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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and the Banking Union (Digital Euro Package) Financial Services Attachés
Subject:	Digital euro - Working Party meeting on 17 October 2025 - Presidency Discussion Note on the distribution obligations for credit institutions incorporated in non-euro area Member States

Danish Presidency
Council of the European Union

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Presidency discussion note on the distribution obligations for credit institutions incorporated in non-euro area Member States

Date: 17 October 2025

Working Party on Financial Services and the Banking Union

Regulation on the provision of digital euro services by payment service providers incorporated in non-euro area Member States

Meeting on 17th of October 2025

PUBLIC

1. Introduction

The topic of international use, including the **distribution of digital euro payment services by credit institutions established in a Member State whose currency is not the euro** (NEA credit institutions) within the Euro Area (EA), was at latest discussed at the Council Working Party (CWP) meeting in April during the Polish Presidency. The discussion primarily focused on the interpretation of the requirements set out in Article 4(1) of the proposal for a Regulation on the provision of digital euro services by NEA PSPs (Article 114 TFEU Proposal[1]).

During the meeting, **it became clear that the Commission, several Member States and the Council Legal Service held differing views on the interpretation of the requirements in Article 4(1) of the Article 114 TFEU Proposal**. The Commission underlined that from a level playing field perspective, NEA credit institutions with clients residing in the EA should be subject to obligations comparable to those of EA credit institutions described in Article 14 of the regulation on the establishment of the digital euro. At the same time, the Commission acknowledged that the Article 114 TFEU Proposal could be adjusted in order to ensure greater proportionality by introducing a threshold reflecting the number of clients in the EA that a NEA credit institution should serve before becoming subject to distribution obligations under the Article 114 TFEU Proposal.

Several Member States expressed **openness to a proportionate solution** that would ensure both a level playing field and sufficient access to the digital euro for users in the EA. In contrast, some Member States argued that the distribution of digital euro payment services in the euro area by NEA credit institutions should remain voluntary, stressing that it could impose disproportionate obligations on especially smaller credit institutions serving a limited number of EA clients. As an alternative, some Member States suggested that it would be both proportionate and operationally simpler to limit the mandatory obligations to branches or subsidiaries located within the EA. However, the Commission noted in relation to this, that **a purely territorial approach tied to physical presence raises legal concerns regarding the Single Market and the risk of creating an unlevel playing field**.

Additionally, some Member States opposed a strictly territorial model, arguing that it could leave large groups of clients without access to the digital euro in Member States where NEA credit institutions hold significant market shares.

[1] Proposal for a Regulation of the European Parliament and the Council on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council – COM(2023) 368 final.

PUBLIC

2. Proposed way forward

In light of these considerations, the Presidency **does not consider a purely territorial approach to constitute a viable way forward at this stage.** To balance the various considerations described above, the Presidency proposes to introduce **three criteria reflecting the significance of a NEA credit institution in an EA Member State** (See Annex 1). This approach would define the conditions under which a NEA credit institution would be obliged to distribute digital euro payment services within the EA, thereby aiming at ensuring access to digital euro payment services, proportionality and a level playing field.

The Presidency suggest introducing the **first criterion in Article 3(2)(a)** that establishes the general condition that the NEA credit institution should be providing payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 to natural persons residing in a EA Member State.

Furthermore, the Presidency suggest introducing the **second criterion in Article 3(2)(b)** and further clarify the meaning in a new Recital 4a. The aim of the second criterion is to quantify the number of users and the percentage share that would lead to a NEA credit institution being considered as serving a significant number of clients in the EA. The Presidency suggest that this is the case when a NEA credit institution serves:

i) a significant **number** of natural persons permanently residing in a EA Member States or
ii) a significant **share** (pct.) of natural persons permanently residing in a given EA Member State.

For this assessment, only clients who are – natural persons permanently residing in the EA - would be counted, thereby excluding temporary residents, such as those present for short-term study or work. This approach is inspired by the methodology used to determine materiality thresholds for major incidents under the Digital Operational Resilience Act (DORA), as outlined in Article 18(3) of DORA and further detailed in Article 9(1) of the relevant Regulatory Technical Standard.

The **third criterion is introduced in Article 3(2)(c)** and further clarified in a new Recital 4b. It aims at clarifying that **NEA credit institutions should not be required to provide digital euro payment services to** natural persons permanently residing in the EA **if those persons already hold a payment account with a payment service provider providing digital euro payment services**. In such cases, the obligation to provide access to digital euro payment services would rest with the payment service providers providing digital euro payment services. To verify this, the NEA credit institutions could rely on a declaration of honour provided by the client. In addition, the recital further clarifies that the NEA credit institution may refer clients to its subsidiaries in an EA Member State. This would aim at facilitating

PUBLIC

user access while avoiding disproportionate obligations for NEA credit institutions, particularly those related to the integration of multiple IT systems across jurisdictions.

To operationalise the criteria, the Presidency proposes to amend Article 3 by specifying that NEA credit institutions shall, upon request of their client, provide that client with all mandatory digital euro payment services, if the following cumulative criteria are complied with:

(a) the NEA credit institution provides payment services as referred to in points (1), (2), or (3) of Annex I to PSD2 (later PSR/PSD3) to natural persons permanently residing in an EA Member State;
(b) the NEA credit institution provides the services listed in point (a) to more than [X] pct. of natural persons permanently residing in a single EA Member State or to more than [Y] natural persons permanently residing in the EA as a whole, and;
(c) the requesting natural person permanently residing in an EA Member State does not hold a payment account with any payment service providers providing digital euro payment services.

3. Outstanding elements

If the Member States are to support the proposed method for establishing which NEA credit institutions that has significant presence in the EA and thereby should be subject to distribution obligations in the EA, the Presidency recognises that certain elements require further clarification:

First, the calibration of the thresholds under point (b) is a key issue. The threshold should be set sufficiently high to ensure proportionality and predictability, while also ensuring adequate access to digital euro payment services in EA MS where NEA credit institutions have a significant presence. The Presidency notes that such a threshold must be applied uniformly across the EA. To support an appropriate calibration, the Presidency is currently conducting a data-gathering exercise. If the approach is to be supported by Member States, the Presidency would continue its efforts in this regard.

Secondly, the approaches for monitoring and enforcement of the threshold, as well as clarifying supervisory responsibilities for NEA credit institutions subject to mandatory distribution obligations has to be further specified. On a similar note, it should be clarified how and within what timeframe NEA credit institutions who fulfil the conditions (a)-(c) should transition before commencing the distribution of digital euro payment services.

Finally, a potential clearer definition of residence to ensure consistent interpretation across Member States, including whether the definition should encompass a place of stay, and how actual residence or address can be credibly verified.

PUBLIC

The Presidency furthermore acknowledges that some Member States have requested clarification on which requirements in the Regulation on the establishment of the digital euro should apply to NEA credit institutions subject the distribution obligation, as well as to NEA PSPs providing digital euro payment services on a voluntary basis.

Questions 1-2 to Member States

Q1. *Do Member States support the Presidency's proposal for a methodology, and the corresponding drafting suggestions, defining which NEA credit institutions that should be subject to the distribution obligations in the Regulation on the establishment of the digital euro?*

Q2. *Do Member States have further comments to the Article 114 TEUF Regulation?*

Annex 1: Drafting proposal – 114 TFEU Proposal

DK PCY in green

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council
(Text with EEA relevance)

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 114 thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Central Bank 2 ,
Having regard to the opinion of the European Economic and Social Committee 3 ,
Acting in accordance with the ordinary legislative procedure,

Whereas:
(1) The Commission emphasised in the Digital Finance and Retail Payment Strategies 4 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 EU retail payments market.

PUBLIC

(2) Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final] on the establishment of the digital euro establishes the digital euro and lays down rules concerning it, in particular as regards its legal tender status, distribution, use and essential features, with a view to adapting the euro to technological changes and to ensuring its use as a single currency.

(3) It is essential to ensure that all payment services providers, whether incorporated in Member States whose currency is the euro or in Member States whose currency is not the euro, may distribute the digital euro and therefore exercise their freedom to provide services in the Union. The provision of digital euro payment service by all payment services providers would contribute to a high level of innovation, facilitate payments and increase competition across the Union and is necessary to safeguard the integrity of the single market. All payment services providers incorporated in the Union should therefore be in a position to distribute digital euro payment services under the same conditions to natural or legal persons residing or established in the Member States whose currency is the euro, to natural or legal persons who opened a digital euro account at the time they resided or were established in Member States whose currency is the euro, but no longer reside or are established in such Member States, and to visitors in the euro area. Payment services providers incorporated in Member States whose currency is not the euro should also be in a position to distribute the digital euro to any other natural or legal persons residing or established in Member States whose currency is not the euro and in other countries of the European Economic Area or any third countries subject to the conditions laid down in the Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final].

(4a) Where credit institutions incorporated in Member States whose currency is not the euro serve a significant number of natural persons residing in Member States whose currency is the euro, those natural persons may reasonably expect access to digital euro mandatory services under comparable conditions to those applied by credit institutions incorporated in Member States whose currency is the euro. To ensure access to digital euro payment services for natural persons permanently residing in Member States whose currency is not the euro, safeguard a level playing field on the internal market and prevent distortions of competition, while ensuring proportionality, distribution requirements applicable to such credit institutions should be limited to cases where credit institutions have significant activity in Member States whose currency is the euro. In that context, and for the purpose of assessing whether the threshold for a significant number of natural persons served is met, only clients who are permanently residing in a Member State whose currency is they euro should be taken into account. This is to ensure that credit institutions incorporated in a Member State whose currency is not the euro are not subject to disproportionate obligations that would be based on clients who reside in a Euro Area Member State only temporarily, such as those arising from short-term study periods, temporary work contracts or similar arrangements.

PUBLIC

(4b) To ensure proportionality of the obligations under this Regulation, credit institutions incorporated in Member States whose currency is not the euro should not be required to provide digital euro payment services to their clients – natural persons permanently residing in a Member State whose currency is the euro, where the client holds a payment account with any payment service provider that provides digital euro payment services. In such cases, the responsibility for ensuring access to digital euro payment services should rest with the credit institution incorporated in a Member State whose currency is the euro. In order to verify whether or not a natural person residing in a Member State whose currency is the euro already holds such a payment account, credit institutions should be able to rely on a declaration of honour provided by that client.

(4c) Credit institutions incorporated in Member States whose currency is not the euro and subject to distribution obligations are free to refer natural persons residing in a Member State whose currency is the euro to branches or subsidiaries of the credit institution in the a Member State whose currency is the euro, in order to facilitate access to digital euro services under the described circumstances. Such referrals would facilitate access to digital euro services through the most operationally efficient channel, while avoiding unnecessary duplication of compliance and IT integration across jurisdictions, by leveraging infrastructures within the euro area, and without being required to establish additional technical connections to the digital euro platform in multiple Member States outside the euro area.

(4**d**) Payment services providers incorporated in Member States whose currency is not the euro **that are subject to the obligation to distribute the digital euro in accordance with this Regulation or that have chosen to provide digital euro payment services**, should apply the same rules as payment services providers incorporated in Member States whose currency is the euro for the purposes of distributing the digital euro. That is essential in order to ensure that the distribution of the digital euro by all payment services providers incorporated in the Union takes place in a uniform manner.

(5) The provision of digital euro payment services by payment services providers incorporated in Member States whose currency is not the euro, should be subject to the same supervisory standards than those applied to payment services providers incorporated in Member States whose currency is the euro. For that purpose, the relevant provisions of Directive (EU) 2015/2366 of the European Parliament and the Council ~~as replaced by Directive (EU) [please insert reference – proposal for a Directive on payment services and electronic money services in the internal market – COM/2023/366 final]~~, Directive (EU) **2024/1640 of the European Parliament and of the Council** ~~[please insert reference – proposal for Anti-Money Laundering Directive - COM/2021/423 final]~~ should apply to the supervision by competent authorities and the ~~**sanctions**~~ **enforcement** regime and supervisory arrangements between the competent authorities of the home Member States and of the host Member States,

PUBLIC

concerning provision of digital euro payment service by payment services providers established in Member States whose currency is not the euro.

(6) Similarly, as in case of competent authorities of Member States whose currency is the euro under Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final], 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) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final].

(7) In accordance with Article (4), point (25), of Directive 2015/2366, funds mean 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 ~~as replaced by Directive (EU) [please insert reference – proposal for a Directive on payment services and electronic money services in the internal market - COM/2023/366 final]~~ which extends the definition of funds to all forms of central bank money issued for retail use. The same definition of funds should be included in Regulation (EU) 2021/1230 of the European Parliament and of the Council of 14 July 2021 on cross-border payments in the Union.

(8) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States as rules applicable to payment services providers should be the same regardless of whether they are incorporated in a Member State whose currency is the euro or not, but can rather, by reason of the scale or effects of the action to ensure the integrity of the single market, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(9) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42 of Regulation (EU) 2018/1725 and delivered a joint opinion on [XX XX 2023],

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

This Regulation lays down rules concerning:

PUBLIC

(a)the specific obligations that payment service providers incorporated in Member States whose currency is not the euro shall apply when providing digital euro payment services;

(b)the supervision and enforcement of the obligations referred to in point (a) by the Member States whose currency is not the euro;

(c)the specific obligations that original equipment manufacturers of mobile devices and providers of electronic communication services within the meaning of Article 2(1) Directive (EU) 2018/1972 established in Member States whose currency is not the euro shall apply in relation to the digital euro.

Article 2
Definitions

For the purposes 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 as defined in Article 2, point 1 of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final];

2.'payment service providers' means a payment service provider as defined in Article 4, point (11) of Directive 2015/2366;

3.'digital euro payment service' means digital euro payment service as defined in Article 2 point (8) Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final];

4.'resid**ing~~ence~~**' means ~~the place where a natural person is~~ being 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 7 ;

5.'visitor' means a natural person as defined in Article 2, point 22, of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final];

6.' 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** ~~**as defined in Article 2, point 23, of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final];**~~

PUBLIC

7.'mobile device' means a mobile device as defined in Article 2, point 31, of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final].

8.'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.

Article 3

Provision of digital euro payment services

1. Within the framework of Directive (EU) 2015/2366, payment services providers incorporated in the Member States whose currency is not the euro may provide digital euro payment services to:

(a)natural and legal persons residing or established in the Member States whose currency is the euro;

(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;

(c)visitors;

(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 of the Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro - COM(2023) 369 final];

(e)natural and legal persons residing or established in third countries, including territories under a monetary agreement with the European Union, subject to the conditions laid down in Articles 19 and 20 of the Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro - COM(2023) 369 final].

2. Credit institutions incorporated in a Member State whose currency is not the euro shall, upon request of their client – a natural person referred to in Article 12a(a) of Regulation (EU) No X on the establishment of the digital euro, provide such natural person with all mandatory digital euro payment services as referred to in Annex II of Regulation (EU) No X on the establishment of the digital euro where all of the following conditions are met:

(a) The credit institution incorporated in a Member State whose currency is not the euro provides payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 to natural persons residing in a Member State whose

PUBLIC

currency is the euro;

(b) The credit institution incorporated in a Member State whose currency is not the euro, provides the services listed in point (a) to more than [X] natural persons residing in the euro area as a whole or [X] pct. of natural persons residing in a single Member State whose currency is the euro, and;

(c) The natural person residing in a Member State whose currency is the euro does not hold a payment account, as defined in point (3) of Article 3 of Directive (EU) 2014/92, with any payment service provider that provides mandatory digital euro payment services in accordance with Regulation (EU) No X on the establishment of the digital euro.

Article 4
Applicable law

1.**Without prejudice to the provisions of this Regulation, T**~~t~~he requirements laid down in Article 13, ~~**Article 14(1),**~~ Chapter V, Article 18, Chapter VII, Chapter VIII and Chapter IX of Regulation (EU) No X on the establishment of the digital euro, shall be applicable to payment service providers incorporated within the territory of Member States whose currency is not the euro that provide digital euro payment services in accordance with Article ~~**13**~~**(1) and 3(2)** of this Regulation~~**, insofar as they provide digital euro payment services in accordance with Article 3(1) of this Regulation**~~.

The requirement laid down in Article 33 of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final] shall be applicable to original equipment manufacturers of mobile devices and providers of electronic communication services within the meaning of Article 2 (1) Directive (EU) 2018/1972 established in Member States whose currency is not the euro.

2.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 amended by Directive (EU) [please insert reference – proposal for a Directive on payment services and electronic money services in the internal market – COM/2023/366 final]**~~, the provisions of that Directive shall apply to payment transactions in digital euro.

3.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, the provisions of that Regulation shall apply to payment transactions in digital euro.

4.Without prejudice to Articles 37 of Regulation [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final], Directive (EU) **2024**~~**15**~~**/1640**~~**849**~~ of the European Parliament

PUBLIC

and of the Council, of 3120 May 202415, 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 with respect to the digital euro.

Article 5
Competent authorities

1.Directive (EU) 2015/2366 of the European Parliament and of the Council shall apply to 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 euro-in relation to the digital euro for the purposes of applying this Regulation and the obligations referred to in Chapters IV, V, VI and VII of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final].

2.Directive (EU) 2015/843 shall apply to 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 incorporated in Member States whose currency is not euro established in relation to the digital euro for the purpose of applying thus Regulation and the obligations contained in Chapter IX of Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final].

Article 6
Cooperation with the European Central Bank

For the purposes of supervising the application of Chapters IV, V and VII of the Regulation (EU) [please insert reference – proposal for a Regulation of the European Parliament and the Council on the establishment of the digital euro – COM(2023) 369 final] the competent authorities referred to in Article 4(1) shall cooperate with the European Central Bank.

Article 7
Amendments

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 is replaced by "'funds' means central bank money issued for retail use, scriptural money or electronic money".

Article 8
Entry into force and application

PUBLIC

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.