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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: SEC(2021) 228 final

Subject: *REGULATORY SCRUTINY BOARD OPINION*
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

Delegations will find attached document SEC(2021) 228 final.

Encl.: SEC(2021) 228 final



EUROPEAN COMMISSION

Brussels, 5.5.2021

SEC(2021) 228 final

REGULATORY SCRUTINY BOARD OPINION

**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}

{SWD(2021)124 final}

{SWD(2021)125 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,

Opinion

Title: Impact assessment / European digital identity

Overall 2nd opinion: POSITIVE

(A) Policy context

This initiative aims to revise the Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation). The Regulation provides a framework for trusted electronic identification (eID) and trust services (e.g. electronic signature). It aims to create a regulatory environment that should enable secure electronic interactions across the EU. The initiative builds on an evaluation of the eIDAS Regulation that revealed a number of weaknesses. It will also respond to the developing digital environment. It aims to provide European citizens with a simple, trustworthy and secure system, which they can use to identify themselves in the digital space.

(B) Summary of findings

The Board appreciates the significant improvements to the revised report in line with the Board's recommendations, notably on the problem definition, the presentation of options and the analysis of costs and benefits.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

- (1) The presentation of the options and their related measures does not clearly bring out the available policy choices. The comparison of options is not sufficiently clear, particularly on efficiency and effectiveness.**
- (2) The main report does not sufficiently present the different views of stakeholders.**

(C) What to improve

- (1) The baseline could include a more complete overview of the evolution of the problems, their drivers and some broader impacts (economic, social, technological, environmental and other) if the EU regulatory set-up for electronic identification and trust services remains unchanged. The baseline scenario presented in the impact section should be integrated in the main baseline in the options section.
- (2) Despite a better overall description of options and of the accompanying measures, the report should better explain to what extent policy choices exist on the design and in the combination of measures for each of the options. The report should further clarify the measures' taxonomy, ensuring a consistent approach as to how these are referenced throughout the analysis.
- (3) The summary table in the comparison section should provide a more comprehensive overview of the three options' costs and benefits and how they compare in terms of efficiency and effectiveness. The current reference to efficiency does not sufficiently present the magnitude of actual costs and benefits of each option, including broader societal impacts. As for effectiveness, the narrative of the report could better show the difference in the level of attainment of the specific objectives across all options. The references for the estimates of costs and benefits should also be included to be able to verify the scores.
- (4) While more information on stakeholder groups' views are now provided in the annex, the report should present their different positions on the problems, the options and measures more systematically throughout the main text.

(D) Conclusion

The DG may proceed with the initiative.

The DG must take these recommendations into account before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Impact Assessment on European Digital Identity
Reference number	PLAN/2020/8518
Submitted to RSB on	15 April 2021
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

Overview of benefits (total for all provisions) of the preferred Options

Description	Amount	Comments
	Direct benefits	
Savings in administrative costs related to peer-review processes and notification process of eID	Overall, €63.000 in the first year and €220.000 per year afterwards	<i>Recipient: Public authorities with regards to baseline which provides to simplify and improve the notification and peer review procedures.</i>
	Not quantified	<i>Recipient: Citizens / end-users with regards to baseline which provides to simplify and improve the notification and peer review procedures.</i>
Reduced operational costs linked to identification procedures (onboarding procedures, KYC procedures etc.)	Sectoral yearly savings: <ul style="list-style-type: none"> ● Financial services (overall): €0.68 billion - €1.36 billion ● eHealth: €1.26 billion – €2.51 billion ● Aviation: € 30 million - €60 million ● eCommerce: €0.24 billion - €0.47 billion 	<i>Recipient: Online service providers with regards to option 1 measure 4, which provides to extend the person identification data set recognised cross border, option 2 measure 1 which provides to create a new qualified trust service for the secure exchange of data linked to identity and option 2 measure 5 which requires regulated sectors such as energy or finance and the public sector to rely on qualified digital credentials</i>
Reduced expenditures or damages related to cybercrimes (data theft, online fraud and procedures for online fraud prevention)	Sectoral yearly savings: <ul style="list-style-type: none"> ● Financial services (overall): €0.85 billion - €1.4 billion ● eHealth: €0.3 billion – € 0.6 billion ● Aviation: €3.5 million - €7 million ● eCommerce: €0.13 billion - €0.26 billion 	<i>Recipient: Online service providers with regards to option 1 measure 4, which provides to extend the person identification data set recognised cross border, and option 2 measure 1 which provides to create a new qualified trust service for the secure exchange of data linked to identity</i>
	Not quantified	<i>Recipient: Citizens / end-users with regards to</i>

		<i>option 1 measure 8 which requires to strengthen the recognition of QWACs (qualified website authentication certificates)</i>
Reduced compliance costs (related to security certifications, GDPR requirements)	Not quantified	Recipient: Public authorities with regards to Option 1 measure 5 which requires to strengthen security requirements for mutual recognition
Savings in compliance costs related to conformity assessments	€12,000-24,000 per each audit procedure	Recipient: eID providers with regards to option 1 measure 5 which requires to strengthen security requirements for mutual recognition
Increased revenues from new trust services	For every additional 1% of EU businesses that purchase an electronic archiving solution every year, additional revenue of over €37 million a year for providers	Recipient: Trust service providers with regards to option 1 measure 6 which provides to introduce a new trust service for e-archiving
Increased market and business opportunities at the EU level	Not quantified	Recipient: Trust service providers with regards to option 2 measure 1 which provides to create a new qualified trust service for the secure exchange of data linked to identity, option 2 measure 3, and option 3 measure 1 Recipient: Wallet app providers with regards to option 3 measure 1
Increased personal data protection and online security	Not quantified	Recipient: Citizens / end-users with regards to option 1 measure 4, measure 5, measure 7 and measure 8, as well as option 2 measure 1 and measure 6 and option 3 measure 1, measure 2 measure 3 and measure 4 (all sub-options)
Increased interoperability	Not quantified	Recipient: Citizens / end-users, Trust service

		<i>providers and online service providers with regards to option 2 measure 3 and option 3 measure 2 (all sub-options)</i>
Increased legal value and recognition across the EU	Not quantified	Recipient: Citizens / end-users, Trust service providers and online service providers with regards to option 2 measure 4
Enhanced digital inclusion	Not quantified	Recipient: Citizens / end-users with regards to option 1 measure 1, which provides to establish an obligation for member states to offer eIDs and to notify them under eIDAS
Indirect benefits		
Increased access to public services through secure eIDs	Not quantified	Recipient: Public authorities, Citizens & Government eID providers with regards to option 1 measure 1, which provides to establish an obligation for member states to offer eIDs and to notify them under eIDAS Recipient: eID providers with regards to Option 3 measure 1
Savings from reduced administrative burden	Overall, between €350 and €400 million per year	Recipient: citizens / end-users with regards to option 1 measure 4 which provides to extend the person identification data set recognised cross border, and option 2 measure 1 which provides to create a new qualified trust service for the secure exchange of data linked to identity
	Not quantified	Recipient: public authorities with regards to option 2 measure 2 requiring Member States to make available data stored in authentic sources for the secure exchange of data linked to identity
Increased and more trustworthy cross-border data exchange	Not quantified	Recipient: Online service providers with regards to option 2 measure 1 which provides to create a new qualified trust service for the secure exchange of data linked to identity

	Not quantified	<i>Recipient: public authorities with regards to option 2 measure 2 requiring Member States to make available data stored in authentic sources for the secure exchange of data linked to identity, and option 2 measure 3 covering the related standards</i>
Enhanced offer in the Trust Services market	Not quantified	<i>Recipient: citizens / end-users with regards to option 1 measure 6 which provides to introduce a new trust service for e-archiving</i>
Increased awareness of EU citizenship	Not quantified	<i>Recipient: citizens / end-users with regards to option 2 measure 1 which provides to create a new qualified trust service for the secure exchange of data linked to identity</i>

Overview of costs for preferred Options (first part)

	Type of costs	Public authorities		TSPs		Gov. eID providers	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Increased administrative burden (mandatory offer of eID and notification, additional peer reviews) <i>(Policy option 1 Measure 1)</i>	Direct cost	between €40-€100 million to develop a fully-fledged eID scheme (Member States not having deployed one)					
Increased administrative burden (mandatory offer of eID and notification, additional peer reviews) <i>(Policy option 1 Measure 1)</i>	Direct cost	€0,52 - €1.3 million (cumulative for 13 Member States)					
	Indirect cost	€1.2 million (in the next two years, cumulative for all Member States)					
Compliance with eIDAS related obligations <i>(Policy option 1 Measure 1)</i>	Direct cost	€9.7 million (envisaged only for 13 Member States)					
Committee work for standardisation <i>(Policy option 1)</i>	Indirect cost	€300,000				Not quantified	

	Type of costs	Public authorities		TSPs		Gov. eID providers	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
<i>Measure 4)</i>							
Committee work for international standard-setting (<i>Policy option 2 Measure 3)</i>)	One-off	€1-2 million					
Committee work for international standard-setting (<i>Policy option 3 Measure 2 for all sub-options)</i>)	One-off	€1-2 million (only if new standards have to be developed)					
Compliance costs due to adapting to a certification-based approach (<i>Policy option 1 Measure 7)</i>)	One-off			Not quantified			
Compliance costs due to certification (<i>Policy option 1 Measure 5)</i>)	Indirect cost	€228,000					
Familiarisation costs due to new procedures and measures (<i>Policy option 2 Measure 1)</i>)	Direct cost	€315,000					
Enforcement and	Direct cost		Around				

	Type of costs	Public authorities		TSPs		Gov. eID providers	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
administrative costs due to the introduction of new trust services <i>(Policy option 1 Measure 6)</i> <i>(Policy option 2 Measure 1)</i> <i>(Policy option 3 Measure 1, sub-option 1)</i>			€8.1million				
Compliance costs linked to the introduction of eArchiving <i>(Policy option 1 Measure 6)</i>	Direct cost			€545,000 per provider	€255,000 per provider		
Compliance costs linked to the introduction of a new qualified trust service <i>(Policy option 2 Measure 1)</i>	Direct cost			€545,000 per provider	€255,000 per provider		
Technical costs for upgrading the eIDAS national infrastructures <i>(Policy option 1 Measure 3)</i>	Indirect cost	€6.1 million					

	Type of costs	Public authorities		TSPs		Gov. eID providers	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Technical costs to ensure protection of personal data and data minimisation <i>(Policy option 2 Measure 6)</i>	Direct cost	Not quantified		Functional Separation: €30,000 per provider Structural Separation: €730,000 for qualified Trust service providers	Structural Separation: €30,000 per year for qualified trust service providers		
Technical costs related to IT integration to the API integration <i>(Policy option 2 Measure 1 & 2)</i>		€625 million	€162 million per year				

Overview of costs for preferred Options (second part)

	Type of costs	Online services providers		CABs		Wallet app providers	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Familiarisation costs due to the introduction of a new qualified trust service <i>(Policy option 2 Measure 1)</i>	Direct cost			€339,000			

		Online services providers		CABs		Wallet app providers	
	Type of costs	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
	Familiarisation costs due to the introduction of a European Digital Identity WalletApp <i>(Policy option 3 Measure 1, sub-option 1)</i>			€339,000			
	Compliance costs related to the adoption of QWACs <i>(Policy option 1 Measure 8)</i>		€550 per year, per provider				
	Technical costs related to IT integration to the API <i>(Policy option 2 Measure 1 & 2)</i>	Direct cost	from €18,000 to €27,000 per provider				
	Compliance costs related to certification and standardisation <i>(Policy option 3 Measure 1)</i>	Direct cost				€545,000 per provider	€255,000 per provider

		Online services providers		CABs		Wallet app providers	
	Type of costs	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
	Compliance costs related to obtaining security certification <i>(Policy option 3 Measure 3)</i>					€80-100k per provider	
	Operational costs related to onboarding of providers of credentials and services <i>(Policy option 3 Measure 1)</i>					Not quantified	Not quantified
	Marketing and customer support costs <i>(Policy option 3 Measure 1)</i>					Not quantified	Not quantified



Brussels,
RSB

Opinion

Title: Impact assessment / European Digital Identity

Overall opinion: NEGATIVE

(A) Policy context

This initiative aims to revise the Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation). The Regulation provides a framework for trusted electronic identification (eID) and trust services (e.g. electronic signature). It aims to create a regulatory environment that should enable secure electronic interactions across the EU.

The initiative builds on an evaluation of the eIDAS Regulation that revealed a number of weaknesses. It will also respond to the developing digital environment. It aims to provide European citizens with a simple, trustworthy and secure system, which they can use to identify themselves in the digital space.

(B) Summary of findings

The Board notes the useful and extensive additional information provided in advance of the meeting and commitments to make changes to the report.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

- (1) The report does not sufficiently analyse the key problems and does not draw enough on the evidence provided in the evaluation. The baseline scenario is incomplete and underdeveloped.**
- (2) The logic behind the options, the available policy choices and the timing of measures are not sufficiently clear. The assessment and comparison of options is confusing.**
- (3) The report does not clearly present the costs of the preferred option or how future proof it is. It does not pay enough attention to implementation issues. It does not sufficiently describe the views of stakeholders.**

(C) What to improve

- (1) The report should better explain the key problems. It should draw more clearly on**

the available evidence from the evaluation to better substantiate the problem definition. It should clarify the extent to which the problems are related to deficiencies of the existing legislative framework or to implementation issues. It should elaborate the challenges relating to the new policy context due to the global pandemic, technological change and market developments. The report should better assess evolving user needs for cross-border eID and trust services, and how far they differ across different use cases (e.g. public services, (semi-)regulated sectors, pure private online transactions). It should better analyse the reasons for the low level of mutual recognition and the limited functionality of currently existing eIDAS nodes. It should explain related risks and be clearer on where regulatory intervention is warranted as opposed to purely relying on the market. It should better explain which problems of the Internet of Things ecosystem this initiative can address.

- (2) The baseline should be further elaborated. It should explain better how the policy area would evolve without the adoption of the new initiative, taking into account the likely further uptake of trust services and eID schemes. It should include further implementing measures, standardisation activities and measures already envisaged in the context of other legislative initiatives such as the Digital Market Act. In addition, it should give a better outlook of the development of alternative market based solutions.
- (3) The logic behind the options (and the sub options) as well as their respective levels of ambition need to be clarified. Available policy choices should be clearly identified, including those where stakeholders may have different expectations (e.g. on liability, security, mandatory obligations). Where appropriate, the report should further explore sub-options or variants. Decisions to keep or discard certain (sub-)options should be justified based on evidence. The report should more clearly explain which measures will be part of this initiative and which ones will be left to future implementing legislation or standards. It should specify how the eWallet option would work in practice and how it would affect concerned stakeholders.
- (4) The analysis and comparison of the refined options needs to be strengthened, based on clear and coherent assessment criteria. The considerations leading to the choice of the preferred option need to be made fully transparent.
- (5) The report should clearly identify the costs of the preferred option. They should also be clearly summarised in the cost/benefit table in annex. The assessment should further specify who will be affected and how, and who has to bear the costs. All relevant dimensions should be covered, including potential “stranded” costs as well as environmental costs.
- (6) The report should more clearly present the views of both public and private stakeholders (including users and identification providers) on this initiative. Given expressed concerns about the lack of flexibility to adapt to technological developments and changing user needs, the report should better explain how future-proof the preferred option is. The report should also specify how timely and effective implementation will be ensured given the complexity of the envisaged solution.
- (7) The report should have a clear narrative. The main report, in particular the impact analysis, should be shortened by focusing on the most important elements. More technical issues and detailed analyses should be presented in the annexes.

Some more technical comments have been sent directly to the author DG.

<u>(D) Conclusion</u> The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.	
Full title	Proposal for a framework for a European Digital Identity
Reference number	PLAN/2020/8518
Submitted to RSB on	19 February 2021
Date of RSB meeting	17 March 2021