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## **WORKING DOCUMENT**

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<b>From:</b>	Presidency
<b>To:</b>	Working Party on Financial Services and the Banking Union (Digital Euro Package) Financial Services Attachés
<b>Subject:</b>	Digital euro - WP meeting on 25-26 September 2025 - Presidency discussion note on the legal tender status of the digital euro

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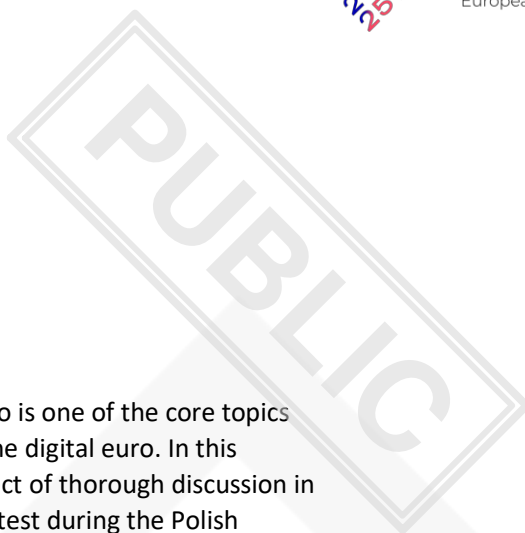
# Presidency discussion note on legal tender status of the digital euro

Working Party on Financial Services and the Banking Union

Date: 25. September 2025

**Proposal for a regulation on the establishment of the digital euro**

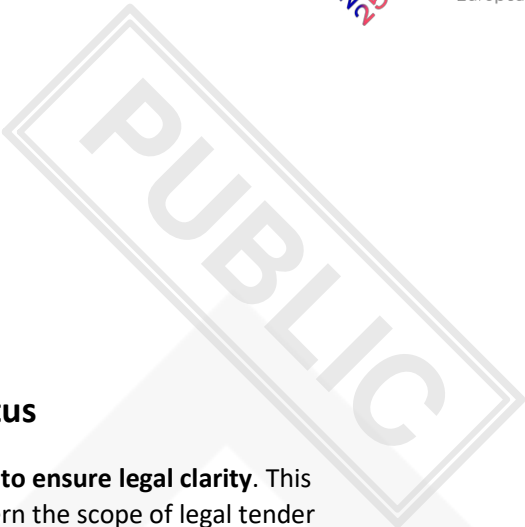
Meeting on 25-26 September 2025



## Introduction

The chapter concerning the legal tender status of the digital euro is one of the core topics within the proposal on the regulation on the establishment of the digital euro. In this regard, the legal tender status of the digital euro has been subject of thorough discussion in the Council Working Party (CWP) during the past years and at latest during the Polish Presidency.

Building on the work conducted by previous Presidencies as well as written comments provided by Member States on the Polish legacy text, the Presidency has refined the wording of this chapter with the aim of addressing the remaining concerns raised by delegations. In this context, the Presidency invites Member States to share their views on the drafting suggestions for Articles 8, 8a(new), 10 and 11.



# 1. Legal tender status

## 1.1 Articles 8 and 8a - Scope of legal tender status

The Presidency **suggests moving Article 8(3) to a new Article 8a to ensure legal clarity**. This is based on the understanding that this provision does not concern the scope of legal tender as such, but rather the conditions under which users may choose between using the online and offline digital euro transactions. Its placement in a separate article is therefore considered more appropriate.

The Presidency notes that the proposals to Article 8 presented by the Polish Presidency received broad support from Member States, and **does not at this stage suggest further changes to Article 8**.

The Presidency recalls that several delegations have underlined the importance of coherence between the scope of legal tender and the obligations in Article 22(6), which provides that payees shall accept digital euro payments in the same manner as other digital means of payment. To avoid having similar obligations expressed differently across the text and to strengthen consistency, **the Presidency proposes to integrate Article 22(6) into new Article 8a**. The wording has also been slightly adjusted to improve readability and clarity.

In addition, the Presidency suggests inserting a **new recital to clarify that the obligation to accept the digital euro should mirror existing practices for other digital means of payment, while reflecting the operational context of the payee** (e.g. physical or virtual environments). The recital would also clarify that where payees operate in both environments, they are obliged to accept digital euro payments accordingly and where the legal tender status of both online and offline digital euro applies, they are required to accept both online and offline digital euro transactions, thereby ensuring that payers retain the freedom to choose their preferred modality.

### Drafting suggestions

<p>PL PCY in <b>blue</b> DK PCY in <b>green</b></p> <p>Article 8 – <del>Territorial</del> Scope of legal tender status</p> <p>1. The digital euro shall have <b>the status of</b> legal tender <del>status for</del> <b>as regards</b> offline</p>
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payments of a monetary debt denominated in euro that take place within the euro area, ~~with the exception of payments performed at a distance.~~

2. The digital euro shall have **the status of** legal tender ~~status for as regards~~ online payments of a monetary debt denominated in euro to a payee residing or established in the euro area.

~~3. In cases where the legal tender status of both online and offline digital euro payment transactions applies, the payer shall be entitled at all times to choose between an online or an offline digital euro payment transaction.~~

#### Article 8a (new) – Additional rules on legal tender

1. ~~For the purpose of Article 7(3), where the payee is obliged to accept both online and offline payment transactions, the payer shall be entitled to choose between an online or offline digital euro payment functionality.~~

~~2. Payees that only operate in a physical environment and payees that only accept digital payments at a physical point of interaction shall accept digital euro payments in the same manner. Payees that only operate in a virtual environment and accept digital payments at a point of interaction in that environment shall accept the digital euro in the same manner. Payees that operate in both environments shall accept digital euro payments in both manners, depending on the relevant environment. Payees, whether operating in a physical, virtual, or both environments, shall accept digital euro payments at their respective points of interaction in the same manner as they currently accept other digital payments.~~

#### Recital (new) accompanying Article 8a (new)

(XX) The acceptance of the digital euro should reflect existing practices for other digital means of payment in physical and digital environments, with payees required to accept payments in a manner consistent with their mode of operation. This may include situations where a payee operating exclusively in a physical environment and accepting comparable digital means of payment at the point of sale would not be expected to accept digital euro payments via an e-commerce gateway. Where payees operate in both environments, they should accept the digital euro accordingly. In cases where the payee is required to accept both the online and offline digital euro payment transactions, the payer should remain free to choose to pay with an online or offline digital euro payment functionality transaction. This upholds the principle of legal tender, ensuring that the digital euro is accepted for both online and offline transactions, while respecting the freedom of choice of the payer.



**Questions 1-2 to Member States:**

**Q1:** Do Member States agree with the Presidency's proposal for Article 8 and new Article 8a?

**Q2:** Do Member States have other comments on Article 8 and Article 8a?

**1.2 Article 10 - Prohibition of unilateral exclusion**

The Presidency recalls that several Member States have underlined the need for a general exception for B2B transactions under this Article. In order to address these concerns while preserving the overall scope of the Regulation, the Presidency does not propose to exclude B2B transactions entirely. Instead, the Presidency suggests inserting a new paragraph 2, which clarifies that insofar as it relates to contractual terms that have not been individually negotiated, the prohibition in paragraph 1 shall not apply to relations between enterprises.

With this approach, the Presidency aims to strike a balance between (i) ensuring that businesses retain the freedom to decide whether to accept the digital euro in their contractual relations with other businesses, and (ii) avoiding a full exemption of B2B transactions, thereby ensuring that the Regulation remains capable of accommodating B2B use cases, should businesses wish to use the digital euro.

The Presidency also notes that this exception is limited to contractual terms and does not extend to commercial practices. Extending the exception to commercial practices could undermine the effectiveness of the Regulation, as enterprises could in practice exclude the digital euro through unilateral practices outside contractual arrangements. By limiting the exception to contractual terms, the Presidency seeks to safeguard legal certainty while preventing circumvention of the obligation through commercial behaviour.

**Drafting suggestions**

**DK PCY in green**

Article 10 – Prohibition of unilateral exclusion

**1.** 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.

**2. Insofar as it relates to contractual terms that have not been individually negotiated, the prohibition referred to in paragraph 1 shall not apply to relations between enterprises.**

**Question 3 to Member States:**

**Q3:** Do Member States agree with the Presidency's proposal to Article 10(2)?

## **1.4 Additional exceptions of monetary law nature**

The Presidency recalls that Member States proposed replacing the “delegated act” with an “implementing act” in Article 11. However, the Presidency understands that the measures the Commission may adopt under Article 11 would be of a supplementing nature rather than merely implementing. The Presidency therefore proposes to retain the current wording of the Article.

### Article 11 – Additional exceptions of a monetary law nature

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.

**Questions 4-5 to Member States:**

**Q4:** Do Member States support the Presidency's approach to Article 11?

**Q5:** Do Member States have further comments to Chapter III concerning the legal tender status of the digital euro?