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MI 526  
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**NOTE**

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From: General Secretariat of the Council  
To: Council

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL on the establishment of European Business Wallets  
- General approach  
= *Statement by Germany*  
= *Statement by Spain*

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**Germany has requested that the following statement be entered in the Council minutes**

Deutschland begrüßt und unterstützt ausdrücklich das Ziel des Verordnungsvorschlags, den digitalen Binnenmarkt weiter voranzubringen und die Wettbewerbsfähigkeit Europas nachhaltig zu stärken. Der von der Ratspräsidentschaft vorgelegte Kompromisstext – dem Deutschland zustimmt –, sollte im weiteren Verfahren geschärft werden, um das angestrebte Ambitionsniveau einer breit nutzbaren und rechtssicher einsetzbaren europäischen Business Wallet zu gewährleisten. Für Deutschland sind nachfolgende Punkte zentral, die im Trilog adressiert werden müssen:

- 1) Es muss gewährleistet sein, dass Wallet-Anbieter die Sicherheitsanforderungen öffentlicher Anwendungen mit höheren Sicherheitsanforderungen erfüllen. Hierfür halten wir einheitliche, verbindliche Mindestanforderungen für erforderlich, die in den Durchführungsrechtsakten zu Art. 7 und 11 geregelt werden könnten. Es erscheint nicht realistisch, die Berücksichtigung sämtlicher sektorspezifischer Anforderungen allein den Wallet-Anbietern im Rahmen der von ihnen durchzuführenden Risikobewertung (Risk-Assessment) zu überlassen. Diese Aufgabe sollte vielmehr von der Kommission unter Beteiligung der Mitgliedstaaten übernommen werden. Klare Mindestanforderungen an die Sicherheit würden eine einheitliche EU-weite Grundlage schaffen, Anwendungsanbietern verlässliche Maßstäbe für die Überprüfung des Sicherheitsniveaus der EBW liefern und Aufsichtsbehörden klare Kriterien für die Bewertung der Selbsterklärungen der Wallet-Anbieter an die Hand geben.
- 2) Es besteht Einvernehmen mit dem durch den zyprischen Ratsvorsitz und die Europäische Kommission bestätigten Verständnis, wonach der Grundsatz der Gleichwertigkeit die technische Gleichstellung der Kernfunktionen nach Artikel 5 Abs. 1 mit analogen Vollzugsformen bewirkt.

Der qualifizierte Vertrauensdienst nach Artikel 3 Nummer 17 der Verordnung (EU) 910/2014 ist danach die aus der Nutzung der Kernfunktionen „resultierende Handlung“ – etwa die qualifizierte elektronische Signatur, welche die handschriftliche Unterschrift ersetzt –, die dieselben Rechtswirkungen zeitigt, als wäre die Handlung „rechtmäßig persönlich, in Papierform oder über andere Mittel oder Prozesse, die als mit den geltenden Rechts-, Verwaltungs- oder Verfahrensvorschriften vereinbar erachtet werden, durchgeführt worden.“

Zwingende nationale Formvorschriften, unabdingbare Präsenzpfllichten, hoheitliche Präventivkontrolle, Beratungs-, Belehrungs- und Prüfungspflichten (z.B. der Rechts- und Geschäftsfähigkeit sowie des Verständnisses) bleiben gemäß Erwägungsgrund 6 in ihrer Schutzfunktion unberührt.

Deutschland hält vor diesem Hintergrund eine Anpassung des weiten Wortlauts des Artikels 4 für geboten. Der Grundsatz der Rechtssicherheit erfordert, dass Regelungen so bestimmt, klar und transparent sind, dass der einzelne wissen kann, welche Rechte und Pflichten er hat. Um Rechtszersplitterung und fortlaufende Auslegungsstreitigkeiten vor europäischen und nationalen Gerichten zu vermeiden, sind die Ko-Gesetzgeber aufgerufen, das vorgenannte Verständnis im operativen Verordnungstext zu verankern, etwa durch Beschränkung des Wortlauts auf die Ersetzung der jeweils „äquivalenten“ Handlung.

## Courtesy translation

Germany expressly welcomes and supports the objective of the proposed regulation to further advance the Digital Single Market and sustainably strengthen Europe's competitiveness. The compromise text presented by the Council Presidency - which Germany endorses - should be refined during the further legislative process to ensure that the ambition for a broadly usable European Business Wallet is achieved and the principle of legal certainty is adhered to. For Germany, the following points are of central importance and must be addressed in the trilogue:

- 1) It is essential to ensure that wallet providers meet the security requirements of public applications with higher security standards. To this end, we consider it necessary to establish uniform, binding minimum requirements, which could be regulated in the implementing acts for Articles 7 and 11. It is not realistic to expect wallet providers to consider all sector-specific requirements as part of the risk assessments they are required to conduct. Instead, this task should be undertaken by the Commission in collaboration with the Member States. Clear minimum security requirements would establish a consistent EU-wide baseline, offer application providers reliable benchmarks for verifying the security level of wallets and furnish supervisory bodies with clear criteria for evaluating the self-declarations of wallet providers.
- 2) There is consensus with the understanding - as confirmed by Cypriot Presidency and European Commission - that the principle of equivalence brings about a technical equality of the core functionalities pursuant to Article 5(1) with their manual or physical equivalents.

Therefore, the qualified trust service pursuant to Article 3 point 17 of Regulation (EU) 910/2014 is to be understood as the "resulting action", which derives from the use of the core functionalities. Consequently, the qualified trust service – e.g. the qualified electronic signature – shall have the same legal effect as if the action – e.g. the handwritten signature - had been "*lawfully carried out in person, in paper form, or via any other means or processes that would be deemed compliant with applicable legal, administrative, or procedural requirements*".

Mandatory national procedural requirements, indispensable attendance requirements, preventive control mechanisms, and obligations to provide advice, instruction, and verification (e.g., regarding legal capacity, capacity to conduct business, and understanding) remain unaffected in their protective function, in accordance with Recital 6.

Against this background, however, Germany sees a need to narrow down the broad wording of Article 4. The principle of legal certainty requires that Regulations must be precise, clear, and transparent so that individuals can understand what rights and obligations they have. To avoid legal fragmentation and ongoing disputes over interpretation before the European and national courts, the co-legislators are called upon to implement the aforementioned understanding in the operative text, for example by limiting the wording to the substitution of the respective “equivalent” action.

**Spain has requested that the following statement be entered in the Council minutes**

Spain reaffirms its strong commitment to the digital transformation of the European single market and to reducing administrative burdens for businesses. Despite the reservations set out below, and in a constructive spirit, Spain supports the general approach on the European Business Wallet (EBW) Regulation, convinced that a shared step forward is essential for the competitiveness and simplification goals set out in the Letta and Draghi reports.

Spain welcomes the significant progress achieved throughout the negotiation and acknowledges the Presidency's efforts to accommodate Member States' concerns. In particular, Spain takes note of the safeguards introduced in the recitals and in Article 4 regarding the relationship between the EBW and existing national digital infrastructures, and considers them a meaningful step in the right direction.

Nevertheless, Spain maintains a substantive concern regarding Article 16(1). As currently drafted, the Regulation could be interpreted as allowing economic operators to submit documents or data to public administrations through the EBW even where dedicated digital interfaces — such as specialised portals, structured web forms, or sector-specific web services — are already established and legally required under national or Union law. These interfaces often embed data validation rules, business logic, and complex system integrations that cannot simply be bypassed. Spain and other Member States have invested significantly in such infrastructures in areas such as tax administration, social security, and company registration. Placing these systems in legal uncertainty would not only risk disrupting well-functioning public services, but would ultimately harm the very businesses the Regulation seeks to help: companies that today rely on predictable, integrated digital channels would face the risk of inconsistent implementation across Member States, and the operational burden of navigating parallel communication channels with public administrations. Spain considers it essential that the continued use of these interfaces is not put in doubt.

Spain also regrets that Article 2(2) does not explicitly cover existing legally mandated systems and procedures governing the exchange of documents and data between competent authorities and economic operators (B2G). The current without-prejudice clause is limited to exchanges between competent authorities (G2G), leaving room for legal uncertainty that could affect well-established national digital channels. Spain notes that several other delegations share this concern and considers that a targeted amendment to this provision would have significantly strengthened the text.

Furthermore, Spain considers it important that the exclusion of the administration of justice from the scope of this Regulation be given full normative force through a provision in the operative part of the text, rather than relying solely on recital language, which carries no binding legal effect.

Spain trusts that the implementing acts provided for under Article 4 will be developed in close cooperation with Member States and will offer a meaningful opportunity to address the technical and operational concerns that remain open. Spain stands ready to engage actively and constructively in that process, with a view to ensuring that the EBW genuinely complements — rather than disrupts — the existing digital infrastructure that businesses and administrations across Europe rely upon.