banks <b>shall may</b> make mechanisms available for payment services providers to facilitate the exchange of messages for the resolution of disputes. Those mechanisms may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</p> <p>PT: (Comments): The proposal should clearly establish that mechanisms for the exchange of information between PSPs shall be developed, signifying a higher level of commitment in this regard. These mechanisms may prove to be especially important, considering that the digital euro will be a means of payment with legal tender status, while its distribution will be intermediated by PSPs.</p> <p>FR: (Comments): The scope of dispute resolution should be clarified in this text. In addition, the liability regime of the European Central Bank should be clarified as a result of its role in facilitating dispute resolution.</p> <p>LU: (Comments): It is not clear how and in which extent this provision is compatible with the privacy provisions applicable to the digital euro.</p>
3. The European Central Bank shall not act as a party in any of the disputes referred to in	IT: (Drafting): IT 3.The European Central Bank <u>and national central banks</u> shall not act as a party in any of the

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
paragraphs 1 and 2.	<p>disputes referred to in paragraphs 1 and 2.</p> <p>IT: (Comments): IT - neither the ECb nor NCB can be liable towards end users and directly involved in dispute resolution.</p> <p>BE: (Drafting): 3. The European Central Bank <b>and the national central banks</b> shall not act as a party in any of the disputes referred to in paragraphs 1 <del>and 2</del>.</p> <p>BE: (Comments): Editorial drafting suggestion. It is necessary to also mention the national central banks, as members of the Eurosystem.</p>
<p>Article 28</p> <p>Front-end services to access and use the digital euro</p>	<p>LT: (Comments): In this Article it is not fully clear what „front-end services“ mean – an application and (or) a card? It raises several questions: i) ANNEX II Basic digital euro payment services states „provision of at least one electronic payment instrument for the execution of digital euro payment transactions such as referred to in letter (e)“. So, which instrument PSPs is obliged to provide? In case PSPs only provides an application – how financial inclusion would be ensured?; ii)</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Which instrument could ECB provide? Does this enable the ECB to issue a payment card?; iii) In case of financial inclusion, designated public authorities should provide payment card as a basic payment service; iii) In case only a card is provided how would the „person-to-person digital euro payment transactions“ be enabled, as part of basic payment services?</p> <p>DE: (Comments): We reserve further comments on this provision, which we will share once we have finalized our political view on the proposed distribution model.</p> <p>BE: (Drafting): Article 28 Front-end <b>services solutions</b> to access and use the digital euro</p> <p>BE: (Comments): See our comment to Recital 61: we are concerned that the term “front-end services” could be confused with the digital euro payment services that are provided by the PSP. The impression should not be given that the latter can be provided by the Eurosystem as well. We propose replacing the said term with the term “front-end solution”.</p>
1. Payment service providers distributing the digital euro shall provide digital euro users	BE: (Drafting):



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>with the choice of using the following digital front-end services to allow digital euro users to access and use digital euro payment services:</p>	<p>1. Payment service providers distributing the digital euro shall provide digital euro users with the choice of using the following digital front-end <del>services solutions to allow digital euro users to</del> access <b>their digital euro holdings</b> and use digital euro payment services:</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>FR: (Comments): The development of so-called "front-end" services by the ECB could be an unprecedented activity for a central bank in Europe, especially for digital payments. This development presents several risks: (i) potential unsuitability for the very varied and sometimes complex needs of PSPs and merchants, particularly in e-commerce, given the increasing complexity of purchasing and therefore payment transactions, (ii) absence of direct relations between all companies and the ECB, which would be necessary to adapt these front-end services to their needs, (iii) potential obsolescence of the interfaces developed, in the context of significant market competition from private players on these interfaces and strong innovation.</p> <p>Furthermore, the scope of front-end services is not defined in the text, which would leave the ECB free to impose interfaces on the market, which seems disproportionate.</p> <p>We would also appreciate more elaboration on the consequences of having the ECB distribute directly digital euro front-end services, along with private players, in terms of implementation costs (risk of doubling implementation costs) and creating some form of competition between the ECB and the private sector.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><u>We would very much welcome the analysis of the ECB on the exact needs these front-end services would meet.</u> As of today, we question the need to include such provisions in the regulation on the digital euro and would like to better understand it in light of the ECB's mandate. We would welcome the opinion of the Commission and the Council's legal services on this matter.</p> <p>Finally, a harmonised experience - the objective and appropriateness of which will have to be discussed by the Council, as the use of cash differs between Member States - and the identification of digital euro payments could be facilitated by the introduction of minimum rules for the development of front-end services by the private sector, should the rules of the private front-end services be sufficiently clear to identify a digital euro payment (as it seems to be the case in subsequent articles).</p>
(a) front-end services developed by payment service providers; and	BE: (Drafting): (a) front-end <del>services</del> <b>solutions</b> developed by payment service providers; and
(b) front-end services developed by the European Central Bank.	BE: (Drafting): (b) front-end <del>services</del> <b>solutions</b> developed by the European Central Bank.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Where a payment service provider does not offer a digital euro front-end service, a European Central Bank's service shall be used by such payment service provider.</p>	<p>BE: (Drafting): Where a payment service provider does not offer a digital euro front-end <b>service solution</b>, a European Central Bank's <b>service solution</b> shall be used by such payment service provider.</p>
<p>2. Front-end services provided by the European Central bank referred to in paragraph 1, point (b), shall not provide for customer relationships, that shall solely be provided by payment service providers in their role in the digital euro distribution as laid down in Article 13 and under Directive 2015/2366. The European Central Bank shall not have access to any personal data in relation to the front-end services developed by the European Central Bank and used by the payment services providers.</p>	<p>SE: (Comments): Difficult to understand how the ECB can provide front-end services without having access to personal data, a clarification would be beneficial.</p> <p>PL: (Drafting): PL: 2. Front-end services provided by the European Central bank referred to in paragraph 1, point (b), shall not provide for customer relationships, that shall solely be provided by payment service providers in their role in the digital euro distribution as laid down in Article 13 and under Directive 2015/2366. The European Central Bank shall not have access to any personal data in relation to the front-end services developed by the European Central Bank and used by the payment service providers.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>IT: (Comments): <b>IT</b> - We suggest to check the consistency of this provision (last sentence) with Article 35(1)(a), according to which, for the purposes of data protection law, the ECB performs a task in the public interest or exercise official authority where it processes personal data for the purposes of the provision of access for payment service providers to the digital euro settlement infrastructure and support the exchange of messages between payment service providers.</p> <p>AT: (Comments): AT: In line with our general remarks regarding the <b>protection of personal data of users</b>, the second sentence of this paragraph in conjunction with recital 61 excludes the ECB from identifying users based on personal data provided in relation to its front end services. In our view, prohibiting the ECB from accessing personal data of users is crucial to promote public trust and such prohibition should not be watered down. Therefore, we ask for <b>clarification</b> on how the prohibition to use personal data can be <b>reconciled</b> with the possibility of the ECB and the national central banks to authorise the <b>switching of digital euro payment accounts</b> held with one payment services provider to another payment service provider pursuant to Art 31 para 2 and the possibility to <b>establish a single access point</b> of digital euro user identifiers for the purpose of enforcing holding limits pursuant to Art 35 para 8.</p> <p>BE: (Drafting): 2. Front-end <b>services solutions</b> provided by the European Central bank referred to in paragraph 1, point (b), shall not <del>provide for establish</del> customer relationships <b>with the European Central Bank and the national central banks, that shall solely be provided by payment service providers in their role in the digital euro distribution as laid down in</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><del>Article 13 and under Directive 2015/2366</del>. The European Central Bank shall <b>ensure that its front-end solution does not allow it to</b> have access to any personal data <b>of digital euro users in relation to the front-end services developed by the European Central Bank and used processed</b> by the payment services providers <b>that use the front-end solution</b>.</p> <p>BE: (Comments): Editorial drafting suggestions. It does not appear necessary to repeat that customer relationships are only established with the PSPs.</p>
3. Payment service providers distributing the digital euro shall ensure that:	
(a) digital euro payment services use the official digital euro logo;	<p>BE: (Drafting): (a) digital euro payment services <b>use are clearly identifiable through</b> the official digital euro logo;</p> <p>BE: (Comments): Editorial drafting suggestion.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>(b) digital euro payment accounts can be quickly and easily accessed to and used by digital euro users.</p>	<p>BE: (Drafting): (b) digital euro <b>holdings and</b> payment accounts can be quickly and easily accessed <del>to</del> and used by digital euro users;</p> <p>(c) <b>online and offline digital euro holdings are clearly distinguishable.</b></p> <p>BE: (Comments): Front-end solutions should also allow to clearly distinguish between offline and online digital euro holdings.</p> <p>PT: (Drafting): (b) digital euro payment accounts can be quickly and easily accessed to and used by digital euro users <b>on a continuous basis.</b></p> <p>PT: (Comments): Considering the nature of the digital euro, we understand that accessibility to payment accounts should not only be quick and easy but should also be possible in a continuous basis.</p>
<p>Article 29 Compliance with Union sanctions adopted in</p>	<p>SE: (Comments): Should be in line with the instant payments regulation, when adopted by the EU legislator.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
accordance with Article 215 TFEU	<p>LT: (Comments): We note that the current proposal for Article 29 is in principal identical to the original Article 5d of the 2022/0341 (COD) Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro (hereinafter – IP Regulation proposal). We therefore note that during the discussions we noted that the <b>proposed model for checking instant payments for compliance with international sanctions may not be sufficient to ensure proper implementation of European Union restrictive measures</b>. Same considerations apply also in terms of this proposal regarding digital euro transactions and Article 29. <b>We suggest adopting at least the same model of compliance with Union sanctions as in the latest IP Regulation proposal.</b></p> <p>PT: (Comments): <del>The procedure to be established for digital euro payment transactions should be aligned with the procedure established under the Instant Payments Regulation.</del> This Article mirrors Article 5d of the Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 260/2012 and (EU) 2021/1230 as regards instant credit transfers in euro. As explained by the European Commission in the “Commission services’ non-paper on screening of PSUs with regard to Union sanctions”, the reason behind the establishment of this Article 5d is, in a nutshell, (only) because: <i>“<u>Transaction-based</u> screening of instant credit transfers against sanctions lists creates operational challenges for PSPs wanting to offer instant credit transfers to their users (PSUs)”</i>. Therefore, in the absence of any other reason, based on the principle of equal treatment, this means that the exception provided for in Article 29 of this proposal should only apply to <u>instant</u></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>credit transfers with digital euro and not to all transactions. This being the case, considering that the definition of ‘funds’ will also include digital euro (cf. Recital (22)), this means that the Article 5d of Regulation (EU) No 260/2012 (as amended) will also be applicable to <u>instant</u> credit transfers with digital euro. As such, Article 29 of this proposal will be redundant, and therefore shall be deleted.</p>
<p>1. Payment Service Providers executing digital euro payment transactions shall verify whether any of their digital euro users are listed persons or entities. Payment service providers shall carry out such verifications immediately after the entry into force of any new or amended restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available, and at least once every calendar day.</p>	<p>CZ: (Comments): National sanction lists are missing.</p> <p>LT: (Comments): Please see comment above regarding Article 29.</p> <p>FR: (Comments): We support the same changes as those made during Council negotiations on the article with the same purpose provided for in the regulation on instant credit transfers (article 5(d)). These include :</p> <ul style="list-style-type: none"> <li>- Clarifications that the framework provided in this article, especially paragraphs 1 and 2, is without prejudice to other actions taken by PSPs in accordance with restrictive measures other than asset freeze or a prohibition to make funds or economic resources available to listed persons or entities, or restrictive measures that are not adopted in accordance with Article 215 TFEU or in accordance with risk-based requirements from</li> </ul>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>antimoney laundering and counter terrorist financing obligations or other relevant obligation. Indeed, as discussed in the Council previously, it is essential to take into consideration national sanction lists and the articulation with the AML/CFT framework.</p> <ul style="list-style-type: none"> <li>- The deletion of the paragraph 3 related to the compensation mechanism</li> <li>- Amendment clarifying that it applies to all PSPs whether they send or receive instant credit transfers. However, we strongly recommend to replace the expression “immediately after the entry into force of a new restrictive measure” by “without delay after the entry into force of a new restrictive measure” to be consistent with the FATF’s standards and the point 26 of the Best Practices on restrictive measures adopted by the Council</li> <li>- Appropriate modifications of recitals in line with the above modifications</li> </ul> <p>A direct reference to the SEPA regulation, which will be amended by the regulation on instant credit transfers, could even be envisaged.</p> <p>We also question the absence of a framework of sanctions, as provided for in the regulation currently being negotiated, which would be appropriate to make such a framework binding.</p> <p>More fundamentally, no framework of sanctions is provided for the articles specifying obligations towards PSPs, in particular articles 13, 14, 18, 28, 29 and 31. The Commission's opinion would be welcome in that regard.</p>
<p>2. During the execution of a digital euro payment transaction, the payer’s payment service provider and the payee’s payment</p>	<p>CZ: (Comments): This sanction screening mechanism is quite similar to proposed mechanism in Instant Payments</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>service provider involved in the execution of that transaction shall not verify whether the payer or the payee whose digital euro payment accounts are used for the execution of that digital euro payment transaction are listed persons or entities in addition to carrying out verifications under paragraph 1.</p>	<p>Regulation. Member States were not fully satisfied with the proposal as regards sanction screening. We would suggest using the same approach as in IPR once it is adopted.</p> <p>LT: (Comments): Please see comment above regarding Article 29.</p>
<p>3. A payment service provider that has failed to carry out the verifications referred to in paragraph 1 and executes a digital euro payment transaction causing another payment service provider involved in the execution of that digital euro payment transaction to fail to freeze assets of listed persons or entities, or to make funds or economic resources available to such persons or entities, shall compensate the financial damage caused to the other payment service provider</p>	<p>LT: (Comments): Please see comment above regarding Article 29.</p> <p>DE: (Comments): As in the instant payments file, we oppose the introduction of a compensation. In case of a sanctions breach of a sender PSP we cannot see the point in making the receiver PSP responsible for the breach. At the same time, a compensation mechanism might result in the sender PSP being punished twice, once for the sanctions breach and once for a sanctions breach of the receiver PSP attributable to the sender PSP.</p> <p>PT: (Drafting):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>resulting from penalties imposed on that other payment service provider under restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available.</p>	<p><del>3. — A payment service provider that has failed to carry out the verifications referred to in paragraph 1 and executes a digital euro payment transaction causing another payment service provider involved in the execution of that digital euro payment transaction to fail to freeze assets of listed persons or entities, or to make funds or economic resources available to such persons or entities, shall compensate the financial damage caused to the other payment service provider resulting from penalties imposed on that other payment service provider under restrictive measures adopted in accordance with Article 215 TFEU providing for asset freeze or prohibition of making funds or economic resources available. (deleted)</del></p> <p>PT: (Comments): In line with our position in the negotiation of the Instant Payments Regulation, we propose to delete this paragraph.</p>
<p>Article 30 Settlement of digital euro payment transactions</p>	<p>PT: (Comments): We consider it may be useful to clarify the concepts of "instantaneous settlement" and "final settlement". Does this mean that the final settlement is immediate in any case, but is achieved in two possible different ways: records updated in the digital euro settlement infrastructure; or records updated in the local storage devices?</p>
<p>1. Online and offline digital euro payment</p>	<p>SE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>transactions shall be settled instantaneously.</p>	<p>(Drafting): Online and offline digital euro payment transactions shall be <u>made available</u> settled instantaneously</p> <p>SE: (Comments): To avoid contradiction with Art 30(3).</p> <p>PT: (Drafting): Online and offline digital euro payment transactions shall be settled instantaneously in the moments defined in paragraphs 1 and 2.</p> <p>PT: (Comments): Drafting suggestion to clarify the sentence.</p> <p>FR: (Comments): For the digital euro to be future-proof, it is essential that it is settled instantly, as stipulated in this article.</p> <p>Nonetheless, it might be useful to specify the rules for handling instant settlement that will apply to the digital euro, following the example of what will apply to instant credit transfers in euro, in particular paragraphs 2, 3 and 4 of Article 5a of the Council's general approach on the regulation of instant transfers. In any event, the rules on value dates and time of receipt will have to be</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	specified in the text.
<p>2. Final settlement of online digital euro payment transactions shall occur at the moment of recording the transfer of the digital euros concerned from the payer to the payee in the digital euro settlement infrastructure approved by the Eurosystem.</p>	<p>SE: (Drafting): Final settlement of online digital euro payment transactions shall occur at the moment of recording the transfer of the digital euros concerned from the payer to the payee in the digital euro settlement infrastructure <b>provided</b> approved by the Eurosystem</p> <p>SE: (Comments): For clarification reasons.</p> <p>BE: (Drafting): 2. Final settlement of online digital euro payment transactions shall occur at the moment of recording the transfer of the digital euros concerned from the payer to the payee in the digital euro settlement infrastructure <b>approved by the Eurosystem.</b></p> <p>BE: (Comments): The term “digital euro settlement infrastructure” is defined in the definitions.</p>
<p>3. Final settlement of offline digital euro payment transactions shall occur at the moment when the records of the digital euro holdings</p>	<p>BE: (Drafting): 3. Final settlement of offline digital euro payment transactions shall occur at the moment</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
concerned in the local storage devices of the payer and payee are updated.	when the records of the digital euro holdings concerned in the local storage devices of <b>both</b> the payer and payee are updated.  BE: (Comments): Editorial drafting suggestion.
Article 31 Switching of digital euro payment accounts	
1. Payment service providers shall enable digital euro users at their request to switch their digital euro payment accounts to other payment service providers while maintaining the same account identifiers.	NL: (Comments): <u>NL Comment</u> : We support the proposal that users have to be able to switch from one digital euro payment service provider to the other while maintaining their account number (number portability). This makes a digital euro account more attractive for consumers.  LT: (Comments): The use of unique identifier to enable switching is a complex issue not worth the investment, as costs outweigh the benefits. Please see EC report, section 5.3. <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A249%3AFIN&amp;qid=1684164506665">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A249%3AFIN&amp;qid=1684164506665</a>  DE: (Comments):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>This differs from the language used in Art. 22 (3) (“unique digital payment account number”). Corresponding to the PSD2-wording we would prefer “unique account identifier” in both cases.</p> <p>If we understand the concept correctly, identifiers should only be used once. How can this be ensured in cases of a migration?</p> <p>FR: (Comments): While we agree that such switching is desirable, particularly for competition reasons, we would welcome the ECB and Eurosystem's opinion on the technical feasibility of switching digital euro accounts, and on the cost implications for PSPs.</p> <p>In addition, the Commission's opinion would be welcome on the relationship between this obligation and that of providing a switching service as set out in Articles 9 and 10 of the Payment Account Directive.</p>
<p>2. In exceptional circumstances where a payment service provider is operationally not in a position to provide digital euro payment services to digital euro users for a prolonged period of time, or has lost the digital euro payment account-related data concerned, the</p>	<p>SE: (Comments): Difficult to understand how the ECB can provide switching without having access to personal data (Art 35(4)), a clarification would be beneficial</p> <p>SI: (Comments): The bolded sentence is unclear to us as it does not clearly define what is meant by exceptional circumstances and a prolonged period of time.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>European Central Bank and national central banks may authorise the switching of digital euro payment accounts held with that payment service provider to another payment service provider designated by the digital euro user. That switching shall enable the new payment service provider to complete the switching without relying on the unavailable payment service provider.</p>	<p>IT: (Comments): <b>IT</b> - We suggest, for reasons of legal certainty and therefore of legal risk mitigation, to clarify in the recitals by way of examples the concept of “exceptional circumstances” to which this provision makes reference.</p> <p>FI: (Comments): We request a more detailed description of exceptional circumstances as it might have some implications on Finnish Contingency Laws</p> <p>DE: (Comments): We are sceptical of this emergency mechanism and reserve our position on whether we support it until we better understand the implications.</p> <p>In particular, we would like to understand how such mechanism would operate exactly, including the data that the ECB would have access to.</p> <p>Please also clarify how the lost data can be retrieved since for example according to Art. 34 (4) payment providers “<i>shall ...ensure that any data communicated to the European Central Bank and the national central banks or to providers of support services do not directly identify individual digital euro users</i>”. On which basis could the ECB process which kind of data for the emergency procedure?</p> <p>BE:</p>



**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting):</p> <p>2. In exceptional circumstances where a payment service provider is operationally not in a position to provide digital euro payment services to digital euro users for a prolonged period of time, or has lost the digital euro payment account-related data concerned, the European Central Bank and national central banks may authorise the switching of digital euro payment accounts held with that payment service provider to another payment service provider designated by <b>the each</b> digital euro user. That switching shall enable the new payment service provider to complete the switching without relying on the unavailable payment service provider.</p> <p>BE:</p> <p>(Comments): Editorial drafting suggestion. Furthermore, some reflection may be required on cases where access to digital euro holdings is definitively lost, e.g. if both the secure device and the related keys are lost in addition to operational problems on the PSP side. In such cases, digital euro holdings may not be recoverable through the single access point, as currently envisaged.</p> <p>PT:</p> <p>(Comments): The proposed approach raises some concerns regarding how this option prevents the access by the ECB and national central banks to a significant amount of personal data. In addition, it should be clarified how the ECB and national central banks will be able to authorize this access, e.g. at the request of the PSP or the digital euro user, and in what exact circumstances (e.g. what is to be considered a prolonged period of time).</p> <p>FR:</p> <p>(Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	The liability framework between the PSP and the PSU should be specified in the configuration described here.
<p>Article 32</p> <p>General fraud detection and prevention mechanism</p>	<p>NL: (Comments): <u>NL Comment</u>: Do we understand correctly that the proposal assumes monitoring of online digital euro transactions by the ECB for the purpose of preventing fraud and money laundering <u>after</u> the transaction has been executed and settled, and is not based on prior validation of transactions by the ECB?</p> <p>DE: (Comments): See our comment on recital 68.</p> <p>Regarding this Article, we kindly ask to have a dedicated session where the Commission and the ECB could explain the plans for fraud prevention in more detail, including – importantly – the underlying technology considerations. The text in the proposal almost reads as if this could lead to the pooling of payment data in a large database; this is something we need to better understand.</p> <p>EE: (Comments): EE: As a prerequisite for the smooth and efficient operation of digital euro, we support the creation and management of a general fraud detection and prevention mechanism.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>1. The European Central Bank may facilitate the fraud detection and prevention tasks that payment service providers shall perform under Directive 2015/2366 by establishing a general fraud detection and prevention mechanism for online digital euro transactions to ensure the smooth and efficient functioning of the digital euro. That general fraud detection and prevention mechanism may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</p>	<p>SE: (Comments): Such a service seems necessary for a trustworthy and well functioning digital euro, is it correct that it is optional for the ECB to provide?</p> <p>NL: (Comments): <u>NL Questions</u>: What is the ECB's intention here and which procedures/governance would apply to the establishment of such fraud detection and prevention mechanism or the selection of service providers? Also, is 'may facilitate' a strong enough legal basis to legitimise the processing of large amounts of personal data by the ECB?</p> <p>This mechanism is for the monitoring of online payments. Is our assumption correct that for offline payments, one relies on national powers of the prosecutor under criminal law in relation to private mobile devices, since transaction data will not be stored anywhere except in the private device of the user? Please also refer to our comment to recital 68 above.</p> <p>LT: (Comments): It is highly preferable that the general fraud detection and prevention mechanism is operated by ECB itself to make sure the goal of high consumer protection in fraud prevention is reached as well as to minimize the risks of data breach. <b>Fraud prevention is seen as an essential element in maintaining trust in the single currency</b>, however, so far there are only general inconclusive statements regarding fraud prevention. More clarity is needed.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Drafting): 1. <del>The European Central Bank may facilitate the fraud detection and prevention tasks that payment service providers shall perform under Directive 2015/2366 by establishing a general fraud detection and prevention mechanism for online digital euro transactions to ensure the smooth and efficient functioning of the digital euro. That general fraud detection and prevention mechanism may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</del></p> <p>BE: (Comments): While agreeing with a possible involvement of the Eurosystem in the provision of a fraud detection and prevention mechanism, this possibility for the Eurosystem directly stems from its competences pursuant to the Treaties and should not be repeated here. The references contained in Recital 68 are sufficient in this respect.</p> <p>PT: (Drafting): 1. The European Central Bank <del>shall</del> <b>may</b> facilitate the fraud detection and prevention tasks that payment service providers shall perform under Directive 2015/2366 by establishing a general fraud detection and prevention mechanism for online digital euro transactions to ensure the smooth and efficient functioning of the digital euro. That general fraud detection and prevention mechanism may be operated directly by the European Central Bank or by the providers of support services designated by the European Central Bank.</p> <p>PT:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): In our opinion, the characteristics of the digital euro justify a more significant level of commitment, particularly in the development of specific mechanisms that enable the detection and prevention of fraud, taking into account the proposed distribution model.</p> <p>FR: (Comments): Under the current framework provided by the Payment Services Directive, fraud management and prevention mechanisms are the responsibility of PSPs, both technically and operationally, and in terms of liability.</p> <p>We question the appropriateness of placing the ECB at the centre of a fraud detection mechanism in this sense: while it would seem interesting for it to act as a platform for exchanging practices, and even to issue recommendations on fraud management specific to the digital euro, the operation of a fraud detection mechanism directly by the ECB raises the question of its mandate, its operational capacity to do so and the related liability framework. For instance, what would be the liability regime in the PSU, PSP and ECB triangle in the event of the mechanism failing? In the case of a fraud affecting a PSU, could the ECB be held liable instead of a PSP, even in the absence of contractual relationship with PSU? The views of the Commission, the ECB and the Eurosystem would be welcome on the need, desirability and feasibility of such a regime.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>2. The European Central Bank shall consult the European Data Protection Supervisor prior to developing the details on the operational elements of the fraud detection and prevention mechanism.</p>	<p>BE: (Drafting): <del>2. The European Central Bank shall consult the European Data Protection Supervisor prior to developing the details on the operational elements of the fraud detection and prevention mechanism.</del></p> <p>BE: (Comments): If this is considered essential, it would be sufficient to mention it in the Recitals.</p>
<p>3. The fraud detection and prevention mechanism shall:</p>	<p>LT: (Comments): (a) and (b) – is “both...and” or “either”, not clear. Consider defining goals to be achieved with this mechanism rather than measures to be taken.</p> <p>BE: (Drafting): <del>3. The fraud detection and prevention mechanism shall:</del></p> <p>BE: (Comments): Same comment.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
(a) assess the exposure to fraud risk of online digital euro transactions in real-time at the exclusive use of payment service providers before the transaction is introduced into the digital euro settlement infrastructure;	<p>NL: (Comments): <u>NL Comment</u>: How does the added benefit of real-time monitoring compare to the operational costs and privacy considerations? PSPs do not monitor real-time transaction information for fraud prevention purposes. Article 83 of the PSR proposal reads: “The monitoring mechanisms shall be based on the analysis of <i>previous</i> payment transactions and access to payment accounts online.” (italics added)</p> <p>BE: (Drafting): <b>(a) — assess the exposure to fraud risk of online digital euro transactions in real-time at the exclusive use of payment service providers before the transaction is introduced into the digital euro settlement infrastructure;</b></p>
(b) support payment service providers in detecting fraudulent transactions in online digital euro payment transactions that have been settled.	<p>LT: (Comments): What about offline digital euro transactions? It is not clear how payment service users would be protected against fraud in offline transactions? There is risk that fraudsters might turn to offline transactions to avoid fraudulent transactions being blocked.</p> <p>BE: (Drafting): <b>(b) — support payment service providers in detecting fraudulent transactions in online</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<del>digital euro payment transactions that have been settled.</del>
<p>4. For the purpose of this Article, payment service providers shall provide the fraud detection and prevention mechanism with information referred to in Annex 5. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the support service shall not be able to directly identify the digital euro users on the basis of the information provided to the fraud detection and prevention mechanism.</p>	<p>PL: (Drafting): PL: 4. For the purpose of this Article, payment service providers shall provide the fraud detection and prevention mechanism with information referred to in Annex V. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the support service shall not be able to directly identify the digital euro users on the basis of the information provided to the fraud detection and prevention mechanism.</p> <p>PL: (Comments): PL: Re-drafting. Technical</p> <p>DE: (Drafting): 4. For the purpose of this Article, payment service providers shall provide the fraud detection and prevention mechanism with information referred to in Annex 5. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the support service shall not be able to directly identify the digital euro users on the basis of the information provided to the fraud detection and prevention mechanism. <b><u>In case of no suspicious transacions the data used for the fraud detection and prevention have to be deleted immediately.</u></b></p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>DE: (Comments): See our comment on recital 68.</p> <p>BE: (Drafting): 4. <del>For the purpose of this Article,</del> <b>If the Eurosystem establishes a general fraud detection and prevention mechanism for online digital euro transactions</b>, payment service providers shall provide the fraud detection and prevention mechanism with information referred to in Annex <del>5V</del>. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that <b>the European Central Bank and the national central banks or the providers of support services</b> shall not be able to directly identify the digital euro users on the basis of the information provided to the fraud detection and prevention mechanism.</p> <p>BE: (Comments): Editorial drafting suggestions, also in view of our previous comment.</p> <p>FR: (Comments): This article should also specify that payment service providers will be ultimately responsible for fraud detection and prevention, as the general fraud detection and prevention mechanism that may be operated by the ECB (or by the providers delegated by the ECB) will only serve to support PSP's fraud detection and prevention tools.</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>Article 33</p> <p>Fair, reasonable and non-discriminatory access to mobile devices</p>	<p>FI:</p> <p>(Comments):</p> <p>We consider it important that regulation regarding mobile device technology promotes the principles of a competitive and entrepreneur-friendly open market economy, where individual actors as gatekeepers cannot prevent the development of both private and public innovations on the hardware and software platforms.</p>
<p>1. Without prejudice to Article 6 paragraph (7) of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828, original equipment manufacturers of mobile devices and providers of electronic</p>	<p>SE:</p> <p>(Comments):</p> <p>Regulation 2022/1925 is based on Art 114 TFEU (the establishment and functioning of the internal market). The digital euro proposal is based on Art 133 TFEU (the use of the euro as the single currency).</p> <p>It might be considered if the application of this article might be useful also for non-euro area Member States from an internal market perspective.</p> <p>CZ:</p> <p>(Comments):</p> <p>We should discuss this provision in detail in WP. We have some doubts that this provision is proportionate and really necessary to adopt. At least, persons mentioned in para 2 shall have more possibilities to deny or restrict access than as suggested now.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>communication services within the meaning of Article 2 (1) Directive (EU) 2018/1972<sup>41</sup> shall allow providers of front end services and providers of European Digital Identity Wallets effective interoperability with, and access for the purposes of interoperability to, the hardware features and software features necessary for storing and transferring data to process online or offline digital euro transactions, on fair, reasonable and non-discriminatory terms.</p>	<p>FI: (Drafting): 1. Without prejudice to Article 6 paragraph (7) of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828, original equipment manufacturers of mobile devices and providers of electronic communication services within the meaning of Article 2 (1) Directive (EU) 2018/1972<sup>42</sup> shall allow providers of front end services and providers of European Digital Identity Wallets effective interoperability with, and access for the purposes of interoperability to, the hardware features and software features necessary for storing and transferring data to process <b>both</b> online <del>or</del> <b>and</b> offline digital euro transactions, on fair, reasonable and non-discriminatory terms.</p> <p>FI: (Comments): Does this also open the hard- and software interfaces for private means of payments, such as private instant payment applications?</p>
2. Original equipment manufacturers of	

<sup>41</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018, establishing the European Electronic Communications Code, OJ L 17.12.2018, p. 36.

<sup>42</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018, establishing the European Electronic Communications Code, OJ L 17.12.2018, p. 36.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
mobile devices and providers of electronic communication services referred to in paragraph 1 shall not be prevented from taking strictly necessary and proportionate measures to ensure that interoperability does not compromise the integrity of the hardware and software features concerned by the interoperability obligation provided that such measures are duly justified.	
3. For the purpose of applying fair, reasonable and non-discriminatory terms pursuant to paragraph 1, original equipment manufacturers of mobile devices and providers of electronic communication services referred to in paragraph 1 shall publish general conditions of effective interoperability and access. Such general conditions shall include a European Union-based alternative dispute settlement	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
mechanism. The dispute settlement mechanism shall be without prejudice to the right to seek redress before judicial authorities in accordance with Union and national law.	
CHAPTER VIII PRIVACY AND DATA PROTECTION	<p>NL: (Comments): <u>NL Comment:</u> We thank the Commission for including extensive privacy and data protection measures in the proposal, as also requested by the Eurogroup. We think this is necessary in order for society to embrace the digital euro. Strong privacy and data protection could even be a selling point for the digital euro. The parts on privacy and data protection should be further discussed in the working parties.</p> <p>LT: (Comments): Articles 34-36 of the draft Regulation indicate that payment service providers, the European Central Bank, national banks and support service providers perform a task in the public interest when processing certain personal data. Recital (12) of the draft Regulation set forth, that „&lt;...<i>Any personal data processing under the present Regulation must comply with Regulation (EU) 2016/679...</i>&gt;“. Part 3 of Article 6 of Regulation (EU) 2016/679 stipulates, that “&lt;<i>The basis for the processing referred to in point (c) and (e) of paragraph 1 shall be laid down by: (a)Union law; or (b) Member State law to which the controller is subject.</i>&gt; <i>The purpose of the processing shall be determined in that legal basis or, as regards the</i></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p><i>processing referred to in point (e) of paragraph 1, shall be necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. That legal basis may contain <u>specific provisions to adapt the application of rules of this Regulation, inter alia: the general conditions governing the lawfulness of processing by the controller; the types of data which are subject to the processing; the data subjects concerned; the entities to, and the purposes for which, the personal data may be disclosed; the purpose limitation; storage periods; and processing operations and processing procedures...</u> The Union or the Member State law shall meet an objective of public interest and be proportionate to the legitimate aim pursued&gt;”.</i></p> <p>It should be noted that articles 34-36 of the draft Regulation do not contain all the provisions listed in part 3 of Article 6 of the Regulation (EU) 2016/679 and which reveal the content of the application of public interest as a legal basis/purpose. When applying public interest for personal data processing very often the question of its content arises when neither EU, nor national law stipulates for example the entities to, and the purposes for which, the personal data may be disclosed, the purpose limitation, storage periods.</p> <p>The proposal would be to provide for these provisions in the draft Regulation or to stipulate that member states are entitled to determine above mentioned provisions in national law in accordance with Article 6 of the GDPR. 3 d.</p> <p>DE: (Comments): We reserve further comments on all the proposals in this chapter, which we will share once we have finalized our political view on the proposed rules on privacy and AML.</p> <p>That said, we overall welcome that the Proposal dedicates a chapter to privacy and data protection.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>We would like to point out a more general observation that we ma DE:</p> <p>This Chapter and its Annexes seem to treat user identifier and user alias as personal data. However, we would like point to the fact that, according to Article 2, user identifier and user alias can also be established for legal persons. Consequently, there might be overlaps and complex legal constellations regarding legal persons to whom Chapter VIII as a whole would – in our understanding – not apply. We believe that further examination is necessary regarding this issue.</p> <p>FR: (Comments): <u>It seems necessary to provide for robust and hollistic data management within the framework of this Regulation, given the importance of this subject for the public and the RGPD framework that already applies to it. Indeed, confidence in money depends on respect for privacy and proper management of user data.</u></p> <p>Besides Chapter VIII about Privacy and data protection (articles 34, 35, and 36), many articles and recitals refer, directly or indirectly, to personal data processing (notably Articles 5, 25, 28, 29, 32, 37). <u>A single set of articles dedicated to data management would therefore be more appropriate. The provision by the ECB and the Eurosystem of additional information on the data to be managed for digital euro payments, in particular on the difference between this data and that traditionally used for electronic payments, would be highly appreciated.</u></p> <p>Furthermore, some particular aspects of the legislative proposal raise specific questions: - The legislative proposal frequently mentions the introduction of security features to prevent the ECB or providers of support services from directly identifying digital euro users. Can the Commission and the Eurosystem specify, on the one hand, the concrete form (plain text,</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>aggregated data, pseudonymity...) of the data transmitted by PSPs to these parties and, on the other hand, the technological solutions that could be used to guarantee their confidentiality? To what extent should the concrete form of data transmitted between players and the technologies used be specified in the regulation? In addition, we wonder about the legal effects of the obligation to provide for "state-of-the-art security and privacy-preserving measures".</p> <ul style="list-style-type: none"> <li>- Can the Commission clarify the difference between the "user identifier" and the "user alias" respectively defined by art. 2-27 and 2-28? Can the Commission clarify the practical use of these two elements, especially the "user alias" which is not mentioned anywhere in the rest of the draft regulation?</li> <li>- Article 35-1-c) authorizes the ECB to process personal data for "safeguarding the security and integrity of the digital euro settlement infrastructure and of local storage devices", without Annex V explicitly specifying the data this involves. Can the Commission specify the situations which call for such action by the ECB, and the data to which it would have access in this context?</li> <li>- Art. 37-3 allows PSPs to "make available" data of funding and defunding of digital euros offline accounts to the Financial Intelligence Unit and to competent AML/CFT authorities. Can the Commission specify the conditions under which this type of request will be accepted, and the practical modalities of this data transmission?</li> <li>- Articles 16-4, 16-6, 37-8 and Recital 39 mention the introduction of a single digital euro holding limits applying to every account hosted by different PSPs, irrespective of whether they are offline or online. Can the Commission specify how data on the amount of digital euros held by users will be processed, which players will have access to it, and in what form, especially within the framework of the potential "single access point" governed by article 37 and mentioned in recital 25 and 77?</li> </ul>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>Article 34</p> <p>Processing by payment service providers</p>	<p>AT:</p> <p>(Comments):</p> <p>AT: It could be doubted whether the <b>processing of personal data</b> by payment service providers constitutes a “<b>task in the public interest</b>” (Article 6 para 1 item e of the General Data Protection Regulation (GDPR). Pursuant to Article 13 (6) of this legal proposal, digital euro users have to conclude a contract with at least one PSP and PSPs are legally obliged to perform certain tasks including the processing of personal data as defined in several legal acts and listed in Article 34. Hence, we believe that the legal bases for the processing of data by PSPs can only be Article 6 para 1 item b (performance of a contract) and item c (compliance with a legal obligation) GDPR. As a consequence, the right to object (Article 21 GDPR) would not apply. We ask for clarification on this matter.</p>
<p>1. Payment service providers perform a task in the public interest where they process personal data for the following purposes:</p>	<p>NL:</p> <p>(Comments):</p> <p><u>NL Comment:</u> This is a curious way of phrasing the grounds of processing, is this a direct reference to art. 6 (1) (e)? Shouldn't the grounds for PSP's come from legal obligation (c)? Besides, there will be a client relationship between the PSP and the user. All of this should not be contradictory.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>DE: (Drafting): 1. <b><u>The processing of personal data by p</u>Payment service providers <u>for the following purposes is necessary to</u> perform a task in the public interest <del>where they process personal data for the following purposes:</del></b></p> <p>DE: (Comments): This is more of an editorial amendment: Article 6(3) of the GDPR requires that the processing is <u>necessary</u> for the performance of a task in the public interest.</p> <p>BE: (Drafting): 1. Payment service providers <del>perform a task in the public interest</del> <b>comply with a legal obligation</b>, where they process personal data <b>as controllers</b> for the following purposes:</p> <p>BE: (Comments): See our comment to Recital 73: one should avoid qualifying the data processing activities of PSPs with regards to the digital euro as tasks that are performed in the public interest. It suffices to consider these data processing activities as lawful since they are necessary to comply with a legal obligation to which they are subject as controllers.</p>
(a) the enforcement of limits, including the	PL:

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
verification of whether prospective or existing digital euro users have digital euro accounts with another PSP, as referred to in Article 16;	<p>(Drafting): PL: (a) the enforcement of limits, including the verification of whether prospective or existing digital euro users have digital euro accounts with another payment service provider, as referred to in Article 16;</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p>
(b) funding and defunding as referred to in Article 13 (2) and (3), and digital euro payment transactions as referred to in Article 13(4);	
(c) the provision of offline digital euro, including the registration and de-registration of the local storage devices as referred to in letter (b) of Annex I;	<p>DE: (Comments): Could the Commission please explain why/for what purpose the registration and de-registration of the local storage devices are necessary?</p> <p>PT: (Comments): It is not clear whether PSPs should report this information to national competent authorities, for instance. Furthermore, letter (b) of Annex I does not refer to local storage devices.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
(d) compliance with Union sanctions as referred to in Article 29;	NL: (Comments): <u>NL Comment:</u> We have serious concerns whether the data listed in Annex III will be sufficient for PSP's to ensure compliance with Union sanctions. How would this work in practice? As far as we are aware, PSPs currently need much more transaction information in order to ensure compliance. What were the Commission's considerations here in terms of privacy versus the effective application of other objectives?
(e) the obligations of payment service providers under Directive (EU) 2015/2366 related to the execution of transactions and the prevention and detection of fraud, combatting money laundering and terrorist financing under Directive (EU) 2015/849, taxation compliance under Council Directive 2006/112/EC, Directive (EU) 2011/16/EU and relevant national law, the management of operational and security risks	NL: (Comments): <u>NL Comment:</u> Please refer to our comment to the previous subparagraph.  FI: (Drafting): (e) the obligations of payment service providers under Directive (EU) 2015/2366 related to the execution of transactions and the prevention and detection of fraud, combatting money laundering and terrorist financing under Directive (EU) 2015/849, taxation compliance under Council Directive 2006/112/EC, Directive (EU) 2011/16/EU and relevant <b>obligations national law</b> , the management of operational and security risks under Regulation (EU) 2022/2554 and obligations under Directive (EU) 2014/92/EU, in so far as they concern the digital euro.

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
under Regulation (EU) 2022/2554 and obligations under Directive (EU) 2014/92/EU, in so far as they concern the digital euro.	FI: (Comments): Taxation is also based on bilateral tax treaties, so we prefer more uniform approach which would be in line with the recital 73.
For the provision of offline digital euro, the processing of personal data by payment service providers is limited to funding and defunding in accordance with Article 37 paragraphs 3, 4 and 5.	
2. For the purposes referred to in paragraph 1 (a) to (c), of this Article, Annex III lays down the types of personal data.	AT: (Comments): AT: We ask for a clarification of this provision as its meaning is not entirely clear.  BE: (Drafting): 2. For the purposes referred to in paragraph 1 (a) to (c), of this Article, Annex III lays down the types of personal data <b>that payment service providers are allowed to process</b> .  BE: (Comments):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	Editorial drafting suggestion.
<p>3. The Commission is empowered to adopt delegated acts in accordance with Article 38 to update the types of personal data listed in Annex III.</p>	<p>NL: (Comments): <u>NL Question</u>: Article 290 TFEU and ECJ case law requires a choice between the power to “supplement” or “amend”. What is intended here? The wording “to update” is unclear in this context. Furthermore, should the EDPB be consulted?</p> <p>DE: (Drafting): <b><del>3. — The Commission is empowered to adopt delegated acts in accordance with Article 38 to update the types of personal data listed in Annex III.</del></b></p> <p>DE: (Comments): Given that the detailed description of the types of personal data in the Annexes it essential to answering the question what data can be legally processed we consider the content of the Annexes of great importance and therefore remain sceptical whether delegated acts are an appropriate tool for deciding on this fundamental issue.</p> <p>We would like to better understand why the Commission considers it necessary to retain this flexibility. If the explanation is that later adjustments might be necessary in view of the exact technical implementation developed by the ECB, we would argue that the question on which</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	data can be processed by whom for which purposes is so essential that it should be conclusively addressed in this Regulation. If a change / development in technical design is so fundamental that other/more data is needed, the decision for such technical design should be discussed with co-legislators (e.g. by amending this Regulation).
<p>Payment service providers shall be considered to be the controllers of personal data as regards the purposes referred to in paragraph 1 of this Article. Where a digital euro payment account held by one payment service provider is linked with a non-digital euro payment account held by another payment service provider in accordance with Article 13(4), these payment service providers shall be joint controllers.</p>	<p>AT: (Comments): AT: The transfer of money implementing the (reverse) waterfall approach as a pure monetary service necessarily requires the exchange of (personal) data. However, both payment service providers only exchange personal data for the performance of these monetary services. However, in general, they do not decide jointly on the purposes and means of the processing of personal data. Presumably, the technical interface needs to be designed and agreed on by the interacting PSPs but on the purposes and means of the processing of personal data each payment service provider presumably will decide on its own. Interacting stakeholders in a networked digital economy are not necessarily joint controllers in the sense of the General Data Protection Regulation (GDPR). <b>Hence, the scenario seems to constitute a situation of separate controllers (instead of joint controllers).</b> Consequently, <b>Article 34 para 3 sentence 2 should be deleted</b> to enable an individual legal assessment for individual situations of processing personal data.</p> <p>IE: (Comments): Article 34.3 states that when a non-digital euro account is linked with a digital euro account the</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	two payment service providers will be considered to be joint controllers of personal data. This may not be an accurate reflection of the reality. The two parties will be independent commercial entities and may not be engaging in any joint enterprise: it would be more appropriate to regard them as two independent controllers of personal data. Joint controllership has also certain consequences from a data protection perspective.
<p>4. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that any data communicated to the European Central Bank and the national central banks or to providers of support services do not directly identify individual digital euro users.</p>	<p>SE: (Comments): Would be beneficial with a clarification of what “directly” means in “do not directly identify individual digital euro users”</p> <p>NL: (Comments): <u>NL Comment</u>: For the Netherlands, privacy of digital euro users, by design and by default, is very important. We welcome the proposal of the Commission that technical and organizational measures have to be in place, including state-of-the-art security and privacy measures to protect the (personal) data that the ECB or national central banks receive for the performance of their tasks. However, we have questions about the divisions of roles between the payment service providers and the Eurosystem with regard to such measures.</p> <p>LT: (Comments): Is it consistent with Article 32 General fraud detection and prevention mechanism? How could ECB and NCBs ensure inter-bank fraud prevention service? Could the highest level of such</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>service be preserved?                      Could there be an exception applied in relation to AML/CFT reasons to process personal information?                      FYI, from GDPR perspective any privacy preserving measures applied to personal data is still considered personal data.</p> <p>AT:                      (Comments):                      AT: The reference to “<b>support services</b>” does not state, if only support services in the sense of this legislative proposal shall be covered or if any support services (like e.g. data processors pursuant to Article 28 GDPR) shall be covered. <b>We therefore ask for clarification of the reference.</b></p> <p>DE:                      (Drafting):                      4. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that any <b>personal</b> data <del>communicated</del> <b>transferred</b> to the European Central Bank and the national central banks or to providers of support services do not <b>directly</b> identify individual digital euro users.</p> <p>DE:                      (Comments):                      What would such privacy-preserving measures be? Could the Commission give some examples?</p> <p>As this provision also contains the possibility of transferring personal data to providers of support services, wouldn't those qualify as processors? (Please see our comments regarding</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>Art. 36).</p> <p>Lastly, we are very sceptical about the requirement that users should not be identified “directly”. We do not see to what extent it offers any protection to data subjects if indirect identification (whatever that would imply) would remain possible without any limitations or difficulties.</p> <p>BE: (Drafting): 4. Payment service providers shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that any data communicated to the European Central Bank and the national central banks or to providers of support services do not <b>allow them to directly or indirectly</b> identify individual digital euro users.</p> <p>BE: (Comments): In our opinion, the Eurosystem should also not be able to indirectly identify digital euro users based on data communicated by PSPs in order to avoid application of GDPR.</p>
<p>Article 35</p> <p>Processing of personal data by the European Central Bank and the national central banks</p>	<p>NL: (Comments): <u>NL Comment</u>: We support the proposal that the ECB and national central banks will not have access to data that can be traced back to individual users. We do have our doubts on whether the data the Eurosystem will receive really cannot be qualified as personal data as well. This should be further investigated. Furthermore, we were wondering how this works in the event of a</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>criminal investigation into the digital euro user. What information can the ECB provide to the public authorities?</p> <p>CY: (Comments): It is extremely important to ensure balance between privacy concerns and the enforcement of holding limits and anti-money laundering rules.</p>
<p>1. The European Central Bank and the national central banks perform a task in the public interest or exercise official authority where they process personal data for the following purposes:</p>	<p>LT: (Comments): Is this consistent with Article 34 (4)?</p> <p>DE: (Drafting): 1. The <b>processing of personal data for the following purposes by the</b> European Central Bank and the national central banks <b>is necessary to</b> perform a task in the public interest or exercise official authority <del>where they process personal data for the following purposes:</del></p> <p>DE: (Comments): See our above comment on Article 34 (1).</p> <p>BE: (Drafting): 1. The European Central Bank and the national central banks perform a task in the public</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>interest or exercise official authority <b>where</b> if they <b>were to</b> process personal data for the following purposes:</p> <p>BE: (Comments): The Regulation is thus drafted that the Eurosystem would often not have access to digital euro users' personal data and would thus not process those data as a controller or processor under GDPR. Nonetheless, the current provision would still be useful since it cannot be entirely excluded that some processing of personal data may take place (e.g. dependent on certain design decisions to be taken by the Eurosystem).</p>
<p>(a) provision of access for payment service providers to the digital euro settlement infrastructure and support the exchange of messages between payment service providers;</p>	<p>BE: (Drafting): (a) provision of access for payment service providers to the digital euro settlement infrastructure and supporting the exchange of messages between payment service providers;</p> <p>BE: (Comments): Editorial drafting suggestion.</p>
<p>(b) settlement of online digital euro payment</p>	<p>BE:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
transactions;	(Drafting): (b) <b>issuance and withdrawal of digital euros and</b> settlement of online digital euro payment transactions;  BE: (Comments): Proposal to more completely describe the tasks of the Eurosystem, even though none of these activities may entail the processing of personal data by the Eurosystem.
(c) safeguarding the security and integrity of the digital euro settlement infrastructure and of local storage devices;	
(d) supporting verification by payment service providers of whether a prospective user already has digital euro payment accounts with other payment service providers in order to prevent the circumvention of limits in accordance with Article 16;	SE: (Comments): Seems to require access to personal data, would be beneficial with a clarification in relation to Art 35(4)  DE: (Comments): Could the Commission please explain the exact role that the ECB plays in this context and why it is necessary that the ECB be involved with this issue.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	Please also see our comments at Articles 13 (7) and 16 (6).
<p>(e) in exceptional circumstances as defined in Article 31 (2), authorising payment service providers in switching digital euro payment accounts held with a payment services provider to another payment service providers designated by the digital euro user.</p>	<p>PL: (Drafting): PL: (e) in exceptional circumstances as defined in Article 31 (2), authorising payment service providers in switching digital euro payment accounts held with a payment service provider to another payment service providers designated by the digital euro user.</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>DE: (Comments): With regard to the emergency procedure: Has the Commission thought about possible alignments of notifications under the GDPR and the procedures under this Regulation (single entry points etc.)?</p> <p>BE: (Drafting): (e) in exceptional circumstances as defined in Article 31 (2), authorising payment service providers in switching digital euro payment accounts held with a payment services provider to another payment service providers designated by the digital euro user.</p> <p>BE:</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	(Comments): Editorial drafting suggestions.
2. For the purposes referred to in paragraph 1, Annex IV lays down the types of personal data.	BE: (Drafting): 2. For the purposes referred to in paragraph 1, Annex IV lays down the types of personal data <b>that the European Central Bank and the national central banks may process.</b>  BE: (Comments): Editorial drafting suggestion.
3. The Commission is empowered to adopt delegated acts in accordance with Article 38 to update the types of personal data listed in Annex IV.	NL: (Comments): <u>NL Question</u> : Article 290 TFEU and ECJ case law requires a choice between the power to “supplement” or “amend”. What is intended here? The wording “to update” is unclear in this context. Furthermore, should the EDPB be consulted?  DE: (Comments): (Cf. our comment on Article 34 (3)) Given that the detailed description of the types of personal data in the Annexes is essential to answering the question what data can be legally processed we consider the content of the Annexes of great importance and therefore remain sceptical whether

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>delegated acts are an appropriate tool for deciding on this fundamental issue.</p> <p>We would like to better understand why the Commission considers it necessary to retain this flexibility. If the explanation is that later adjustments might be necessary in view of the exact technical implementation developed by the ECB, we would argue that the question on which data can be processed by whom for which purposes is so essential that it should be conclusively addressed in this Regulation. If a change / development in technical design is so fundamental that other/more data is needed, the decision for such technical design should be discussed with co-legislators (e.g. by amending this Regulation).</p>
<p>4. Personal data processed for tasks referred to in paragraph 1 shall be supported by appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures. This shall include the clear segregation of personal data to ensure that the European Central Bank and the national central banks cannot directly identify individual digital euro users.</p>	<p>SE: (Comments): Would be beneficial with a clarification of what “directly” means in “cannot directly identify individual digital euro users”</p> <p>NL: (Comments): <u>NL Comment</u>: We support the proposal that the ECB and national central banks will not have access to data that can be traced back to individual users. We do have our doubts on whether the data the Eurosystem will receive really cannot be qualified as personal data as well. This should be further investigated.</p> <p>DE:</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting):                      4. Personal data processed for tasks referred to in paragraph 1 shall be <del>supported</del><b>safeguarded</b> by appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures. This shall include the clear segregation of personal data to ensure that the European Central Bank and the national central banks cannot <del>directly</del> identify individual digital euro users.</p> <p>DE:                      (Comments):                      (“supported” seems an unusual wording – maybe typo?)</p> <p>Please see our comment regarding Article 34 (4).</p> <p>BE:                      (Drafting):                      4. <b>The European Central Bank and the national central banks Personal data processed for tasks referred to in paragraph 1 shall be supported by adopt and implement</b> appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures <b>when processing personal data for tasks referred to in paragraph 1</b>. This shall include the clear segregation of personal data to ensure that the European Central Bank and the national central banks cannot directly identify individual digital euro users.</p> <p>BE:                      (Comments):                      We wonder if this would entail that the Eurosystem would not have access to digital euro users’</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>personal data and would thus not process those data as a controller or processor under GDPR. This would in our opinion probably be the case if the Eurosystem were also not possible to indirectly identify individual digital euro users. In that case, many of the provisions on personal data processing by the Eurosystem would be without substance. Further reflection seems needed.</p>
<p>5. The European Central Bank shall be considered the controller of personal data under as regards to the purposes referred to in paragraphs 1 and 8 of this Article. When the European Central Bank carries out a task referred to in paragraphs 1 and 8 jointly with the national central banks, they shall be joint controllers for that task.</p>	<p>BE: (Drafting): 5. The European Central Bank shall be considered the controller <b>of when processing</b> personal data <del>under as regards to</del> <b>for</b> the purposes referred to in paragraphs 1 and 8 of this Article. When the European Central Bank carries out a task referred to in paragraphs 1 and 8 jointly with the national central banks, they shall be joint controllers for that task.</p> <p>BE: (Comments): Editorial drafting suggestions. See also our previous comment.</p>
<p>6. This Article is without prejudice to the processing of personal data involved in the performance of the other tasks and powers,</p>	<p>AT: (Comments): AT: Due to the fact that the entire article focuses on the ECB / national banks, we ask for more <b>legal clarity</b> by specifically addressing the processing of data by <b>non NCB-NCAs as well.</b></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
including for the supervision of credit institutions and the oversight of payment systems, of the European Central Bank and the national central banks.	<p>BE: (Drafting): 6. This Article is without prejudice to the processing of personal data involved in the performance of the other tasks and powers, <del>including for the supervision of credit institutions and the oversight of payment systems</del>, of the European Central Bank and the national central banks, <b>including, where relevant, the supervision of credit institutions and payment service providers and the oversight of payment systems.</b></p> <p>BE: (Comments): Editorial drafting suggestions. As such, we consider that this provision is not necessary and should actually be deleted. It would suffice to mention this in the Recitals.</p>
7. Where the European Central Bank decides not to confer tasks referred to in Articles 27 and 32 upon providers of support services, the European Central Bank may process the types of personal data referred to in Annex 5 subject to the requirements referred to in paragraph 4 of this Article.	<p>PL: (Drafting): PL: 7. Where the European Central Bank decides not to confer tasks referred to in Articles 27 and 32 upon providers of support services, the European Central Bank may process the types of personal data referred to in Annex <del>5</del> <u>V</u> subject to the requirements referred to in paragraph 4 of this Article.</p> <p>PL: (Comments): PL: Numbering convention aligned with the relevant Annex number. Technical, non-material.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>8. For purpose of supporting the task of payment service providers to enforce the holding limits in accordance to Article 16(1) and ensuring the emergency switching upon the request of the user in accordance with Article 31(2), the ECB may alone or jointly with national central banks establish a single access point of digital euro user identifiers and the related digital euro holding limits as referred to in point (4) of Annex 4. The European Central Bank shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be inferred from the information accessed via the single access point by entities other than payment service providers whose</p>	<p>NL: (Comments): <u>NL Comment:</u> For the Netherlands privacy of users, by design and by default, are very important. We welcome the proposal of the Commission that technical and organizational measures have to be in place, including state-of-the-art security and privacy measures to protect the (personal) data that the ECB or national central banks receive for the performance of their tasks. However, we have questions about the divisions of roles between the payment service providers and the Eurosystem with regard to such measures.</p> <p>PL: (Drafting): PL: 8. For purpose of supporting the task of payment service providers to enforce the holding limits in accordance to Article 16(1) and ensuring the emergency switching upon the request of the user in accordance with Article 31(2), the European Central Bank may alone or jointly with national central banks establish a single access point of digital euro user identifiers and the related digital euro holding limits as referred to in point (4) of Annex <b>4 IV</b>. The European Central Bank shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be inferred from the information accessed via the single access point by entities other than payment service providers whose customer or potential customer is the digital euro user.</p> <p>PL:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
customer or potential customer is the digital euro user.	<p>(Comments): PL: Numbering convention aligned with the relevant Annex number. Technical, non-material.</p> <p>LT: (Comments): Is this consistent with Article 34 (4)? How this requirement is enforced and monitored? Should some kind of accountability measures be applied to the ECB (e.g. public reporting, audit obligation, report to the European Data Protection Board)?</p> <p>IT: (Comments): <b>IT</b> – see our comment at art. 13(7): we propose to provide individuals/natural persons with the possibility of opening a single digital euro account with a single PSP, while leaving the possibility to open different accounts only to businesses/legal persons, for which a holding limit equal to zero could be envisaged. Therefore there would be no need to store the digital euro holding limits in the single access point of digital euro user identifiers.</p> <p>DE: (Comments): A single access point with all user identifiers could be a significant risk to privacy. We would therefore be grateful for further explanations as to who should have access to these data and what specific data should be included in the single access point alongside the user identifier, whether centralised, permanent storage is strictly necessary, and how the accuracy of these data could be ensured.</p> <p>Please also see our more comprehensive comments on recital (77).</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Drafting): 8. For <b>the</b> purpose of supporting the task of payment service providers to enforce the holding limits in accordance to Article 16(1) and ensuring the emergency switching upon the request of <del>the a digital euro</del> user in accordance with Article 31(2), the ECB may alone or jointly with national central banks establish a single access point of digital euro user identifiers and the related digital euro holding limits as referred to in point (4) of Annex 4. The European Central Bank <b>and the national central banks</b> shall <del>implement appropriate technical and organisational measures including state-of-the-art security and privacy preserving measures to ensure that the identity of individual digital euro users cannot be inferred from the information accessed via the single access point by entities other than payment service providers whose customer or potential customer is the digital euro user</del> ensure that only payment service providers can use the single access point and that they can only access and process information with regard to their own digital euro users and with regard to applicants with them for becoming a digital euro user.</p> <p>BE: (Comments): Editorial drafting suggestions.</p> <p>PT: (Drafting): 8. For purpose of supporting the task of payment service providers to enforce the holding limits in accordance to Article 16(1) and ensuring the emergency switching upon the request of the user in accordance with Article 31(2), the ECB <del>shall</del> <b>may</b> alone or jointly with national central banks establish a single access point of digital euro user identifiers and the related digital</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>euro holding limits as referred to in point (4) of Annex 4. The European Central Bank shall implement appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures to ensure that the identity of individual digital euro users cannot be inferred from the information accessed via the single access point by entities other than payment service providers whose customer or potential customer is the digital euro user.</p> <p>PT: (Comments): Please see our comments to Recital 25.</p>
<p>Article 36 Processing by providers of support services</p>	
<p>1. Where the European Central Bank decides to confer tasks referred to in Article 27 and 32 upon providers of support services, providers of support services shall provide payment-related services across PSPs. In such a situation, payment service providers perform a task in the public interest, where they process personal data for the following purposes:</p>	<p>NL: (Comments): NL Question: what are the respective roles of payments service providers read in conjunction with paragraph 5.</p> <p>PL: (Drafting): PL: 1. Where the European Central Bank decides to confer tasks referred to in Article 27 and 32 upon providers of support services, providers of support services shall provide payment-related services across payment service providers. In such a situation, payment service providers perform a task in the public interest, where they process personal data for the following</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>purposes:</p> <p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>DE: (Drafting): 1. Where the European Central Bank decides to confer tasks referred to in Article 27 and 32 upon providers of support services, providers of support services shall provide payment-related services across PSPs. In such a situation, <b>the processing of personal data for the following purposes by</b> payment service providers <b>are necessary to</b> perform a task in the public interest, <del>where they process personal data for the following purposes:</del></p> <p>DE: (Comments): As mentioned above, we wonder if providers of support services (PoSS) wouldn't rather qualify as processors – either in relation to the ECB, or (which seems more plausible at first glance) in relation to the PSPs themselves.</p> <p>We would like to point out, that in our understanding, this Article contains a legal basis for the PoSS themselves to process personal data. This Chapter, however, does not seem to provide for legal bases and clear purposes for the PSPs or the ECB <i>to transfer personal data to the PoSS</i>. (If, by contrary, the PoSS were processors for the PSPs (or for the ECB), such a legal basis would not be necessary.)</p> <p>BE:</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Drafting):</p> <p>1. <del>Where the European Central Bank decides to confer tasks referred to in Article 27 and 32 upon p</del>Providers of support services who perform tasks conferred upon them by the European Central Bank pursuant to Article 27 and 32, <del>providers of support services shall provide payment-related services across PSPs. In such a situation, payment service providers</del> perform a task in the public interest, where they process personal data for the following purposes:</p> <p>BE:</p> <p>(Comments): Editorial drafting suggestions.</p>
(a) supporting the prevention and detection of fraud across payment service providers in accordance with Article 32;	
(b) supporting the exchange of messages for the resolution of disputes in accordance with Article 27.	
2. For the purposes referred to in paragraph	NL:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
1, Annex V lays down the types of personal data.	<p>(Comments):  <u>NL Comment:</u> It is not clear to what extent the data that may be processed according to Annex V for the purpose of the ECB's general fraud detection and prevention mechanism is in line with the data that PSPs already process in the context of their fraud detection obligations under PSD2. The data that PSPs already process in that context do not necessarily have to correspond to the data mentioned in Annex V. Can this be clarified?</p> <p>BE:  (Drafting):  2. For the purposes referred to in paragraph 1, Annex V lays down the types of personal data <b>that providers of support services may process.</b></p> <p>BE:  (Comments):  Editorial drafting suggestion.</p>
3. The Commission is empowered to adopt delegated acts in accordance with Article 38 to update the types of personal data listed in Annex V.	<p>NL:  (Comments):  <u>NL Question:</u> Article 290 TFEU and ECJ case law requires a choice between the power to “supplement” or “amend”. What is intended here? The wording “to update” is unclear in this context. Furthermore, should the EDPB be consulted?</p>
4. The processing of personal data for the	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>purposes referred to in paragraph 1 shall only take place when appropriate technical and organisational measures including state-of-the-art security and privacy-preserving measures are implemented to ensure that the providers of support services cannot directly identify individual digital euro users.</p>	<p>BE: (Comments): It is not clear to us who is responsible for implementing these measures: the Eurosystem? The providers? Both?</p>
<p>5. The providers of support services shall be considered to be the controllers of personal data as regards the purposes referred to in paragraph 1 of this Article. This paragraph is without prejudice to the European Central Bank and the national central banks appointing the operators of any payment-related services across PSPs and auditing of the service performance level without processing any personal data.</p>	<p>NL: (Comments): <u>NL Comment</u>: Can the controllership indeed be transferred to agents of the Eurosystem, and is this desirable? Should the regulator not set clearer restrictions for data gathering and processing?</p> <p>PL: (Drafting): PL: 5. The providers of support services shall be considered to be the controllers of personal data as regards the purposes referred to in paragraph 1 of this Article. This paragraph is without prejudice to the European Central Bank and the national central banks appointing the operators of any payment-related services across payment service providers and auditing of the service performance level without processing any personal data.</p> <p>PL:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>(Comments): PL: Re-drafting proposals, technical, non-material</p> <p>BE: (Comments): The purpose and meaning of the second sentence is not clear to us. We may make further drafting suggestions at a later stage.</p>
<p>CHAPTER IX ANTI-MONEY LAUNDERING</p>	<p>CY: (Comments): Provisions of the regulation shall allow effective AML measures that prevent the use of a digital euro in illicit activities, while balancing this need with data privacy concerns.</p> <p>Consistency and compatibility between AML regulations for digital euro and existing AML regulations at national and international level, shall be ensured.</p> <p>Monitoring and reporting obligations and mechanisms for reporting unusual transactions shall be clarified.</p> <p>Cross-boarder AML – Given that the digital euro can be used across borders, it should be clarified how cross-border AML efforts will be coordinated and how information sharing among different countries' authorities will be facilitated.</p> <p>FI: (Comments):</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>We consider it important that regulation shall be risk-based and consistent with regulation of other payment solutions of similar risk levels.</p> <p>DE: (Comments): We reserve further comments on all the proposals in this chapter, which we will share once we have finalized our political view on the proposed rules on privacy and AML.</p>
<p>Article 37</p> <p>Anti-money laundering rules applying to offline digital euro payment transactions</p>	<p>NL: (Comments): <u>NL Comment:</u> We underline the importance that anti-money laundering rules should also apply to digital euro payment transactions. This requires a special regime, because the offline use of the digital euro should offer a high level of anonymity (i.e. the transactions are not visible to the PSPs and the Eurosystem but only to the party one transacts with).</p> <p>LT: (Comments): In the recital 75 stated that “<i>Offline digital euro payment transactions are payments that occur in close physical proximity (“face-to-face”). They have similarities with transactions in cash and should be treated in a similar way in terms of privacy</i>”, in our opinion it is not sufficiently explained and justified as to why these offline digital euro payment transactions shall be of higher privacy and why transaction data shall not be retained (Article 37(2) below). Currently private cash transactions are the basis for the so-called shadow economy, and due to their untraceable nature often used by criminals to hide the sources of funds and (or) fund movement. Excluding offline digital euro transaction data retention may therefore facilitate similar</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>illegitimate use of offline digital euro transactions. In our opinion, removing such exclusions for offline digital euro transactions would increase transparency and stability of the financial system.</p> <p>Also, digital euro offline payments should be fully compliant with the requirements for cash payments (<b>Directive (EU) 2015/849</b>). The additional safeguards ensuring AML / CFT objectives for the offline digital euro payments are also welcoming.</p> <p>IT: (Comments): IT – We fully understand the reasons underlying the choice to limit the retention of data to the funding and defunding of offline digital euro instruments and to prevent the collection of data related to the transactions, as a way to foster the use of the digital euro also by stressing the similarities with cash transactions.</p> <p>Nonetheless, we are aware, as remarked in the comment to recital 82, that offline digital euros, due to their digital nature, if not addressed by a proper framework of limits, could entail greater ML/TF risks than cash.</p> <p>As highlighted also by the FATF/GAFI (Report to the G20 Finance Ministers and Central Bank Governors on So-called Stablecoins, Annex B, p. 25 ss), the combination of anonymity, portability and mass-adoption of CBDCs would be highly attractive to criminals and terrorists for ML/TF purposes.</p> <p>For this reason we support that a bespoke framework of operational limits to the offline digital euro be defined taking into account these specificities.</p> <p>For the same reason, we deem important to redefine the scope of the assessment of ML/TF threats, vulnerabilities and risks provided for by art. 37, 6 (a).</p> <p>More detailed comments and some drafting suggestions are reported below in pertinent sections.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PT: (Comments): Please refer also to our comments to Recital (10) and (78).</p> <p><b><u>General remark regarding the interaction of this Proposal with the AML/CFT legal framework regarding offline digital euro payment transactions</u></b></p> <p>It's not clear from the evaluative and consultative work preceding this Proposal (as per the Explanatory Memorandum) that the European Commission has carried out a specific ML/TF risk assessment for the digital euro in order to support the conclusion that offline digital euro payments present a lower ML/TF risks, including when compared to other types of payment transactions (either online digital euro transactions or transactions with cash, scriptural money or e-money).</p> <p>In line with the risk-based approach that underpins AML/CFT regulation and supervision, <u>simplified due diligence measures may only be applicable in situations where a low risk of ML/TF is concretely identified.</u></p> <p>According with the AML/CFT legal framework, conclusions on the actual risk associated with a given situation must always result from weighing up all the risk factors applicable to the case, i.e. all those that contribute to reducing and all those that contribute to increasing risk. <u>The presence of one factor alone is therefore not sufficient to conclude that a given product is low risk.</u></p> <p>However, it seems to us that in this proposal the assumption that offline digital euro transactions are “low risk” stems only from the fact that they are proximity payments and therefore do not have the scalability that, for example, online digital euro payments have. We are aware that transaction limits will also contribute to reduce ML risk (but not the TF risks, as the values associated with transactions are usually low ), but these limits have not yet been set.</p> <p>Other factors associated with offline digital euro payment transactions that contribute to <u>increase</u></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>the ML/TF, such as the quick and easy convertibility into online digital euro transactions and other types of funds and the fact that they are transactions intermediated by a PSP (different from cash payments*), exposing them to ML/TF risks, are not being considered.</p> <p>*In this point, we recall that parallels with cash and the anonymity it provides should not justify AML/CFT solutions applicable to the digital euro transactions. In this sense we would like to emphasise that high ML/TF risks posed by the use of cash are well known and have been repeatedly highlighted by, among others, the FATF and the European Commission (e.g. in the Supra National Risk Assessment). Such risks, moreover, justified the EU trend to increasingly limit the use of cash – cf. in this sense, see Article 59 of the proposal for a new AML/CFT Regulation.</p> <p>In view of the above, we are of the opinion that any provision on AML/CFT rules applicable to offline digital euro payment transactions should be supported by a comprehensive ML/TF assessment to be prepared by the European Commission. Therefore, any developments in the negotiation of this proposal on this point should await this assessment. Only with an understanding of the associated ML/TF risks can appropriate mitigating measures be designed. An alternative solution, <u>which we prefer</u>, would be to refer the entire AML/CFT regime applicable to digital euro payment transactions to AML legislation, and deleting, inter alia, Article 37 of this proposal. In this regard, we recall that, according to the proposed Regulation AML/CFT, AMLA will be mandated to prepare draft RTS on simplified regimes to be adopted by obliged entities (cf. Article 22), and this is – in our opinion – the appropriate piece of legislation to address the AML/CFT rules to be applied to digital euro payment transactions.</p> <p>FR: (Comments): In general terms, the analogy between digital euro and cash should be carefully handled because of the differences between the two means of payments in terms of the equilibrium between ML/FT risks and attractiveness of use. Cash offers a high degree of privacy but this comes with</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>a material risk of holding cash. Holding digital euros could be potentially less risky and therefore be more attractive to users as well as for ML/FT uses. Without specific data on the risks of holding digital euros, it is difficult to assess the preference for holding such a form of money compared to other kinds of money. In order to reduce ML/FT risks, transaction limits would have to be relatively low but this could greatly diminish the attractiveness for this means of payment.</p> <p>Therefore, given the highly political issues involved in balancing privacy and AML/CFT, and as the equilibrium is a key democratic issue, the Council should debate on various limits it might impose on confidential transactions or holdings, directly in level 1. <b><u>Therefore, the transaction limit under which there would be total privacy should be determined by the co-legislators within the initial regulation given the importance of the question of privacy for EU citizens.</u></b> However, because the introduction of a digital euro could have unintended consequences and the transaction limit be non-adapted to the observed uses, we consider that it would be crucial to introduce a review clause backed by an evaluation by the Commission, in order to set a more adapted limit should the need arise.</p>
<p>1. Payment services providers shall apply paragraphs 2 to 6 to offline digital euro payment transactions.</p>	<p>PL: (Drafting): PL: 1. Payment services providers shall apply paragraphs 2 to 6 to offline digital euro payment transactions.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>PL: (Comments): PL: Re-drafting proposals, technical, non-material</p> <p>FR: (Comments): As the definition of offline digital euro payment transaction provided in article 2(15) does not distinguish between (i) the settlement and authorisation being performed locally without access to the internet (off-line) and (ii) the payment transaction being done in physical proximity, digital euro payment transaction performed in physical proximity but with connexion to the internet would not benefit from enhanced privacy deriving from this article. Physical proximity does not mean that the payment does not pass through internet connectivity (payment per card in a point of sale for instance). <u>Therefore, to the extent possible, offline and online regimes should be harmonized in order to enhance the convenience of a digital euro and make it more attractive for users.</u> Yet, we do not intend to build a regime that create new loopholes and would facilitate illicit activities and that could have reputational consequences for the digital euro. Therefore, in order to assess ML/FT risks presented by future digital euro transactions, <u>we believe an interesting distinction can be made (regarding the AML-CTF regime applicable) between payments in points of sale, with physical proximity, and remote payments and would be more relevant than the offline/online distinction.</u> This distinction goes beyond the offline/online distinction as online transactions would not necessarily entail that they are done remotely, as an increased share of merchants use network connected devices to process payments, event through web pages. The current scope would mean that consumers would have to disconnect in order to benefit from selective privacy, which could lead to additional friction in the payment process, or which would in practice reduce the privacy that consumers would benefit from. Therefore, the provisions laid down in article 37 could be applicable to proximity payments (carried out at the point of sale) regardless</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>of whether they are done online or offline. A more in-depth analysis specifically of the AML-CTF risks posed by digital euro remote payments (necessarily online) could be carried out at a later stage but it is important that we do not build a regime creating new loopholes and facilitating illicit activities, compared to the current situation, and that could have important reputational consequences for the digital euro.</p>
<p>2. Transaction data shall not be retained by payment service providers or by the European central banks and the national central banks.</p>	<p>FI: (Comments): How does this relate to the dispute management mechanism? Does it mean that offline payments are not compatible with resolution of disputes?</p> <p>DE: (Comments): What exactly does the term “transaction data” comprise in Article 37 (2)? Would this include transaction meta-data (e.g. the place and time of transactions)?</p> <p>BE: (Comments): It may be useful to include a definition in Article 2 of what would constitute transaction data.</p> <p>PT: (Comments): From an AML/CFT perspective, transaction data is an essential element for PSP to identify and assess the ML/TF risks associated with their customers and, therefore, to take appropriate</p>

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	<p>mitigating measures. Only this information allows them to fully identify the actual origin or destination of the funds transacted and therefore to identify suspicious transactions and report them to the FIU.</p> <p>Notice that even as regards to e-money instruments, the simplified regime foreseen in Article 12 of Directive (UE) 2015/849 requires that “the issuer carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions”.</p> <p>Thus, in addition to our previous comment at the beginning of this article, we would like to point out that even in a low-risk scenario, not requiring the retention of transaction data by PSPs may jeopardize not only the possibility of ensuring that the transactions remain low-risk, but AML/CFT purposes in general.</p>
<p>3. Payment service providers shall retain data of funding and defunding for storing digital euros on payment instruments in accordance with Article 40 of Directive (EU) 2015/849 and national provisions transposing that Article. Payment service providers shall, upon request, make those data available to the Financial Intelligence Unit and other competent</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
authorities as referred in Article 2(31) of Regulation [ <i>please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final</i> ].	
4. For the purposes of paragraph 3, the funding and defunding data means the following:	
(a) the amount funded or defunded;	
(b) the identifier of the local storage device for offline digital euro payment;	
(c) the date and hour of the funding and defunding transaction;	NL: (Comments): <u>NL Comment</u> : we suggest the wording “date and time” instead of “date and hour”.  IT:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	(Drafting): (c) the date, hour, minute and second of the funding and defunding transaction;  IT: (Comments): IT – the information could be useful for AML transaction monitoring purposes, in order to detect anomalous patterns leveraging on different accounts
(d) the accounts numbers used for funding and defunding.	
5. The Commission is empowered to adopt implementing acts setting offline digital euro payment transaction limits and holding limits. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39.	SE: (Drafting): The Commission is empowered to adopt implementing acts setting offline digital euro payment transaction limits and holding limits. Those implementing acts shall <u>respect limits set in existing anti-money laundering legislation and</u> adopted in accordance with the examination procedure referred to in Article 39.  SE: (Comments): It is assumed that these limits would be lower than for online transactions and cash, but an upper boundary should be established.  NL:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments):  <u>NL Comment:</u> From an AML/CFT-perspective, we value this power to set uniform limits on the offline use. However, this is a delicate balance and the decision of the Commission can significantly influence the use of the digital euro in practice. Therefore the choice for the examination procedure is justified.</p> <p>FI:  (Comments):  We have reservations on the delegation of power to Commission in this matter, as it makes the possible limits at this point of negotiations highly non-transparent in relation to topics such as money laundering, terrorist financing and tax evasion.</p> <p>DE:  (Comments):  We reserve our position on whether we support addressing this important issue through implementing acts.</p> <p>In any case, could the Commission please explain why there would need to be an additional holding limit for the offline-function? The possible offline digital euro holdings would already be limited by the overall holding limit set in accordance with Article 16 (4). Why is another, dedicated offline holding limit necessary in addition to the offline transaction limit?</p> <p>What was the Commission's thinking behind proposing that transaction limits for the offline version should be set by an implementing act? In the discussions so far it has been stressed that there might be conflicting goals in CBDC-design when it comes to privacy and AML. Would the Commission nevertheless see this as a technical decision falling within the scope of Art. 291 (2) TFEU rather than a political decision?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>BE: (Drafting): 5. The Commission is empowered to adopt implementing acts setting offline digital euro payment transaction limits <del>and holding limits</del>. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39.</p> <p>BE: (Comments): See our comment to Recital 33: we are of the opinion that <u>holding limits</u> should be set by the Eurosystem as they primarily serve maintaining financial stability and ensuring the effective implementation of monetary policy, this is including setting the limit for holding digital euro in an offline device or wallet. <u>Transaction limits</u> in case of offline digital euro payments, on the other hand, could indeed be set by the Commission. These respective competences should be clear throughout the Regulation.</p>
<p>6. Transaction and holding limits shall take into account the need to prevent money laundering and terrorist financing while not unduly restricting the use of the offline digital euro as a means of payment. The Commission,</p>	<p>NL: (Comments): <u>NL Comment:</u> We believe it is important to keep in mind the risk of AML/CFT and fraud due to offline use of a digital euro and to implement appropriate measures. At the same time, we support that these measures cannot unduly restrict the use of the offline digital euro as a means of payment and therefore the power of the Commission to draw up Implementing Acts needs to be clearly defined.</p>



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>when drawing up the implementing acts referred to in paragraph 5, shall take into account in particular the following:</p>	<p>FI: (Drafting): Transaction and holding limits shall take into account the need to prevent money laundering, <del>and</del> terrorist financing <b>and tax evasion</b> while not unduly restricting the use of the offline digital euro as a means of payment. The Commission, when drawing up the implementing acts referred to in paragraph 5, shall take into account in particular the following:</p> <p>FI: (Comments): Tax evasion needs to be taken in to account in this matter, how much offline digital euro merchants can hold and possibly use? Is there possibility that acquiring offline payments might make it possible for merchants to store larger amounts of digital euro in offline form to be used in illegal activites or evasion of taxes?</p> <p>BE: (Drafting): 6. Transaction <del>and holding</del> limits shall take into account the need to prevent money laundering and terrorist financing while not unduly restricting the use of the offline digital euro as a means of payment. The Commission, when drawing up the implementing acts referred to in paragraph 5, shall take into account in particular the following:</p> <p>BE: (Comments): Same comment.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>(a) an assessment of the money laundering and terrorist financing threats, vulnerabilities and risks of the digital euro when funding and defunding their payment instrument;</p>	<p>IT: (Drafting): (a) an assessment of the money laundering and terrorist financing threats, vulnerabilities and risks of the digital euro when funding, <del>and</del> defunding <b>and using</b> their payment instrument;</p> <p>IT: (Comments): IT - We deem that the assessment of ML/TF threats, vulnerabilities and risks should not be limited to the activity of funding and defunding payment instruments but should concern, more in general, the possible use of offline payments in digital euros, including, among the others, those related to P2P offline transactions.</p> <p>FI: (Drafting): (a) an assessment of the money laundering <del>and</del> terrorist financing <b>and tax evasion</b> threats, vulnerabilities and risks of the digital euro when funding and defunding their payment instrument;</p> <p>FI: (Comments): Tax evasion needs to be taken in to account in this matter, how much offline digital euro merchants can hold and possibly use? Is there possibility that acquiring offline payments might make it possible for merchants to store larger amounts of digital euro in offline form to be used in illegal activities or evasion of taxes?</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
(b) relevant recommendations and reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing;	FI: (Drafting): (b) relevant recommendations and reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering <del>and</del> , terrorist financing <b>and tax evasion</b> ;
(c) the objective of ensuring the usability and acceptance of the digital euro as a legal tender instrument.	
For the purposes of point (a), the Commission may request AMLA to adopt an opinion assessing the level of money laundering and terrorist financing threats associated with the offline digital euro and its vulnerabilities. The Commission may consult the European Data Protection Board.	NL: (Comments): <u>NL Comment</u> : We support the right for AMLA to adopt an opinion and suggest to use the wording “shall request” instead of “may request”. We also support the possibility to consult the EDPB.  EE: (Comments): Please see the comment on recital (79).

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
CHAPTER X FINAL PROVISIONS	<p>NL: (Comments): <u>NL Comment</u>: We suggest to include an article in this chapter about a transition period/regime for banks in relation to the mandatory distribution and a general transition period/regime for the mandatory acceptance that allow market parties to adapt their businesses, services, systems and procedures when the digital euro is first issued. A transition period or phase-in period should also be considered for the uniformity of fees referred to in Article 17.</p> <p>BE: (Comments): At this stage, we do not propose concrete drafting suggestions on this Chapter. We may do so in the future.</p>
Article 38 Delegated acts	
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>2. The power to adopt delegated acts referred to in Articles 11, 33, 34 and 35 shall be conferred on the Commission for an indeterminate period of time from <i>[date of entry into force of this Regulation]</i>.</p>	<p>NL: (Comments): <u>NL Comment</u>: We understand the delegations to the Commission, but wonder whether they are sufficiently strictly demarcated if these powers are for an indeterminate period of time.</p> <p>FI: (Comments): To our understanding there is no power of delegated act in the article 33.</p>
<p>3. The power to adopt the delegated acts referred to in Articles 11, 33, 34 and 35 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p>	<p>FI: (Comments): To our understanding there is no power of delegated act in the article 33.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.	
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
6. A delegated act adopted pursuant to Articles 11, 33, 34 and 35 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period,	NL: (Comments): <u>NL Comment:</u> We are of the view that a notification period than 1 month is too short and suggest to include a notification period of at least two months.  FI: (Comments): To our understanding there is no power of delegated act in the article 33.

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	
Article 39 Committee procedure	
1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
Article 40 Reports	
1. The accountability arrangements of Article 15(1) and (3) of the Statute of the ESCB and of the European Central Bank shall apply to the issuance and use of the digital euro.	
For that purpose, the European Central Bank shall report on the digital euro development and its use. The report shall cover the contribution of the European Central Bank in the implementation of the provisions of this Regulation, including on the following elements:	IT: (Comments): IT: We would suggest to specify the timing for these reports as in paragraph 2, 3 and 4.
(a) the level of fees or charges to be paid by merchants to payment service providers, or paid	IT: (Comments):



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
between payment service providers;	IT: Please specify if this report is the same requested in Article 17(3).
(b) the interoperability of the digital euro with other currencies in Member States whose currency is not the euro and in third countries;	
(c) the development of central bank digital currencies other than the digital euro in Member States whose currency is not the euro and in relevant third countries, and the relevance of these developments for the euro area;	
(d) market trends in payments and relevance of such trends for innovative use cases.	
2. Before the planned issuance of the digital euro and ahead of the implementation of any changes of the parameters and use of the	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
instruments referred to in Article 16 or at least every three years after the issuance of the digital euro, the European Central Bank shall provide to the European Parliament, the Council and the Commission:	
(a) information on the instruments to limit the use of the digital euro as referred to in Article 16 and the parameters that the European Central Bank plans to adopt in view of the prevailing financial and monetary environment;	
(b) an analysis on how the instruments and the parameters referred to in point (a) are expected to meet the objective of safeguarding financial stability.	
3. One year after the first issuance of the	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
digital euro and every three years thereafter, the Commission shall submit to the European Parliament and to the Council a report analysing the impact of the parameters and the use of instruments referred to in Article 16 on:	
(a) the role of financial intermediaries in the financing of the economy;	
(b) liquidity requirements laid down in Regulation 575/2013 of the European Parliament and the Council.	
4. Member States shall, one year after the first issuance of the digital euro and every two years thereafter, provide the Commission with information on all of the following:	PL: (Drafting): PL: 4. Member States whose currency is the euro shall, one year after the first issuance of the digital euro and every two years thereafter, provide the Commission with information on all of the following:  PL:

**COM proposal of 28.06.23**Replies from: *SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU*

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
	(Comments): PL: We suggest to clarify the scope of this obligation. Additionally, it should be discussed how this obligation should apply to Member States which have signed an arrangement pursuant to the Article 18
(a) the penalties applied pursuant to Article 6(1);	
(b) the number of digital euro accounts which have been opened;	
(c) the number of payment service providers that provide digital euro basic services to natural persons as referred to in Articles 14(2) and 14(3);	
(d) the number of digital euro payment accounts that have been opened by payment	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
service providers referred to in Articles 14(2) and 14(3).	
the proportion of applications that have been refused by payment service providers referred to in Articles 14(2) and 14(3)	
	<p>IT: (Drafting): <b>IT - (f) the number of disputes occurring on digital euro payments and their outcome</b></p> <p>IT: (Comments): IT - We believe that it is important to ensure adequate monitoring also on the use of the individual protection measures.</p>
Article 41 Review	
1. By one year from the first issuance of the digital euro, and every three years thereafter,	NL: (Comments):

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
<p>the Commission shall present to the European Parliament and to the Council a report on the application of this Regulation. When preparing its report, the Commission shall take into account the reports by European Central Bank referred in Article 40 and any opinion and views expressed by the European Central Bank.</p>	<p><u>NL Comment:</u> We suggest to also include in this paragraph that the Commission shall explicitly discuss in the report the role that the digital euro plays in the European payment landscape at that point in time.</p>
<p>2. By one year from the date of application of this Regulation, the Commission shall present to the European Parliament and to the Council a report on the developments of retail central bank digital currencies in Member States whose currency is not the euro and the impact of this Regulation on the internal market, accompanied where appropriate by proposals for amending legislative acts governing the use of retail central bank digital currencies across the Union.</p>	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
<p>3. By 3 years from the first issuance of the digital euro, the Commission shall present to the European Parliament and to the Council a report on whether there is a sufficient and effective access to and acceptance of the digital euro in the euro area.</p>	
<p>Article 42 Entry into force</p>	
<p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</p>	<p>NL: (Comments): <u>NL Comment</u>: we suggest to include a longer period than 20 days here, due to the impactful consequences the regulation will have for several parties and because member states probably still need to draw up some implementing legislative acts, to ensure compliance with and enforcement according to this regulation. These parties and member states should have sufficient opportunity to prepare (e.g. for mandatory distribution and acceptance), based on the final version of the legal texts.</p> <p>SI:</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
	<p>(Comments): Careful consideration should be given to postponing the entry into force of Chapter 3 until the full introduction of the digital euro.</p> <p>FI: (Comments): We have reservations on the entry in the force timeline as the proposed approach might require significant public investments and the digital euro project is still in its early stages.</p>
<p>This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</p>	
<p>Done at Brussels,</p>	
<p>For the European Parliament For the Council</p>	
<p>The President The President</p>	
<p>ANNEX I</p>	



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
Digital euro payment services	<p>IT: (Comments): <b>IT</b> - The wording of Annexes I and II should be better aligned. Indeed, basic digital euro payment services (Annex II) are, logically, a subcategory of the digital euro payment services (Annex I - see also the definition in Article 2(8)). Instead, Annex I does not encompass, by reference, Annex II. Furthermore, the wording of Annex I is much more general and abstract than the wording of Annex II. Consistency with the Annexes to PSD3 should be pursued.</p> <p>BE: (Comments): The relationship and interplay between Annex I and Annex II may need to be further clarified. We may provide concrete drafting suggestions at a later stage.</p>
Digital euro payment services consist in:	<p>DE: (Comments): It appears that the digital euro payment services listed in Annex I are rather generic. Is the underlying intention to give PSPs room to develop their own solutions?</p> <p>How do the digital euro payment services interact with the payment services set out in Annex I of PSD2?</p>
(a) enabling digital euro users to access and	SI:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
use the digital euro, without prejudice to possible limitations set by the European Central Bank in accordance with Article 16;	<p>(Comments): Doesn't the term "use" in point (a) mean the same as "enabling digital euro users to initiate and receive digital euro payment transaction" from point (b)?</p> <p>BE: (Drafting): (a) enabling digital euro users to access and use the digital euro, without prejudice to possible limitations set by the European Central Bank in accordance with Article 16 <b>and by the Commission in accordance with Article 37</b>;</p> <p>BE: (Comments): Transaction limits imposed by the Commission are also a limitation to the use of the digital euro.</p>
(b) enabling digital euro users to initiate and receive digital euro payment transactions and providing digital euro users with digital euro payment instruments;	<p>BE: (Drafting): (b) enabling digital euro users to initiate <b>and receive</b> digital euro payment transactions <b>and to receive digital euros</b>, and providing digital euro users with digital euro payment instruments;</p> <p>BE: (Comments): Editorial drafting suggestion.</p>
(c) managing digital euro users' digital euro	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
payment accounts;	SI: (Comments): It si not clear to us what is meant by “managing digital euro users”?
(d) conducting funding and defunding operations in accordance with Article 13; and	
(e) providing additional digital euro payment services on top of basic digital euro payment services pursuant to Annex II.	BE: (Drafting): (e) providing additional digital euro payment services <del>on top of basic digital euro payment services pursuant to Annex II.</del>  BE: (Comments): The additional digital euro payment services are in addition to those mentioned under (a) to (d), rather than in addition to basic payment services since PSPs must provide the latter only to natural persons. It may be useful to include in Article 2 a definition of “additional digital euro payment services”.
ANNEX II	SI:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
Basic digital euro payment services	<p>(Comments): We consider the following services to be basic digital euro payment services and would like to add them here:</p> <ul style="list-style-type: none"> <li>- Automatic funding/defunding. Our reasoning: The waterfall and reverse waterfall functionalities are considered here as a basic digital euro payment service (f). They are in themselves automatic funding/defunding functionalities and should therefore be included as basic services.</li> <li>- Account switching should, in our view, be free of charge. Rationale: If this service is charged, it will have a negative impact on the user experience and, worse, could create a lock-in effect, which is clearly risky for the end user.</li> <li>- Dispute/exception management is of utmost importance to build trust in the new payment method and should be considered as a basic digital euro payment service. Rationale: If dispute/exception management is not a basic digital euro payment service, the euro will face a great reputational risk.</li> </ul> <p>IT: (Comments): IT: This is a key point and we suggest the Presidency to open a detailed discussion on the list of the basic services. In this respect, we could consider whether to include also the account portability and the dispute management among the basic services because they contribute to confidence of digital euro across participants and end-users and therefore to adoption and usage. Also, in order to evaluate wheter to introduce automated funding and de-funding in this list, we should clarify if waterfall and reverse waterfall are included (see comment below) and which services are comprised in the “automated funding and de-funding”.</p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
Basic digital euro payment services for natural persons shall consist of:	FR: (Comments): In addition to the items mentioned below, portability of the digital euro account should also be added to the list of basic digital euro payment services as it is essential to foster competition among PSP.
(f) opening, holding and closing of a digital euro payment account;	
(g) consulting balances and transactions;	BE: (Drafting): (g) <b>allowing digital euro users to consulting</b> balances and transactions;  BE: (Comments): Editorial drafting suggestion.
(h) non-automated funding and defunding	PT:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
from a non-digital euro payment account;	<p>(Drafting): (h) non-automated <b>and automated</b> funding and defunding from a non-digital euro payment account;</p> <p>PT: (Comments): We propose to include automated funding and defunding in the list of basic services.</p> <p>FR: (Comments): On top of manual funding and defunding and waterfall and reverse waterfall, we would also support adding automated funding and defunding (i.e. ability to set a funding / defunding transaction at a certain date or when below/above a certain threshold) to the list of basic digital euro payment services that PSP should offer free of charge. This functionality is essential to ensure a smooth user experience and charging end-users for it may discourage the use of the digital euro.</p>
(i) funding and defunding from/into cash;	
(j) initiation and reception of digital euro payment transactions by means of an electronic	<p>BE: (Drafting): (j) <b>enabling digital euro users to receive digital euros and to</b> <del>initiation and reception of</del></p>

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
payment instrument, to the exclusion of conditional digital euro payment transactions other than standing orders, in the following use cases:	digital euro payment transactions by means of an electronic payment instrument, to the exclusion of <del>conditional</del> <b>conditioned</b> digital euro payment transactions other than standing orders, in the following use cases:  BE: (Comments): Editorial drafting suggestions.
– person-to-person people digital euro payment transactions;	BE: (Comments): It is not clear to us what is precisely meant with the word “people”.
– point-of-interaction digital euro payment transactions, including point-of-sale and e-commerce;	
– government-to-person and person-to-government digital euro payment transactions.	
(k) digital euro payment transactions	IT:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
referred to in Article 13(4) and	(Comments): IT- it is essential to clarify wheter waterfall and reverse waterfall are included in this list (as we would expect); please also see comment on Art. 13(4).
(l) provision of at least one electronic payment instrument for the execution of digital euro payment transactions such as referred to in letter (e).	
ANNEX III Personal data processed by PSPs	PL: (Drafting): PL: ANNEX III Personal data processed by payment service providers  PL: (Comments): PL: Re-drafting proposals, technical, non-material
1. For the purpose of point (a) of Article 34(1), processing shall be limited to:	



**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
(i) the user identifier;	
(ii) the user authentication;	
(iii) information on digital euro payment accounts; including information on digital euro holdings of the digital euro user and the unique digital euro payment account number; and	
(iv) information on online digital euro payment transactions, including the transaction identifier and the transaction amount.	<p>DE: (Comments): The word “including” suggests that additional data can be processed under this provision. Could this include potential meta data (such as place and time of the transaction)?</p> <p>This provision should contain a conclusive list of data types that can be processed.</p>
2. For the purpose of point (b) of Article 34(1), processing shall be limited to:	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
(i) the user identifier;	<p>DE: (Drafting): (i) the user identifier, <b>limited to the purpose of funding and defunding as referred to in Article 13(2) and (3)</b>;</p> <p>DE: (Comments): Could the Commission please explain why and to what extent processing of the user identifier is necessary for digital euro payment transactions, as specified in point (b) of Article 34(1)? We would have expected that instead the “user alias” would be used, as specifically defined in Article 2(28) for that purpose.</p>
(ii) the user authentication;	
(iii) information on digital euro payment accounts, including the unique digital euro payment account number; and	
(iv) information of non-digital euro payment accounts, including the account number of the	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
linked non-digital euro payment account.	
3. For the purpose of point (c) of Article 34(1), processing shall be limited to:	
(i) the user identifier; including the name of the local storage device holders; and	<p>DE: (Drafting): (i) <del>the user identifier; including</del> the name of the local storage device holders; and</p> <p>DE: (Comments): As per the definition in Article 2(27), the user identifier only pertains to online digital euro transactions, so it is unclear why it would need to be used for the provision of offline digital euro as specified in point (c) of Article 34(1).</p> <p>Also, we would like to understand why the processing of the name of the local storage device holder is necessary for offline transactions. How can anonymous transactions be guaranteed?</p>
(ii) information on the local storage device, including the identifier of the local storage device.	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
ANNEX IV Personal data processed by the European Central Bank and national central banks	
4. For the purposes of point (a) Article 35(1), processing shall be limited to:	PL: (Drafting): PL: 4. For the purposes of points (d) and (e) of Article 35(1), and the single access point referred to in Article 35(8), processing shall be limited to:  PL: (Comments): PL: Re-drafting proposals
(i) information on digital euro payment accounts, including the unique digital euro payment account number; and	
(ii) information on online digital euro	DE:

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
payment transactions. information linked to an unique digital euro payment account number, including the transaction amount.	(Comments): The word “including” suggests that additional data can be processed under this provision. Could this include potential meta data (such as place and time of the transaction)?  This provision should contain a conclusive list of data types that can be processed.
5. For the purpose of point (b) of Article 35(1), processing shall be limited to:	
(i) the user alias;	
(ii) the user authentication;	
(iii) the reference to digital euro holdings to debit; and	
(iv) the reference to digital euro holdings to credit.	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
6. For the purpose of point (c) of Article 35(1), processing shall be limited to the data required for counterfeit analysis of offline digital euro payment transactions: information on the local storage device, including the local storage device number.	NL: (Comments): <u>NL Comment</u> : we do not really understand this item.
7. For the purposes of points (d) and (e) of Article 35(1), and the single access point referred to in Article 34(8), processing shall be limited to:	IT: (Drafting): For the purposes of points (d) and (e) of Article 35(1), and the single access point referred to in Article <b>35</b> (8), processing shall be limited to:
(i) the user identifier;	
(ii) the user authentication, related to user's existing digital euro holdings; and	
(iii) information on digital euro payment	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

<b>Commission proposal</b>	<b>Drafting Suggestions Comments</b>
accounts, including the unique digital euro payment account number, digital euro holdings of the user, the holding limit selected by the user and the type of digital euro account.	
ANNEX V Personal data processed by providers of support services	
For the purposes of point (a) of Article 36(1), processing shall be limited to the data required for the prevention and detection of fraud across payment service providers:	
(i) information on digital euro payment accounts, including the unique digital euro account identifier;	

**COM proposal of 28.06.23**

Replies from: SE NL CZ SI PL LT IT AT CY FI DE BE EE PT DK FR IE LU

Updated: 09/10/2023 15:56

Commission proposal	Drafting Suggestions Comments
(ii) information on online digital euro payment transactions, including the transaction amount; and	
(iii) information on the transaction session of a digital euro user, including the device internet protocol address-range.	
	<b>End</b>