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Thank you for your cooperation!

Presidency discussion note on strengthening resilience and preparedness of European retail payment landscape by digital euro (WK 5981/25)	MS comments
CHAPTER I	NL (MS comments): NL general comment: We believe a resilient digital euro infrastructure could contribute to the resilience of the European economy by providing an additional means of payment when disruptions arise. To us, the contribution of the digital euro to resilience is a key added value which is not facilitated by private sector initiatives currently. We have become increasingly aware of our strategic dependence in payments on big (non-European) payment service providers, and of our dependence on digital payments which can be disrupted by power outages. The offline digital euro is especially valuable in our opinion. In that sense we appreciate the technical work by the ECB and accompanying proposals by the Polish Presidency to provide opportunities to raise the transaction limits. We believe the proposal balances financial stability considerations with the potential for the digital euro to contribute to stability in itself.
1. Definition of exceptional circumstances and specific measures	

Q1. Do you agree with the proposed framing of exceptional circumstances?

AT

(MS comments):

Yes, we agree. We would however delete the term “[...] in particular in case emergency switching to another PSP within the Member State is not possible or feasible” in the new draft Art 2 (37). Emergency switching is a response measure to exceptional circumstances and should not define exceptional circumstances. We are open to other solution such as streamlining Art 2 (37) with Art A.

BE

(MS comments):

Yes.

CY

(MS comments):

Agree

CZ

(MS comments):

CZ: We support the direction of travel. We welcome framing the exceptional circumstances as normative conditions and not as the definition. Linking the exceptional circumstances on “continuity of payment” is very useful.

DE

(MS comments):

General remarks:

- We share the believe that a digital euro should be resilient and that it should be a significant step towards a resilient and prepared European retail payment landscape.

- The offline modality of the digital euro is a key function of the digital euro. It must be available from the first issuance of digital euro. It will ensure usage without connectivity and thus is a key feature for ensuring built-in resilience. Any attempts seeking to strengthen the offline version are most welcome.
- Regarding the drafting proposals, we recognise that the PCY note seeks to introduce important procedural safeguards how MS would exercise their powers. We welcome this approach.
- From a policy perspective such clear procedural rules are very important. Because under no circumstances should the impression be created that the digital euro could be subject to too far-reaching and unilateral powers of MS. The trust of the users in a secure and stable digital euro is key for the success of the project. Otherwise, there could be a risk that certain decisions might potentially politicize the process with regard to the functioning of the digital euro. This must be avoided.

Answer to Q1:

- We welcome the fact that the proposed definition of exceptional circumstances is now limited to the continuity of payments and thus has a clear reference to payments and the digital euro. Any definition should be as clear and narrow as possible.
- **We reject any more far-reaching definition as it is proposed for Article 2** (see answer to Q9. For us, it is not clear how the proposed framing of exceptional circumstances (Article A, first subparagraph) would interact with the amended definition of exceptional circumstances (Art. 2, point (37)). Which definition would prevail?

	<ul style="list-style-type: none">• Furthermore, we would deem it beneficial to provide some language on when exceptional circumstances would cease to exist.• There should also be more clarity on the timeframe after which the emergency measures listed in Article A are expected to be deactivated, once the exceptional circumstances have ceased to exist.• Furthermore, it should be clarified what is meant by ‘...widespread and severe disruption of the continuity of payments or digital euro operations, <i>that affects or threatens to affect, in whole or in part, a Member State...</i>’. What situations would be covered by ‘<i>threatens to affect</i>’? This seems too vague to us. Instead, it should be clarified in which way a disruption ‘threatens to affect a Member State’. We believe it would be clearer to delete this reference (see drafting proposal).• Moreover, we have some procedural and legal doubts: Under Article A, we wonder who would be entitled to decide whether such ‘exceptional circumstances’ prevail? Unlike Article B [raising of holding limits] and Article C [emergency switching], Article A does not foresee a procedural rule who and how it should be decided whether exceptional circumstances do in fact prevail. A similar procedural rule is missing here.• In addition, the proposed approaches in Article B, C and D are not consistent.<ul style="list-style-type: none">○ In case of Article B, a Member State shall send a request to the Commission which might, implicitly, verify whether ‘exceptional circumstances prevail.○ In case of Article C, a Member State shall request from the ECB or national central banks that emergency
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switching shall be enabled. However, in these situations the ECB shall not be mandated to verify whether or not ‘exceptional circumstances’ prevail (outside the mandate). Therefore, it remains unclear how it would be verified that indeed ‘exceptional circumstances’ prevail in the requesting MS.

- In case of Article D, Member States may adopt measures solely based on their own assessment of the situation.
- Therefore, we request to foresee procedural rule which clearly provide a framework for how and by whom it shall be established that ‘exceptional circumstances’ indeed prevail.
- Overall, regarding the proposed amendments, it must be ensured that any such amendment would be consistent with the Treaties. In particular, Member State’s own competences with regard to national security must be respected.

DEU Drafting Proposal

Article A – possibility to adopt certain measures in exceptional circumstances

In exceptional circumstances situations where there is widespread and severe disruption of the continuity of payments or digital euro operations, that affects or threatens to affect, in the whole or in parts ~~of the territory of~~ a Member State or the euro area, a Member State may adopt one or more of the following justified and proportionate measures pursuant to the provisions of this chapter, as appropriate,

- a) raising offline digital euro holding and transaction limits;

	<p>b) emergency switching;</p> <p>c) enhancing the distribution of the digital euro</p> <p>in order to ensure the continuity of digital euro payment functions or to protect the access of digital euro users to their digital euro holdings.</p> <p>EE</p> <p>(MS comments):</p> <p>EE: First of all, we appreciate all the comments the Members States provided in written after the first discussion on this topic in January. Secondly, we are very thankful to the Presidency, the European Commission and the European Central Bank for all the efforts put into this topic. We welcome the technical analysis of the Eurosystem that includes technical solutions.</p> <p>The Articles provided by the Presidency need to be complemented by respective Recitals. We have provided the Presidency with some adjusted Recitals that are based on MS's written comments and inspired by the Eurosystem analysis.</p> <p>In our view and in short, it is key that the digital euro can be introduced in a way that makes it an innovative and attractive means of payment and ensures the resilience of payment services also in exceptional situations. This could provide real added value compared to current payment solutions, where we are largely dependent on service providers outside Europe. However, in the event of failures and in the context of digitalised societies, we should not necessarily revert back to cash if exceptional circumstance occurs. We should seriously consider the reality of the digital society and the threats prevailing in the current global situation, but also some other disruptions that can occur as shown recently in Portugal and Spain.</p>
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	<p>We are fully aware of legal concerns and limitations stemming from the Treaty, but in order not to land in a worse situation than we are today, if we are investing to the digital euro project (resources, political capital) and promote wide use of digital euro in normal times, it is in the digital euro ecosystem natural to expect that it is functioning at least to a reasonable extent in exceptional circumstances. Therefore, we need a constructive legal drafting and pragmatic technical solutions. In general, that means robust offline digital euro with sufficient default holding limit, but also to ensure that online digital euro is designed in a way that provides functionalities that the private sector solutions cannot ensure in the emergency (even when some of the functionalities could be implemented only in the longer run if we decide so). Therefore, it is important that the Regulation includes clear principles and expectations to the scheme and is ambitious enough in this regard.</p> <p>When it comes to the wording proposed, we see some room for improvement to ensure that Article A (with some finetuning or together with a definition in Article 2 and/or with a Recital) covers all spectrum of emergencies and exceptional circumstances, where the MSs have competence and responsibility in ensuring essential State functions concerning public security, defence and national security, and at the moment the Member States are free to take all necessary actions.</p> <p>In practice, it is essential to enable that in the euro area and Member States continued digital payments in digital euro can be facilitated, in case banks' payment services are operationally disrupted, including digital euro waterfall account, ATM network and/or Point of Sales cashback services, and people cannot use private digital payments solutions nor withdraw cash from their bank account.</p> <p>To the list of measures in Article A, we propose to add a point "d) ensuring continued availability of online digital euro in case waterfall mechanism is unavailable". That means, in case the waterfall functionality/mechanism is unavailable smooth operation of digital euro payments should be assured by automatically allowing digital euro</p>
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	<p>settlement beyond the set digital euro holding limit as a technical business continuity measure until the waterfall functionality becomes available or in case the emergency switching is performed, and excess funds are automatically transferred to a waterfall payment account. In practice, the solution will be provided by the scheme, so by the Eurosystem. This solution would ensure also continuity of digital euro payments in smaller operational disruptions that the users are not aware of. In addition, the threat of disruption and risks piling up could be added to the scope of exceptional circumstances.</p> <p>EL (MS comments): EL: We could agree.</p> <p>ES (MS comments): As preliminary remark: Recent events in Spain, such as the floods in November 2024 and the blackout in April 2025, have emphasized the importance of counting on resilient means of payment to support the citizen's daily activities. This resilience in the EU payments market needs to be achieved through various measures. We are aware that the D€ will not cater for all possible events and will not be a solution to all the problems, but the joint adoption of various measures, including citizens storing <u>cash</u> for emergency measures, <u>entities in the payments market strengthening resilience complying with DORA obligations</u>, more <u>emphasis on offline payment instruments</u> and the adoption of a digital euro with specific features, will <u>altogether</u> help to build a more resilient EU payments landscape. Regardless of these specific resilience features of the D€ for exceptional circumstances, it is important to make the D€ attractive for users under normal circumstances, and the resilience feature should be</p>
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	<p>an additional, but not the main, value added. We value this Presidency paper, as it brings specific pragmatic solutions to the table.</p> <p>Having said this, we answer to Q1 and Q9 simultaneously, since they are related:</p> <ul style="list-style-type: none">- In general, we agree with the idea of stating in Article A the measures that can be adopted in exceptional circumstances: The emergency situations can be very different. Depending on the situation it can make sense to activate only one or various measures. We agree with the flexibility provided by the article in this respect. We would emphasize that these measures need to be eliminated as soon as the exceptional circumstance disappears. On the specific measures however, we are unsure whether there should be a specific emergency switching for exceptional circumstances and we believe that the introduction of a last resort entity should be voluntary. Also, the queuing of payments could be introduced as a measure.- Regarding the description of the circumstances, it is important to ensure a smooth integration with article 2(37). If we want a definition in article 2, maybe Article A shall only refer to the possible measures with a cross-reference to article 2(37); and article 2(37) should describe the exceptional circumstances that can trigger/activate the measures.- We believe that the definition of exceptional circumstances should be open and flexible, referring to situations (i) limited in time, (ii) that cause widespread and severe disruptions in the continuity of payments. It is important to <u>include also situations where payments have not yet been disrupted but there is a threat or high likelihood that they will be</u>. We would not include examples in the definition, since they should go in recitals (e.g, the mention to a natural disaster, a major cybersecurity incident or
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other attack). We should focus on the consequence rather than on the scenario giving rise to that consequence.

- We do not think emergency switching should be mentioned in the definition, since it is a possible measure to take but not part of the also think that situations causing property economic or environmental damage that do not disrupt or threaten to disrupt the correct functioning of payment services should lead to the adoption of any of those measures.
- We do not think MSs should introduce a procedure in national law to declare the exceptional circumstances, since the proposal foresees different procedures for the activation of each measure.

We here **submit a few drafting suggestions** (with our proposed changes in green) to reflect our comments:

Article A – Possibility to adopt certain measures in exceptional circumstances

One or more of the following measures may be adopted pursuant to the provisions of this chapter, as appropriate, in **exceptional circumstances described in article 2(37)** ~~situations where there is widespread and severe disruption of the continuity of payments or digital euro operations, that affects or threatens to affect, in whole or in part, a Member State or the euro area:~~

- a) raising offline digital euro holding and transaction limits;
- b) emergency switching;
- c) enhancing the distribution of the digital euro

g) queuing of payments

These measures shall only be adopted in the areas of territory affected by the circumstance and be lifted as soon as the exceptional circumstance ends.

37. (new) ‘exceptional circumstances’ means situations, limited in time, that can cause serious and extensive disruptions in the essential state functions and functioning of society, in particular **causing or**

~~threatening to cause~~ disruption of payment services,~~or cause great property, economic or environmental damage, including a natural disaster, a major cybersecurity incident or other attack,~~ negatively affecting the population of the Union or the whole or part of a Member State, and which is determined or officially declared in accordance with the relevant procedures under Union or national law, ~~in particular in case emergency switching to another PSP within the Member State is not possible or feasible;~~

FI

(MS comments):

We support that piling of risks and significant changes in risk landscape could also be taken into account in the framing of exceptional circumstances as mentioned by some of the member states in the working party meeting.

We would also welcome recitals to clarify the interpretation of exceptional circumstances.

FR

(MS comments):

We would like to thank the Polish Presidency for this comprehensive Presidency note, and once again to thank Estonia, Finland, Latvia and Lithuania for their non-paper last January, which made a useful contribution to our discussions.

We feel that the definition of exceptional circumstances should be more restrictive, referring to ‘widespread and severe disruption of the continuity of payments’, and removing the phrase ‘or digital euro operations’. If continuity of traditional electronic payments were ensured and only digital euro transactions were suspended, it seems to us that this would not create any emergency situation for citizens,

	<p>making it possible to deal with the specific problem of the digital euro without the need to activate any exceptional measures.</p> <p>HR (MS comments): Yes, we agree with the proposed framing of exceptional circumstances.</p> <p>IE (MS comments): IE agrees with the proposed framing of exceptional circumstances as set out in Article A – possibility to adopt certain measures in exceptional circumstances. IE supports the framing as it is key to ensure that the definition of exceptional circumstances can cover multiple scenarios, and that the measures that can be applied can also be diverse and adapted to the circumstances of each situation.</p> <p>IE believes that drafting around “exceptional circumstances” should not only include a clear definition of when such conditions begin, but also a structured process and defined timeline for their conclusion and the restoration of normal circumstances. This is essential to ensure that exceptional powers are not extended unnecessarily or open to abuse</p> <p>IT (MS comments): Yes, we agree.</p>
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	<p>LT</p> <p>(MS comments):</p> <p>We appreciate the proposed framing of exceptional circumstances, and we are inclined to agree with the suggestion of including impact on whole or part of the euro area.</p> <p>Furthermore, for Lithuania, the issue of resilience is of great importance, and it is essential that the emergency switching solution works not only domestically, but also cross-border in the euro area. In an extreme situation, people might have to leave the country and might not be able to access their digital euro funds in another European country.</p> <p>At the same time, we would like to suggest that it might be necessary for merchants to consider moving their digital euro account to another bank if their current bank is not operational for a prolonged period (e.g. two weeks or longer) or ceased operations entirely (e.g. due to insolvency). There might be a need to transfer accumulated digital euros via offline payments to a commercial bank account in another PSP. It is of great importance for businesses to be able to pay their suppliers, as well as for citizens, otherwise businesses may refuse to accept offline digital euro in emergency situations.</p> <p>Moreover, we would be very grateful for your guidance on the following points: clarification of the process for both end-users and merchants of cross-border emergency switching. Would it be possible from a technical point of view to defund offline digital euros into another PSP in the same or different eurozone country? It is possible that, should such a possibility not exist, merchants may be reluctant to accept the digital euro during times of short or long power outages, or in the unlikely event of a worst-case scenario.</p> <p>LV</p>
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(MS comments):

We agree with the proposed framing.

NL

(MS comments):

NL comment: Yes, we believe that focusing on the continuity of payments is an appropriate framing for exceptional circumstances. Since it is a normative statement rather than a definition, the framing allows for various scenarios which makes it future-proof.

However, we would propose adding the drafting below on the timeframe in which exceptional circumstances either end, or have to be reconfirmed to remain in place. When deciding on a temporary increase of offline holding limits in exceptional circumstances, the timeframe of such an intervention should be clearly demarcated.

Drafting suggestion article A [in red]:

*Article A – possibility to adopt certain **temporary** measures in exceptional circumstances*

*One or more of the following measures may be adopted **temporarily**, pursuant to the provisions of this chapter, as appropriate, in situations where there is widespread and severe disruption of the continuity of payments or digital euro operations, that affects or threatens to affect, in whole or in part, a Member State or the euro area:*

- A) Raising offline digital euro holding and transaction limits;*
- B) Emergency switching;*
- C) Enhancing the distribution of the digital euro.*

Drafting suggestions article B [in red]:

Article B – Procedures for raising the offline holding and transaction limits

1. One or more Member States may submit a request to the Commission for a temporary increase of the applicable offline digital euro payment transaction limits and offline digital euro holding limits, which shall respect the limits to the use of the digital euro as a store of value set out in accordance with Article 16. The request shall specify the relevant territories and users and shall contain the grounds justifying that measure and the **envisaged** precise timeframe **after which the temporary increase is terminated or after which a re-evaluation of the temporary increase takes place following the procedure of this article.**

2. The European Central Bank and/or the Member States other than those requesting the measure envisaged in paragraph 1 may submit their opinion on the proposed measure within a time limit of [24] hours from the notification of the request by the Commission.

3. The Commission shall adopt its implementing act within [48] hours after receiving the request referred to in paragraph 1. In case of a negative decision, the Commission shall provide grounds for it.

4. The Commission may adopt such a measure also on its own initiative. Paragraph 2 shall apply *mutatis mutandis*

PT

(MS comments):

As we previously mentioned, we support the overall goal of enhancing resilience and preparedness of European payments market. However, we have concerns about some of the policy options currently under discussion. For instance, we believe that cash might play a role in ensuring resilience during exceptional circumstances. Therefore, we consider that any solution developed for this goal should consider how cash and the

	<p>digital euro can, in a complementary manner, address these circumstances.</p> <p>More specifically, regarding the proposed framing of exceptional circumstances, we believe the proposed references to “<i>widespread</i>” and “<i>severe disruption</i>” are subjective and should be more precisely substantiated. Moreover, we have some doubts regarding the reference to “<i>digital euro operations</i>”. We believe that such measures should not be implemented solely because there are disruptions affecting “digital euro operations” while other payment methods remain available. Additionally, we have doubts regarding the possibility of applying the proposed measures when only part of a Member State is affected by exceptional circumstances.</p> <p>Nonetheless, we support maintaining the reference to “<i>continuity of payments</i>” because we believe that the proposed measures should not apply when this continuity, even in exceptional circumstances, are not at risk.</p> <p>In addition, we consider it might be useful to mention in this article that the procedures for activation of each of these measures (as well as the entities responsible for such activation) are defined in the following articles.</p> <p>SI</p>
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	<p>(MS comments):</p> <p>SI: Yes, we agree.</p> <p>SK</p> <p>(MS comments):</p> <p>We are of the view that reference to the continuity of digital euro operations should be deleted. In case when continuity of payments through other means is secured, there is no justification for adoption of the proposed measures.</p>
<p>2. Raising offline and transaction limits</p>	
<p><i>Q2. Do you agree with the proposal to allow for temporary raising the offline holding and transaction limits?</i></p>	<p>AT</p> <p>(MS comments):</p> <p>Yes, we agree. However, we emphasize that such increases must remain within the overall holding limits and be clearly time-bound (AML/CFT-Reasons).</p> <p>Any request should be handled within 24 hours and also include a clear deadline to end the measure, otherwise a re-request would become necessary.</p> <p>Paragraph 3 of Article B should be further clarified, as it remains unclear under which conditions and legal basis the European Commission may accept or reject a request submitted by a Member State. Legal certainty in this respect is necessary to ensure transparency, consistency, and trust in the mechanism. We further question whether the Commission should be able to adopt such measure on its own initiative as only Member</p>

	<p>States are in the position to define whether exceptional circumstances are present.</p> <p>BE (MS comments): Yes.</p> <p>CZ (MS comments): CZ: In general, we support the possibility of raising the offline holding / transaction limits. However, we are quite sceptical due to a technical feasibility, especially regarding territorial restrictions. Also it should be clarified how the procedure will continue once the exceptional circumstances cease to exist. Specially, until the user does not connect online.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• First of all, we believe that the transaction limit for offline transactions must be set directly by the co-legislators at level 1. In the past, we had proposed a limit of 1000 Euro per transaction.• The balancing out of potential AML/CFT concerns and the usability of the offline version are key political decisions. Here, political trade-offs must be made by the co-legislators.• Similarly, the co-legislators set the overall transaction limit for cash under the new AML package (Article 80 (1) of Regulation EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system
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for the purposes of money laundering or terrorist financing). The same must apply here.

- Therefore Article 37 (5) must be amended. Setting the transaction limit for the offline modality shall not be delegated to the Commission.

DEU Drafting Proposal:

Article 37

[...]

(4a) A single offline digital euro payment transaction may only be made or accepted up to an amount of EUR 1000.

(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.

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, when drawing up the implementing acts referred to in paragraph 5, shall take into account in particular the following: [...]

- Regarding situations of crisis, in general, we welcome the proposed approach that offline holding limits should remain within the overall holding limits. An increase of the offline holding limits during exceptional circumstances beyond the overall holding limits does not seem desirable to us.

- We also welcome the attempt to present procedural rules how such a temporary raising of the offline holding limit – not transaction limit – would be enabled.
- Regarding these procedural rights, it must be ensured, however, that any temporary change to the holding limits should be set by an implementing act adopted by the Commission on the basis of *the examination procedure*. This is of high importance. Because there must be a way for Member States to intervene, if the decision does not seem reasonable.
- Here, we propose the same mechanism we have already proposed in the past regarding the setting of the maximum holding limit. Similarly, a maximum holding limit should be set by an implementing act adopted by the Commission on the basis of the examination procedure.
- Finally, we are sceptical why the Commission shall be granted its own right, under Article B (4) to initiate this proceeding. We are not convinced that this is necessary as the right to evoke this request should rest solely with the Member States.

DEU Drafting Proposal

Article B – Procedures for raising the offline holding and transaction limits

1. **Upon the reasoned request of a Member State, in exceptional circumstances,** a Member States may submit a request to the Commission for a to temporarily increase of the applicable **offline digital euro payment transaction limits and** offline digital euro holding limits, which shall respect the limits to the use of the digital

	<p>euro as a store of value set out in accordance with Article 16. The request shall specify the relevant territories and users and shall contain the grounds justifying that measure and the envisaged precise timeframe.</p> <p>2. The European Central Bank and/or the Member States other than those requesting the measure envisaged in paragraph 1 may submit their opinion on the proposed measure within a time limit of [24] hours from the notification of the request by the Commission.</p> <p>3. The Commission shall adopt its implementing act within [48] hours after receiving the request referred to in paragraph 1. In case of a negative decision, the Commission shall provide grounds for it.</p> <p>4. The Commission may adopt such a measure also on its own initiative. Paragraph 2 shall apply mutatis mutandis</p> <p>EE (MS comments):</p> <p>EE: In general, we see the rationale and could support the concept. However, the proposed governance and related procedures for temporary raising the offline holding and transaction limits seem quite burdensome. On the contrary, the procedure should be as automatic and efficient as possible. Given that raising the offline limits always respects the limits to the use of the digital euro as a store of value set out in accordance with Article 16, the corresponding procedure should also be proportionate to this principle. The proposed approach goes too far.</p> <p>The time limits in paragraphs 2 and 3, i.e., 12 and 24 hours, respectively, are perhaps too long. They do not ensure effective action and may not be adequate in some exceptional circumstances. Time limits should be shortened to be more suitable for a rapid response. The aim should be that the consultation and decisions are carried out within 24 hours.</p> <p>EL</p>
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	<p>(MS comments):</p> <p>EL: Yes, we could agree with the proposal to temporarily increase offline holding limits under exceptional circumstances and <u>within the overall holding limit</u>. Our understanding from the ECB analysis in its relevant note is that the implementation of the technical ability to change offline limits while devices are offline, even if deemed feasible, implies high costs and coordination and communication aspects that have not yet been assessed. As users need to connect to change their offline holding limits and transaction limits, this leads us back to the necessity of the online functionality for the offline to continue operating.</p> <p>ES</p> <p>(MS comments):</p> <p>We support this measure. Similar to cash, offline will be expected to play a main role in ensuring continued availability of payment services in case of digital disruptions.</p> <p>We see value in allowing an increase of offline D€ holding and transaction limits in exceptional circumstances.</p> <p>From our experience in the last two events in Spain, we see value in factoring in the need to allow the purchasing of necessities during exceptional circumstances when calculating to what extent should the offline holding and transaction limit be increased under exceptional circumstances. Even if the floodings and the blackout were very different events, with different duration, in the end, the amount needed to satisfy basic purchases was not that different. In any case, we are unsure whether</p>
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	<p>the need to allow the purchasing of necessities in exceptional circumstances should be a factor to take into account in the normal transaction and holding limits (in article 37(6)).</p> <p>We agree with the PCY that there is no need to raise overall (online offline) HL under exceptional circumstances and agree with the fact that these overall limits should in any case be respected.</p> <p>We see problems in the proposed procedure for raising the limits, contained in Article B. We would not use this procedure to determine the activation of other measures, since, for the emergency switching, we would only activate it when a PSP is not operating (regardless of whether it is an exceptional circumstance or not). The queuing of payments should be activated when the waterfall functionality is not available. As for the measure to enhance the distribution of the D€, we support a flexible approach. Regarding the proposed methodology:</p> <ul style="list-style-type: none">- Ee see value in the COM being able to adopt the measure at its own initiative as well as the MS requiring permission to activate. We believe that we should not only rely on a MS to activate the procedure. It is difficult to imagine a MS asking for help when a problem arises.- The proposed timeframes are too long (24h for MS/ECB to react; 48h for COM to react). It is important to be able to activate the measures as soon as there is a serious threat and have a close monitoring and oblige to lift the measures as soon it is seen it is no longer necessary.- We wonder whether the request that the MS has to submit to the COM prior to the adoption of the measure (specifying the relevant territories and users, the precise timeframe) is too detailed. We believe it is important to make sure that it can be easily modified (e.g. extended). In these exceptional
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circumstances it might be difficult to foresee *ex ante* what territories will be affected and for how long. It seems more important to keep a close monitorization of the situation to make sure that the measures are adopted in all places where it is needed and that it is available for as much time as it is needed until the situation goes back to normal: when there is a threat, these elements are difficult to foresee in advance. Also, we should take into account that all the aforementioned specifications are not foreseen when the COM requests the activation of the measure.

- **It could be possible to grant an initial prior authorisation to activate the measures and after the opinion of MS, ECB and COM** (with close monitorization) the MS/PSPs/ECB (or whoever activates the different measures) could be **obliged to deactivate them**.

Regarding the **technical specifications on the increase of holding and transaction limits**, from the ECB's note:

- The fact that the limits will not be increased automatically, but that users have to increase their holding limits when there is connection can be complicated. It will be important that users are well aware of that (education of users).
- The need to keep batteries charged makes the offline functionality with smartcards and other cards more attractive. It would be valuable to further explore that. Also, we do not understand the idea expressed by the ECB that the device of the payee could be charged by the device of the payer. We see it could be easier to require merchants to maintain their devices charged than payers. In any case, we wonder if the charging of a device with another device could go in both directions (from payer to payee and from payee to payer).

	<p>FI (MS comments): Yes</p> <p>The process should be as smooth and as fast as possible. We would welcome a recital that could further specify the details of the request for raising the limits and the role of the Commission in assessing the request. In our view, the recital should highlight the fact that the member state who is requesting the raising of the holding limit in case of exceptional circumstances knows best the threat landscape in its territory and also knows best its regional payment service landscape (including the functioning of its potential national backup systems).</p> <p>FR (MS comments): If I may, I would like to start by recalling a few cross-cutting elements relating to the continuity of payments in emergency situations of an exceptional nature.</p> <p>- The foundation of our resilience model must be based on cash. It remains the main solution for ensuring continuity of payments to all citizens and merchants in the event of a crisis. What's more, it is the only means of payment that can operate without electricity.</p>
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- Our traditional payment systems are also developing their own methods of resilience, in order to offer their customers alternative or downgraded mode solutions for as long as possible, particularly in the digital world. This is the purpose of the DORA (Digital Operational Resilience Act), which came into force at the beginning of the year. For example, Cartes Bancaires en France, our national card payment scheme, can operate in offline mode if the network is unavailable.

We therefore believe that the emergency measures we are proposing for the digital euro should be complementary to what already exists, and that they should be proportionate, so as not to create an overly complex solution to a problem that is partly dealt with by other solutions.

If I now focus on the issue: the temporary increase in holding and transaction limits for offline mode, as formulated by the Presidency, is acceptable to us. However, we would propose adding a point to the article, to indicate that if this exceptional measure were to last for more than a week, it should be submitted to a vote in the Council, to ensure that consistency is maintained in the distribution of the euro.

A recital could also be added, at the beginning of the regulation, to reiterate the importance of complementing traditional solutions with emergency solutions for the digital euro.

	<p>HR (MS comments):</p> <p>We agree that the offline digital euro functionality is expected to play the main role in ensuring the continued availability of citizens' access to digital payments but, as PL PRES stated, changing temporary the overall holding limit of the digital euro could have an impact that reaches beyond the considerations of resilience under exceptional circumstances, including financial stability. We would appreciate opinion of the EC on this matter regarding AML/CFT perspective.</p> <p>Regarding dedicated Article (Article B) in which PL PRES specifies the procedure for raising the offline holding and transaction limits, we find that the procedure is too complex with short timeframe to fulfil all the tasks (request, opinion, justification of grounds and final decision by Commission) in such exceptional circumstances which could occur.</p> <p>IE (MS comments):</p> <p>IE agrees with the proposal to allow for temporary raising the offline holding and transaction limits as per Article B – Procedures for raising the offline holding and transaction limits. However, Article B (paragraph 3) states that the Commission shall adopt its implementing act within [48] hours after receiving the request referred to in paragraph 1. A 48-hour timeframe may be too long in emergency circumstances, IE therefore would encourage this timeline to be reduced.</p> <p>IT (MS comments):</p>
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Yes, we agree. Nonetheless, we believe that:

- a final decision on the Authority empowered with the task to temporarily raise the offline holding and transaction limits should be taken together with the final decision on the distribution of competences dealt with in Article 16 of the DER;
- it should be explicitly mentioned in Article B the circumstances under which the holding limits can be raised i.e. in exceptional circumstances as done in Article C (...in the circumstances set out in Article A...);
- we suggest amending art. B, par. 2 to include the AMLA among those authorities who may submit an opinion to the Commission.

LT

(MS comments):

We are in broad agreement with the proposal. Nevertheless, we consider it is of great importance to think about reverse process of the temporary raise: what would be the process, the timing and who would be responsible for reversing it.

We suggest that the response time to the Member State request would be within 12 hours of receiving the request.

LV

(MS comments):

In our view, the process of calculating the limits for offline accounts and transactions, must take into consideration also the usability in crisis situations. The limit by default should be sufficient to cover the basic needs. On the other hand, the proposed timeframe for request evaluation is long. We believe that the second step should be joint with third - the

	<p>Commission should evaluate the request in 24h and in which time ECB and/or other member states can submit their opinion.</p> <p>NL (MS comments):</p> <p>NL comment: Yes, we believe this is a valuable contribution to the digital euro design. However, as the offline holding limit is not only an AML/CFT consideration but also a consideration of security, we could imagine some involvement of the Council and Parliament in setting the holding limits. Of course, there is a range of levels of involvement which could be appropriate in this case, either determining this in level 1 or through a different co-decision instrument.</p> <p>Moreover, we think a 48 hour time limit for the European Commission to make a provisional decision is too long in case of an emergency. If possible, we would propose a shorter time limit or a procedure which provides some other type of flexibility. We could imagine that a provisional decision could be revoked in case the final judgment after receiving opinions of the ECB and/or member states.</p> <p>Alternatively, a nationally competent authority could have the option to temporarily increase offline transaction and holding limits, after which the Commission procedure to determine this limit takes place and the decision can be revoked.</p> <p>PT (MS comments):</p> <p>We believe that the approach suggested by the PL Presidency of raising the offline and transaction limits to the extent “which shall respect the limits to the use of the digital euro as a store of value set out in accordance</p>
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	<p>with Article 16.” is more balanced as it prevents potential unwarranted and difficult-to-predict consequences of increasing the overall holding limit. Still, the definition of “exceptional circumstances” would benefit from some reflection on its scope and applicability, including additional information from a technical point of view. In particular, the proposal seems to assume that “exceptional circumstances” would only impact the online use of digital euro and that the offline would remain operational. Even if this is the case, the impact analysis should consider all the scenario/consequences that may occur after the emergency situation is solved, particularly in light of the possible “piling up of incoming payments” that occurred during the crisis. In certain situations, this mechanism could lead to further instability.</p> <p>Without prejudice of the general comment above, we note that the procedure proposed for raising offline and transaction limits seems to be aligned with the powers already conferred to the COM on Article 37(5). Notwithstanding, we would like to present the following comments:</p> <ul style="list-style-type: none">(a) Given that this measure is meant to be adopted under exceptional circumstances, we question whether a 48-hour timeframe would be adequate and aligned with the urgent nature of the situation.(b) On paragraph 1, we have doubts regarding how it would be possible for Member States to determine which would be the “<i>relevant</i>
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users”? We also consider that Level 1 could provide some clarity regarding the possible grounds for this request, namely through a Recital.

(c) On paragraph 3, we consider the COM should provide grounds regarding a positive decision, as it would clarify which would be the relevant rationale behind such decision, as well as the AML/CFT assessment made in each specific case. Moreover, it should be made clear whether this decision could only partially attend to the Member State’s request. From a legal perspective, this should be possible namely in view of paragraph 4, because the COM has the power to decide, by itself, to adopt such measure. Nonetheless, some clarity could be provided in this regard.

(d) On paragraph 4, while we understand that conferring such power to the COM may be aligned with Article 37(5) of DER, we consider that, as in this case, the adoption of an implementing act and thus its procedure will be waived, it should be further specify in which conditions the COM may act under its own initiative.

SI

(MS comments):

SI: /.

SK

(MS comments):

	<p>We agree, however 48 hours timeframe for the COM implementing act is too long under exceptional circumstances. 24 hours would be more appropriate.</p>
<p>3. Switching: normal and exceptional circumstances</p>	
<p>3.1 Switching under normal circumstances – Article 31</p>	
<p><i>Q3. Do you agree with the proposed redrafting to Article 31?</i></p>	<p>AT (MS comments): Yes.</p> <p>BE (MS comments): Yes.</p> <p>CY (MS comments): No strong views</p> <p>CZ (MS comments): CZ: We agree with the proposed redrafting.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none"> • First of all, we welcome the fact that Article 31 no longer refers to the switching of digital euro payment accounts. This is a big

step in the right direction. However, we are wondering why the reference is now made to the switching of digital euro services rather than the switching of PSPs?

- That said, we continue to have doubts about the accuracy of the terminology used in the current wording of Article 31. We consider it more accurate to refer to it as the ‘digital euro vault identifier’ that is maintained when switching. This also applies to Article 2 (28): here, the compulsory alias should not be referred to as a ‘digital euro payment account number’, but instead as the ‘digital euro vault identifier’.
- In addition, we deem it necessary to define the term ‘operationally not in a position’ (Article 31(2)). This could be done either directly in Article 31 or via a delegated act.
- Moreover, we continue to have some additional remarks regarding the drafting proposals which we will submit after the CWP in writing.

EE

(MS comments):

EE: We very much welcome the distinction of emergency switching in normal and exceptional circumstances and two separate Articles that increase legal clarity.

EL

(MS comments):

EL: We agree but, for clarity, drafting should be amended in para 1a2. “Either” should be used if the intention is that only one account holder’s request suffices – “all” should be used if the intention is that

everyone must agree: “In cases where the digital euro payment account is held jointly by two or more legal account holders, request for switching shall be made by ~~each~~ **either/ all** of them.”

ES

(MS comments):

We agree with the clarification that the switching is of the services, not of the account, since the DEAN remains the same.

In paragraph 2 (emergency switching), the Presidency has eliminated the reference to a prolonged period of time and there is no reference to level 2 legislation to further specify when it should be activated (paragraph 4 is eliminated). Since we believe that the ECB should have no discretion to determine when the switching can be activated, we are concerned that the article might not be precise enough to allow this. We believe that the timeframe for activating the emergency switching is very important and it should be proportionate, that means, not too short as to penalize PSPs with an isolated issue, but also not too long as to affect the user’s experience.

Other elements that could be further developed and explore are the following:

- Ensuring that after the operational problem is over, the user can easily return to its original PSP (reversing the emergency switching)
- Users should be allowed to select a list of PSPs, so that, if the PSP is not available, they can switch to that list of PSPs

FR

(MS comments):

We agree.

	<p>HR (MS comments): Yes, we agree with the proposed redrafting to Article 31.</p> <p>IE (MS comments): IE agrees with the proposed redrafting of Article 31, and supports its intention to allow users at all times, and upon their request to switch between PSPs that provide digital euro services, while maintaining the same digital euro payment account number.</p> <p>IT (MS comments): Yes, we agree subject to the introduction of the following clarifications:</p> <ul style="list-style-type: none">• It should be considered to specify in article 31 (1) or in the rules and procedures for digital euro payments a deadline by which the switching should be completed (rather than referring generically to execution "without undue delay"). More generally, the operational details of switching process should be further described in the relevant rules and procedures;• It should be clarified in Article 31(1a2) that services other than the basic ones should be made available to the user by the receiving PSP only if already provided by the first PSP or if requested by the client;• We would suggest inserting in Article 31 (2) a reference to the emergency switching. Otherwise, it would be referenced to only
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in Article C and this might give the impression that the emergency switching is activated only in presence of exceptional situations.

LT

(MS comments):

We would like to express our support for the proposed redrafting of Article 31. We would be very grateful to receive clarification on the following: does the redraft of Article 31 allow for emergency cross-border switching of end users and merchants (for accumulated offline defunding, as we touched upon in our reply to Q1)?

LV

(MS comments):

We agree with the proposed redrafting.

NL

(MS comments):

NL comment: This is a step in the right direction, but as indicated in earlier Council Working Parties, we would prefer wording in which there is no reference to a digital euro account number or payment account number.

PT

(MS comments):

We have some doubts regarding the proposed drafting for Article 31, for instance:

- (a) On paragraph 1a2., we question the necessity of the proposed clarification. It merely replicates what is already applicable for switching non-digital euro payment accounts. Moreover, we have doubts about the proposed drafting, as the segment “*made by each of*

them” seems inaccurate. We believe the intention is to say that such request should be made jointly, by each user. For instance, one user could initiate the process being the other user requested to confirm.

We oppose the possibility of allowing one user to independently change the intermediary-PSP.

- (b) We agree with the overall purpose of the segment “... *and shall be informed in advance if any fees apply to services other than the basic services...*”. However, we have some doubts on how this will be implemented in practice, as it could complicate the switching process. We believe that switching should remain simple.

Furthermore, we would like to underline that the switching process should be as straightforward and simple as possible in order to contribute to the development of a fully integrated market, namely in the retail banking sector.

It is important to establish a uniform set of simple rules to encourage and facilitate the provision of a switching service and the mobility of digital euro users.

The switching process should be simple, but also clear. Although the process should not entail an excessive administrative burden, we are in favor to set some rules regarding the switching process, such as: (i) simple communication procedures between PSPs and users, (ii) information

	<p>exchanged shall be made available free of charge on paper or another durable medium, (iii) the information provided should be clear and include the basic and additional services and their respective fees, so that users can make informed and enlightened decisions, and finally, (iv) deadlines should be set for this account switching process, avoiding the use of subjective expressions or deadlines, such as the possibility of switching “without undue delay”.</p> <p>SI (MS comments): SI: Yes, we agree.</p> <p>SK (MS comments): We agree.</p>
<p>3.2 Switching under exceptional circumstances and use of common front-end services</p>	
<p><i>Q4. Do you agree with the proposal to allow for emergency switching under exceptional circumstances based on a request from Member States?</i></p>	<p>AT (MS comments):</p> <p>In general, emergency switching should be an optional and temporary crisis measure that can be requested from Member States to ECB or national central banks. Emergency switching must not lead to a crowding out of the private sector.</p> <p>Paragraph 1a of Article C should refer to the “[...] authorisation of the temporary switching of digital euro payment services [...]”.</p> <p>Paragraph 2 of Article C should be further clarified, as it remains unclear under which conditions the ECB may reject a request submitted</p>

	<p>by a Member State. Legal certainty in this respect is necessary to ensure transparency, consistency, and trust in the mechanism.</p> <p>Paragraph 3 of Article C should refer to clear conditions that define the end of the measure.</p> <p>BE (MS comments): Yes.</p> <p>CY (MS comments): Agree</p> <p>CZ (MS comments): CZ: We generally agree with the proposed way.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• We are generally supportive of the idea of introducing the possibility of emergency switching in exceptional circumstances.• It must be noted, however, that according to the ECB's assessment, from a technical perspective, the current design of the digital euro would already allow for users to switch their digital euro payment accounts in a situation in which their PSP has become operationally unavailable.• Therefore, the question is why, in addition to this already established mechanism, Member States should be in a position to enable emergency switching? In our view, the individual user's request and, in particular, the user's choice as to designate a
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	<p>new PSP must always prevail. Per default, the choice where to switch to, shall always rest with the users.</p> <ul style="list-style-type: none">• For example, if a user had indicated an alternative emergency PSP previously, such a choice should not be overruled by a Member State's decision. Hence, we do not support the proposed wording in Article C (1a) but would ask for some improvements.• In legal terms, we need to further strengthen legal clarity. The current draft Article C envisages the ECB's (or the relevant national central bank's) regarding the activation of emergency switching. This cannot be left to the ECB let alone national central banks. Therefore, the text must be amended. If, indeed, there is a 'reasoned request' by a Member State – to be defined in accordance with Article A – the ECB 'shall' (not 'may') enable the emergency switching.• In addition, we do not see the need for a 'discussion' between the ECB and a requesting Member State, as envisaged in Article C (2).• Regarding Article C (4), we reiterate that there should be no reference to digital euro payment account numbers.• Finally, based on the drafting proposals submitted below, Article 31 and Article C shall be further aligned in terms of procedures and legal drafting.• Regarding the use of the so-called digital euro app, we continue to have strong reservations against any obligations for PSPs to mandatorily offer such an app to its customers. Instead, the offer of the ECB app may only become relevant if a PSP decides not to offer its own front-end solution. In all other scenarios, it shall
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be sufficient if PSPs offer access to the digital euro holding through their own front-ends. Article 28 should be amended respectively. It should be clear that PSPs ‘may’ provide the users with the ECB app, if PSPs offer their own front-end to access the digital euro holdings.

DEU Drafting Proposal:

Article C – emergency switching in exceptional circumstances

1. Upon the reasoned request of a Member State, **in exceptional circumstances**, the European Central Bank or the relevant national central bank ~~may~~ **shall** authorise the emergency switching ~~in the circumstances set out in Article A if, on the basis of the information provided by the requesting Member State, the measure is justified and proportionate for the achievement of one or more of the following objectives:~~

~~(a) to ensure the continuity of digital euro payment functions;~~

~~(b) to protect the access of digital euro users to their digital euro holdings.~~

1a. For the purpose of this Article, the emergency switching shall mean an authorisation of the switching of digital euro payment services from one payment service provider or providers to another payment service provider. **A Member State may propose to the digital euro users a payment service provider which would be able to continue to perform digital euro payment services.** ~~or providers designated by the Member State. At the request of a digital euro user, The a receiving payment service provider shall be designated and shall perform the~~

	<p>switching upon notification of such authorisation, without the need to exchange information with the unavailable payment service provider</p> <p>2. The European Central Bank or the relevant national central bank may discuss with the requesting Member State the proportionate measures to be adopted. They shall only refuse to authorise emergency switching if such authorisation is not justified in view of the achievement of the objectives set out in paragraph 1.</p> <p>3. The emergency switching under this Article shall be a temporary measure.</p> <p>4. When the emergency switching is carried out in accordance with this Article, the digital euro payment account number vault identifier shall be maintained.</p> <p>EE (MS comments):</p> <p>EE: We welcome the proposal. We believe it would be appropriate to clarify in Recital or Article that once the PSP(s) have recovered from the operational incident and the situation in a Member State has returned to normal the designated entity should stop provision of digital euro payment services not to disintermediate banks. The Member State to facilitate an automated switch back to the original PSP with the view to restore trust and financial stability and to avoid that the PSUs start a digital bank run after recovery.</p> <p>A potential mass switching needs a clarification (in Recital).</p> <p>EL (MS comments):</p> <p>EL: We agree</p> <p>ES (MS comments):</p>
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	<p>We do not think that this emergency switching should be different from the emergency switching in article 31(2), and therefore we would eliminate art. C. We saw value in a particular emergency switching (in a new article C) as long as it was going to be accompanied by an agile KYC and delayed AML checks. Given that these elements are not included, we believe that the emergency switching if art. 31(2) should already cater for specific circumstances.</p> <p>We see problems in the fact that the MS designates the target PSP of the emergency switching under exceptional circumstances, especially if a MS does not have a last resort entity (see next question where we advocate for a flexible approach towards the designation of a last resort entity). We also see it might be complicated to ensure that the designated entity will always be working in all exceptional circumstances (why should the last resort entity work when the rest of the PSPs are not working? Is it realistic?).</p> <p>We think it would be a better option to let users decide to which PSPs to switch, from those PSPs that are still operating. When, under exceptional circumstances, various PSPs are not able to provide D€ services, there could be different options:</p> <ul style="list-style-type: none">• Display, through the D€ app, a list of operating PSPs, from which the user can initiate the emergency switching.• Allow users to designate beforehand a list of PSPs and start the emergency PSP to the first PSP of the list that is still available. <u>Although we see this could be complicated,</u> since we understand that the user will have to initiate the emergency switching in any case (it will not be automatic). <p>All in all:</p> <ul style="list-style-type: none">• We have doubts on the designation by default of a PSP by the MS. We nevertheless see value in the Digital Euro front end as a tool to initiate emergency switching to any PSP. We want to understand whether it will be technically possible to initiate
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the emergency switching to ANY PSP in a centralized manner from that D€ app, and whether it would be possible to display all available functioning PSPs to the user so that they can select the PSP from the app and initiate the emergency switching from there. If this were possible, users will only need to have the D€ app (and the app of the initial bank if they were using it).

- **We do not see the need for a separate article C on emergency switching in exceptional circumstances.** We see the emergency switching as a measure that should not be limited to “exceptional circumstances” but that can be used any time that the PSP is not operating.

FI

(MS comments):

Yes. It is important that the process for emergency switching is as fast and as smooth as possible. Please see also our response in Q2.

FR

(MS comments):

Response to Q4, Q5 and Q5.1:

The proposal for emergency switching seems to us to be excessively complex, both in its technical principle and in the legal basis envisaged.

- The main issue, in the event of exceptional circumstances, is to ensure continuity of payments for citizens and merchants, whatever the means used. In all cases, the main solution will be cash.

- We do not believe that it would be advisable to develop communications that would suggest to the public that the traditional banking system might not be resilient enough and that the emergency switching of digital euros is a necessary service, when such a facility does not exist in the traditional banking ecosystem.

	<p>- The technical complexity associated with the proposed system, in particular the need for a repository of technical evidence to guarantee that users can access their funds, seems to us to be too great.</p> <p>For these reasons, we propose not to add an article setting out the framework for emergency switching.</p> <p>However, in order to respond to the need for resilience and to provide for the possibility of continuity of digital euro transactions for users whose PSP is no longer able to provide this service, we propose instead to centre the response around the mechanism proposed in part 4, i.e. a competent authority designated at national level, which would be responsible for temporarily providing digital euro services to users in exceptional circumstances. If a PSP were no longer able to provide this service, users could continue to have access to their accounts via this ad hoc authority.</p> <p>If necessary, this national authority, whoever it may be, could be given responsibility for managing the technical proof register, or be given access to a proof register managed by another national authority for national citizens, in order to facilitate the provision of the service.</p> <p>IE (MS comments):</p> <p>IE agrees with the proposal to allow for emergency switching under exceptional circumstances upon request of the Member States and support the provision to temporarily provide users with access to digital euro payment services and instruments that are necessary to facilitate continuity of daily payments.</p>
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	<p>IT (MS comments): We agree.</p> <p>LT (MS comments): We are in agreement with the proposal to allow for emergency switching under exceptional circumstances based on a request from Member States. However, we would be grateful for the clarification whether this proposal would accommodate the unlikely event of the worst-case scenario (e.g. natural disaster event, wide scale and prolonged cyber-attack, etc.). It would be advisable for the emergency switching solution to accommodate both end-users and merchants, particularly with regard to payments and the defunding of offline payments.</p> <p>Ensuring cross-border emergency switching should be seen as of highest priority for ensuring resilience as this affects countries not only domestically, but also internationally across the whole euro area zone.</p> <p>If the emergency situation affects only few banks locally, then the proposed option to designate authority may be acceptable. Nevertheless, in the emergency situation where the power outage and/or connection is lost entirely in the whole country (like X day), other options must be ready and in place - as cross-border emergency switching.</p> <p>Furthermore, emergency switching rules and AML/CFT risk control should be the same and aligned across all euro zone countries, it should include some degree of flexibility when onboarding (new) digital euro users to a PSP in a different euro zone country.</p> <p>We suggest that the response time to the Member State request would be within 12 hours of receiving the request.</p> <p>LV</p>
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	<p>(MS comments):</p> <p>We agree with the proposal</p> <p>NL</p> <p>(MS comments):</p> <p>NL comment: Yes, we agree.</p> <p>PT</p> <p>(MS comments):</p> <p>We are concerned with the proposed approach. It represents an undue interference by the requesting Member State and, hence, the ECB/NCB in the contractual relationship between two private entities (i.e. the digital euro user and the intermediary-PSP), which is difficult to justify as proportionate, even under exceptional circumstances. By principle, emergency switching should always be initially requested by the digital euro's user.</p> <p>We also have strong concerns regarding the possibility included in paragraph 1a, more precisely: <i>"to another payment service provider or providers designated by Member States"</i>. Besides constituting an interference in the contractual freedom of private entities (noting that even credit institutions are only required to offer digital euro basic services to users that are already their clients), this measure could also distort the payments market, particularly in terms of competition, and may have lasting consequences that extend well beyond its period of application.</p>
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	<p>Furthermore, when paragraph 3 states that this is intended as a “<i>temporary measure</i>”, we question the full scope and implications of this provision. This would mean that when exceptional circumstances are no longer verified, the digital euro payment services will be again switched to the original PSP to the extent it is again available?</p> <p>SI (MS comments): SI: Yes, we agree.</p> <p>SK (MS comments): We agree.</p>
<p><i>Q5. Do you consider it necessary to provide a repository of user technical proofs to facilitate switching in situations as described in case of emergency switching under exceptional circumstances?</i></p>	<p>AT (MS comments): We do not consider a central repository for technical proofs necessary. The technical proof is effectively the “master key” to the digital euro account and should therefore remain under the control of the user. A central repository would raise privacy and cybersecurity concerns.</p> <p>BE (MS comments): Regarding question 5, We believe it’s important to carefully consider the implications of shared, national repository. Even in the described “opt-in” situation, if such a repository was compromised, it could pose a reputational risk for all, even though individual governments would not be responsible for each other’s systems.</p>

	<p>For this reason, we would prefer that each citizen remain responsible for its own technical proofs, as is already the case with their online codes, physical wallets and payment cards. This approach would reduce administrative burden while also enhancing overall resilience by avoiding the creation of a single point of vulnerability per country.</p> <p>CY (MS comments): We do not agree as this is costly, adds complexity and would be a huge burden on any public authority.</p> <p>CZ (MS comments): CZ: We are sceptical about the establishment of the repository, as it will be necessary to ensure adequate protection of shared data and information, and to prevent potential leaks or misuse. It will also be necessary to solve the question of funding associated with its operation, as well as its management (oversight of compliance with relevant measures, data sharing during the activation of emergency switching, whether the operating entity will need to apply for the appropriate authorization, etc.).</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• We don't consider such a repository necessary. Under no circumstances should users be required to provide the technical proof to any repository. This would significantly undermine any privacy promise attached to the digital euro. The technical proofs
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will be one of the most sensitive pieces of information for any digital euro user.

- However, we also recognise the immense practical importance of the technical keys. Keeping good track of a technical key would be of utmost importance. This should be communicated very clearly to the users.
- Therefore, if at all such a repository would be considered, we would only support such an idea under two conditions: First, such a repository would be operated by an independent Provider of Support Services (PoSS). Second, using such a repository would be completely voluntary for users.

EE

(MS comments):

EE: We are still analysing questions 5 and 5.1. Based on the initial assessment, we would leave it open to the Member States to find a most appropriate approach.

EL

(MS comments):

EL: Yes, we agree

ES

(MS comments):

A repository could be useful to make the emergency switching easier. If a repository is created, we think that **the repository should not be managed by a public entity**, because it contains private information of the users. It should be managed by a private entity, maybe a provider of support services. Some requirements could be included for the repository (e.g. being an EU company, complying with DORA...).

FI

	<p>(MS comments):</p> <p>Yes. As we understand, emergency switching would otherwise rely on users storing their technical proofs themselves. We would welcome more discussion on the implementation of such repository and we are also open for the option for leaving room for national implementation.</p> <p>HR</p> <p>(MS comments):</p> <p>We do not have a final position regarding this question, but we find that repository itself should be subject to privacy and security requirements in relation to possible abuses of possession of technical proofs of the digital euro users.</p> <p>IE</p> <p>(MS comments):</p> <p>IE supports, in principle, the Presidency's considerations for providing a repository for users to store their technical proof by way of ensuring the continuity of payments in exceptional situations.</p> <p>IE acknowledges the rationale as to why the ECB/NCBs should not provide this service and the presidency's proposal to subject the repository to privacy and security requirements. However serious questions remain regarding the practical implementation and funding of such a repository. Should an alternative national authority be designated to fulfil this function, IE is concerned about the significant resourcing,</p>
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	<p>both technical and administrative, that will be required to maintain such a service. Further clarification on operationalisation and financial responsibilities is needed</p> <p>IT (MS comments):</p> <p>We are not against the provision of a repository in order to facilitate the emergency switching in exceptional circumstances, although we suggest to assess legal, technical and cost implications (see next answer).</p> <p>LT (MS comments):</p> <p>We consider it could be necessary to provide a repository of user technical proofs to facilitate switching in case of emergency switching under exceptional circumstances. We would be very interested to know whether it would be legally possible automatically to include all end-users in the technical proof repository while onboarding, with an option for end-user of declining the inclusion to the repository (i.e. the <i>opt out</i> option).</p> <p>If it would be possible to clarify what the process would be in the event of cross-border switching, as well as how this process with the repository would work, that would be greatly appreciated.</p> <p>We would also like to express our concerns about the designated authority being responsible for the repository. In our view, the two functions of financial inclusion and emergency switching require very different competencies and skills. In our understanding the digital financial inclusion function operates in normal situation, whereas switching, including the repository, is a function that operates in exceptional</p>
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	<p>circumstances situation that could potentially require emergency switching.</p> <p>LV (MS comments): The establishment and use of "technical proofs" repository should be voluntary for member states and end users.</p> <p>NL (MS comments): NL comment: No, we do not see the use for a repository. Based on the design for the technical proof as presented in 2024, we would propose that no public or legal solution is needed for storing these proofs. Rather, it should be part of the rulebook that PSPs strongly advise their customers to save these technical proofs in some form, e.g. on a local storage device or in a digital vault.</p> <p>PT (MS comments): No, we oppose to this possibility. We have concerns about the resilience of concentrating such a repository in a single location, particularly from a cybersecurity perspective. Therefore, we believe that further technical explanations in this regard would be particularly useful, namely assessing the possible risks.</p> <p>SI (MS comments): SI: /.</p>
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	<p>SK (MS comments): We are rather sceptical on the repository. It might create adverse public perception with regards to the data protection and privacy.</p>
<p>o <i>Q5.1 If yes, do you consider that the users should be required to provide the technical proof to the repository, or should they have the option to do so on a voluntary basis?</i></p>	<p>AT (MS comments): If such a repository were to be established, citizens should be allowed to store their technical proofs there on a voluntary basis. Under no circumstances should it be mandatory to store technical proofs in the public repository.</p> <p>CY (MS comments): N/A</p> <p>CZ (MS comments): CZ: The use of the repository should be voluntary for users, as it will involve their sensitive data and information, and they should be the ones to decide how it is handled.</p> <p>EE (MS comments): EE: Please see the answer to the question 5.</p> <p>EL (MS comments): EL: Providing the technical proof to the repository could be voluntary. However, in case of exceptional circumstances, this could add another point of friction to the account recovery process. In order to address any</p>

privacy issues related to the storage of the technical proofs, we agree with the Commission's proposal to ask for users' consent at the onboarding stage to agree or not to store these technical proofs, while also informing them that in exceptional circumstances, they might not be able to switch their accounts.

Also, a few drafting suggestions: On Article C, consider adding:

In paragraph 1a: ... from one payment service provider or providers "that is/ are unavailable as a result of the exceptional circumstances" to another payment service provider or providers...

In paragraph 3: ... a temporary measure "to facilitate the continuity of payments under exceptional circumstances".

ES

(MS comments):

We consider that providing the technical proof to a repository should be **voluntary**. In any case, **users should be aware of the importance of keeping the technical proof** and should be informed of the possibility to store it, if they want, in a centralized repository.

FI

(MS comments):

We support the idea that the use of repository could be explained to the users during onboarding process and let the users decide (provided that they are able to change their mind whenever). It seems relatively challenging to make it mandatory.

HR

	<p>(MS comments):</p> <p>We consider that the users should have the option to provide the technical proof to the repository on a voluntary basis.</p> <p>IE</p> <p>(MS comments):</p> <p>IE would need to assess this further but support the options proposed by the presidency i.e. the rationale behind the i) opt in and separately, ii) the mandated approach. IE notes both these options would require additional privacy/data protection assessment and believe any decision on this is best places on foot of the assessment(s).</p> <p>IT</p> <p>(MS comments):</p> <p>We see pros and cons for each option. On the one hand having it mandatory would improve the management of the execution of the emergency switching in exceptional situations. On the other hand, having it on a voluntary basis would allow the user to autonomously decide. Both are equally important and relevant. For this reason, if the repository is decided to be created, an assessment should be performed in terms of which interest should prevail in the described scenario.</p> <p>LT</p> <p>(MS comments):</p> <p>See our reply to Q5.</p> <p>PT</p> <p>(MS comments):</p>
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	<p>In line to our <i>answer in Q4.</i>, digital euro users should be able to decide whether they want to do so on a voluntary basis.</p> <p>SI (MS comments): SI: /.</p> <p>SK (MS comments):</p> <p>In case repository is provided, its use should be voluntary for users.</p>
<p>4. Enhancing the distribution of the digital euro</p>	
<p><i>Q6. Do you agree with the proposal that the authorities or bodies that they have designated pursuant to Article 14(3) may, in addition to their other tasks, provide temporary digital euro payment services and payment instruments to digital euro users that are necessary to facilitate the continuity of daily payments?</i></p>	<p>AT (MS comments):</p> <p>Art 14 paragraph 3 shall be labelled as a “may” provision.</p> <p>It is supported that the scope of authorities or entities that can be designated shall further include credit institutions, electronic money institutions and payment institutions, but not the ECB or NCBs. It should be possible to designate private entities for resilience reasons in exceptional circumstances. In our view, different entities could be responsible for financial inclusion and emergency switching.</p> <p>BE (MS comments):</p> <p>Yes, we already supported a ‘shall’ for article 14 under previous presidencies, including resilience here does not change our approach.</p> <p>CY (MS comments):</p> <p>Reservations as to the feasibility of such proposal. Even in normal circumstances, it is ambitious on how such public entities would cope.</p>

	<p>CZ (MS comments):</p> <p>CZ: We support the direction of travel. It is desirable to ensure that users have access to their payment account held in digital euros at any time and have the opportunity to actively use it.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• Overall, we do not support the wording of Article 14 (3) in the form of the Commission proposal where it says that Member States ‘shall’ designate authorities for the purposes set out in Article 14 (3) (a) and (b), irrespective of a situation of crisis. Previous presidency drafts by the ESP PCY had amended this provision so that Member States ‘may’ designate such institution. We clearly support the may-provision.• While we see the possible advantages of mandating the same entity with both resilience and inclusion related task, we deem it important to maintain flexibility that would allow Member States to designate two separate entities, or none at all, for those tasks. <p><u>DEU Drafting proposal:</u></p> <p>Article 14</p> <p>(...)</p> <p>3. Member States shall may designate the authorities or other entities referred to in Article 1 (1) points (a) to (d), and (f) of the Directive (EU) 2015/2366, or post office giro institutions referred to in Article 1, point (e), of the Directive (EU) 2015/2366 to</p>
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	<p>(a) provide basic digital euro payment services to natural persons referred to in Article 13(1)(a) 12a that do not hold or do not wish to hold a non-digital euro payment account;</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> <ul style="list-style-type: none">• Regarding the idea of an ‘entity of last resort’, we are very sceptical. Overall, we question the necessity of such an entity because users would be able to switch their PSPs in accordance with Article C. If, however, user can switch their PSPs in situations of emergency, we fail to recognise the need for another provision regarding the distribution of digital euro services. Therefore, we question the necessity of Article D. Consequently, we do not support the amendments in Article 14 (5) (b).• Regarding the ‘entity of last resort’, we are concerned if state authorities would be designated such tasks. The practical implications of such an idea would be immense: Such an entity would require significant IT resources, it would require a PSP license and it would need staff and locations, as it might have to service millions of digital euro users during a crisis. This would cost millions of euros for an entity which might never be used. All these capacities would be required to remain available on demand at any time without actually using any of these resources. This is not likely to improve European competitiveness.
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- Finally, we are sceptical that an entity of last resort would be operational in a time of crisis. If in an event of crisis, all PSP would be down, why would the entity of last resort be the sole one still operating? This applies in particular since end-users could also consider switching to (private) PSPs in different Member States, which would further increase the scope of PSPs available to provide digital euro payment services during exceptional circumstances. Such a cross-border switching would not be available under Article C.
- Therefore, we meet any plans towards such an ‘entity of last resort’ with great caution.
- If at all, a Member State may designate such an entity of last resort, there might be reason to develop the idea further to oblige PSPs to offer such services, subject to an adequate compensation. We welcome amendments proposed in the Paper to this effect.
- Consequently, we would like to propose a different approach: in cases of exceptional circumstances that result in a wide unavailability of a certain PSPs in one or more Member States, all functioning PSP shall be obligated to provide basic digital euro services to all clients of those PSPs affected from the crisis.
- This obligation to provide services and, alternatively, ‘accept’ new customers under an emergency switching shall be limited in time according to the definition in Art. 2 regarding the exceptional circumstances.
- This would be cost-efficient, as PSPs already distribute the digital euro. Users could be onboarded in short time.

DEU Drafting Proposal:

Article D: Enhancing the distribution of the digital euro

In **exceptional circumstances** the situations provided for by Article A, **payment service providers** Member States may decide that the authorities or bodies that they have designated pursuant to Article 14(3) shall, **in addition to their obligations pursuant to Articles 13 and 14, other tasks**, provide temporary digital euro payment services and payment instruments to digital euro users **which are eligible to emergency switching in accordance with Article B to the extend** necessary to facilitate the continuity of daily payments.

EE

(MS comments):

EE: It is important to keep it open for Members States to decide whether the authorities or other entities designated based on the Article 14(3) may, in addition to their other tasks, provide temporary digital euro payment services in exceptional circumstances.

EL

(MS comments):

EL: We are open to this proposal.

ES

(MS comments):

We prefer the drafting that we suggested after our Presidency substituting the shall provision by a **may provision**.

Given the different situation among MSs, we value the **flexibility to appoint both public and private entities**. In any case, a may provision would let MSs decide how to best ensure financial inclusion and D€ services in emergency situations.

	<p>Even if a single last resort entity is appointed, it will be difficult to ensure that that entity is going to be operating when others aren't. We think it might be more valuable to strengthen the resilience for instance by extending the obligation to comply with DORA to all entities in the payments chain (beyond PSPs). MSs should be able to decide whether to appoint a last resort entity or adopt other measures, such as obliging the entities that are operative in exceptional circumstances to provide free basic D€ to natural persons beyond their clients (in normal circumstances only credit institutions are obliged to provide basic D€ to their clients). The regulation shall foresee a procedure to determine that there is an exceptional circumstance. It could be the same as the one foreseen for increasing offline holdings.</p> <p>FI (MS comments): Yes</p> <p>FR (MS comments): We agree with the principle of the proposal, but consider that the authorities designated at national level to temporarily provide digital euro payment services in exceptional circumstances should not necessarily be the same as those defined from Article 14(3) in charge of a financial inclusion mission. Depending on the circumstances prevailing at national level, entrusting this task of continuity of payment services to a PSP with a robust distribution network at national level might, for example, be more appropriate. The wording of the article and the recital should therefore better reflect this possibility for the Member State to define two different entities at national level.</p> <p>HR (MS comments):</p>
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	<p>According to the Presidency Note, PL PRES propose to change Article 14(3) in a way that:</p> <p>3. Member States shall designate the authorities or other entities referred to in Article 1 (1) points (a) to (d), and (f) of the Directive (EU) 2015/2366, or post office giro institutions referred to in Article 1, point (e), of the Directive (EU) 2015/2366 to:</p> <p>(a) provide basic digital euro payment services to natural persons referred to in Article 13(1)(a) 12a that do not hold or do not wish to hold a non-digital euro payment account;</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>According to this new proposal, we find that such authorities or bodies may, in addition to their other tasks, provide temporary digital euro payment services and payment instruments to digital euro users that are necessary to facilitate the continuity of daily payments.</p> <p>IE (MS comments):</p> <p>IE does not support the designation of a public authority to provide digital euro accounts in the interest of financial inclusion, particularly without details of its funding and operationalisation. IE believes this objective can be more effectively achieved through existing a market-based practices and established financial sector processes. Furthermore, IE has significant concerns regarding the expectations that designated authorities could temporarily provide digital euro payment services to the entire market in the event of a disruption. Maintaining such a capacity on a standby basis</p>
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would require extensive infrastructure, staffing and financial resources, raising serious questions about operational feasibility and funding responsibility. Ireland believes alternative models should be explored that did not place disproportionate demands on public bodies.

IT

(MS comments):

We agree.

LT

(MS comments):

We are in broad agreement with the proposal. However, we would also like to express our concerns about the designated authority. As we have previously mentioned in our response to Q5, the two functions of financial inclusion and emergency switching require very different competencies and skills.

LV

(MS comments):

We agree with the proposal.

NL

(MS comments):

NL comment: Yes, we strongly agree with this proposal. We think broadening the scope of this article allows for national heterogeneity and will help to designate the most appropriate authority or entity. In the Netherlands, it is unlikely that public authorities will provide these services, as for example post office giro institutions have been replaced

	<p>by multi-purpose convenience stores with certain post office functionalities.</p> <p>Moreover, we believe these authorities could have a function in providing temporary digital euro payment services, either online or by making available cards with digital euros.</p> <p>Nevertheless, we do have two remarks with regards to this article. First, we would prefer a ‘may’ provision in the text rather than a ‘shall’ provision. And second, we believe that it should not have to be the same authority for distributing digital euros in normal and exceptional circumstances. We believe that it should also be possible to designate two separate entities for this task.</p> <p>PT (MS comments):</p> <p>First, we strongly believe that Article 14(3) should be a “<i>shall</i>” provision. Therefore, we welcome the approach proposed by the PL Presidency, as we consider it essential for ensuring a consistent and harmonized application of this matter across the Union. Second, we are open to support the possibility of these entities being tasked to provide the referred services/payment instruments.</p> <p>Moreover, regarding the proposed drafting for a new recital or segment of an already existing recital, we would appreciate further clarification on the types of policies, procedures and controls that PSPs might be expected to implement, as it is important to avoid imposing unnecessary burdens.</p> <p>SI (MS comments):</p>
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	<p>SI: Yes, we agree; however, we believe that Member States may face challenges in identifying the appropriate entity. In our view, in the event of an emergency, it would be more effective for an operating PSP (if there are any available) that already has the necessary infrastructure in place to temporarily take on the role of providing digital euro payment services. A further concern is whether such an entity would remain operational in practice if, at the national level, all PSPs were to become unavailable. If no PSP is operational at the national level, there is a high likelihood that such an entity would also face severe operational constraints, if not complete inoperability.</p> <p>SK (MS comments): We do not oppose the proposal, but on the general note we have doubts if the authority or the body will have enough personal and technical capacity to ensure temporary provision of digital euro payment services and payment instruments to a potentially large amount of digital euro users switching within short period of time.</p>
<p>CHAPTER II</p>	
<p>Other discussion items based on the non-paper</p>	
<p>1. Setting of offline limits (Article 37(6)(d))</p>	
<p><i>Q7. Do you agree with the proposal that sufficiently high limits for purchases of necessities during exceptional circumstances should also</i></p>	<p>AT (MS comments):</p>

be considered by the Commission when drawing up the implementing acts on setting offline holding and transaction limits?

Yes, we agree. The limits should be high enough to cover essential daily needs during crises.

BE

(MS comments):

Yes, but this could be set already in normal circumstances.

CY

(MS comments):

Would the commission know up to which limits such an increase would not pose a threat to the financial stability of the euro area?

CZ

(MS comments):

CZ: Generally, we are open to this issue. However, when setting limits, it is important to take into account the varying price levels across the MSs.

DE

(MS comments):

- Given the importance of offline payments for resilience and preparedness– we support the approach of the preparedness by design principle. Sufficiently high holding and transaction limits for offline digital euros are highly important with a view to its usability.
- However, the transaction limits shall be set at level 1 by the co-legislators.
- Regarding the drafting proposal, we are questioning its necessity. Under Article 37 (5), the Commission is mandated to specify offline holding limits that would apply during normal circumstances. However, during exceptional circumstances, Member States would obtain the power to increase those limits

to allow for the purchases of necessities during a crisis [Article A, point (a), in conjunction with Article B].

- Against this background, the proposal to also consider exceptional circumstances under Article 37 (5) – when specifying the limits for normal circumstances – seems to be a duplication. Indeed, if the Commission already considered exceptional circumstances under Article 37 (5), there would be no need to transfer power to the Member States to deviate from those limits during a crisis.
- Hence, we would propose the following wording for Article 37 (5):

DEU Drafting Proposal:

Article 37(5)

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, when drawing up the implementing acts referred to in paragraph 5, shall take into account in particular the following:

(d) the limits are sufficiently high for purchases of necessities **over a period of at least 72 hours during exceptional circumstances.**

EE

(MS comments):

EE: We agree with and support the proposal in principle. However, we are open to finding the most suitable legal solution and acknowledge that the objective (in Art 37(6)(c)) of ensuring the usability and acceptance of the digital euro as a legal tender instrument already covers the objective of the proposal.

	<p>EL (MS comments):</p> <p>EL: In principle we could agree; note, however, that the ECB's stance/view on the matter is highly relevant. Among other things, the proposal should take due account of the <u>overall holding limit</u> aspect.</p> <p>ES (MS comments):</p> <p>No, the idea is that the limits are raised under exceptional circumstances, these circumstances should not be taken into account for fixing the limits in normal circumstances.</p> <p>FI (MS comments):</p> <p>Yes</p> <p>FR (MS comments):</p> <p>We do not believe it is necessary to introduce this concept into the legislation, as :</p> <ul style="list-style-type: none">- We are preparing a framework dedicated to exceptional circumstances, which will allow off-line detention limits to be raised if necessary.- The Commission will be able, at its own discretion and before triggering an exceptional mechanism, to raise detention limits if it appears that a particular context in the EU justifies it. <p>IE (MS comments):</p>
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	<p>IE agrees with the proposal for sufficiently high limits on purchases of necessities during exceptional circumstances which will be taken into account when drawing up the implementing acts on the holding and transaction limits under the proposed Article 37(6)(d).</p> <p>IT (MS comments):</p> <p>We agree, provided that such limits are kept distinct from those to be ordinarily applied. An unselective increase of limits for offline digital euro would indeed go against the rationales (proximity, low amounts) backing the simplified AML rules laid down in art. 37 for such use.</p> <p>We would therefore suggest that a specific provision should be introduced to enable the temporary lifting of this limit during exceptional circumstances, to be set according to the criteria outlined in Article 37 (6) (a), (b), and also in the new (d), and in light of the mandatory opinion of the AMLA, as provided in art. 37, par. 6. From our point of view, this article should also be amended to provide that AMLA shall adopt its opinion on the proportionality of possible “simplified” KYC and sanction screening rules in case of emergency switching.</p> <p>Finally, we’d like to reiterate our previous comments on the current AML regime dedicated for offline digital euro in art. 37 and we would highlight that this provision should:</p> <ul style="list-style-type: none">a) clearly state that STR obligations also apply, with explicitly safeguard other relevant reporting obligations (i.e. provision to disclosure, safe harbor provision) contained in the AML/CFT regulation;
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- b) include detailed information on subjects involved in funding and defunding within data and information collected by PSPs by art. 37, par. 3, and listing them in art. 37, par. 4;
- c) provide that all information included in art. 37, par. 3 are directly available to FIUs, in order to perform all its institutional tasks (now the FIU has to request, on a case-by-case basis, these data to PSPs) and establish also the possibility of requiring threshold-based reports for AML/CFT purposes.

LT

(MS comments):

We are in broad agreement with the proposal.

LV

(MS comments):

We agree with the proposal.

NL

(MS comments):

NL comment: Yes, we believe this is reasonable given the policy objectives of the digital euro, which increasingly focus on resilience and strategic autonomy. In our opinion, the offline digital euro limit would remain low and should, for the purpose of resilience, only cover the most basic necessities such as water, food and perhaps shelter for 72 hours.

PT

(MS comments):

While we do not, in principle, oppose to the COM taking “*exceptional circumstances*” into account when drawing up the implementing acts on

	<p>offline holding and transaction limits, we question the need to safeguard, at this stage, that such limits are sufficiently high to ensure the purchase of necessities. Considering that such limits have not yet been established or discussed, what evidence supports the assumption that the holding limit to be implemented would be insufficient for the purchase of basic necessities?</p> <p>Nevertheless, it is crucial to reiterate that the offline limits are settled within the overall holding limits.</p> <p>Additionally, despite understanding the concerns raised and notwithstanding the above, since Article 37 of the DER provides an exception to AML/CFT rules, the main focus when setting transaction and holding limits should be on ML/TF concerns.</p> <p>SI (MS comments):</p> <p>SI: /.</p> <p>SK (MS comments):</p> <p>We are of the view that any limits should be set, either precisely or as a range, in Level 1 text.</p>
<p>2. Queuing of payments (Articles 15 and 16)</p>	
<p><i>Q8. Do you agree with the proposal that the so called “queuing” of the payments could be envisaged to be included in the legal text in case the waterfall functionality is unavailable?</i></p>	<p>AT (MS comments):</p> <p>Regarding Article 16(2)(c), we would not support expanding the list of criteria for setting the limits to include 'ensuring continuity of digital euro</p>

	<p>services in case of exceptional circumstances, in particular when emergency switching is not possible or feasible.' In our view, this is not a criterion for determining the limits under normal conditions, but rather a justification for temporarily adjusting the limits in the event of an exceptional circumstance. It should therefore not affect the calibration of limits under standard operating conditions.</p> <p>We should have a common understanding of the zero holding limit for merchants. There is already a time buffer in place in case we assume EoD defunding of received dEUR payments for merchants.</p> <p>BE (MS comments):</p> <p>We think a broader debate needs to happen here, notably on the relations this proposition may have with end-of-the-day batch settlements, merchants' holding limit, etc.</p> <p>CY (MS comments):</p> <p>We agree that the infrastructure should have the functionalities to support continuity in such cases, however we believe is not necessary to be explicitly included in the legal text. The rulebook is best suited for this purpose.</p> <p>CZ (MS comments):</p> <p>CZ: We are open in this issue.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• We clearly support the underlying idea of a 'queuing' of payments.• However, we do not support the proposed drafting.
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	<ul style="list-style-type: none">• First, as requested several times, a provision must be included in the legislative proposal which clearly sets out the alleged zero holding limits for businesses, potentially in Article 16.• Second, the proposed wording, in our view, is not sufficiently clear as to the possibility of a ‘queuing’. Instead, we propose to enable the ‘queuing’ functionality also in normal times, but also described more accurately in the text.• Third, both the zero holding limit for businesses and the ‘queuing’ should be regulated in Article 16 or possibly in a new Article 16a. However, we do not believe that Article 15 is the correct place as this provision only contains some very general and high-level principles.• In sum, we believe that the queuing of payments should also be foreseen in normal times. It would make the processing of payments for merchants much easier. It would also prevent the system / DESP from too high traffic which would reduce latency.• According to the ECB analysis, a zero holding limit for merchants could be implemented also with such queuing of incoming payments.• We would welcome drafting suggestions to this effect also with regard to non-crisis situations, taking into account the conditions set out above. • Regarding the proposed drafting, from a legal perspective, we have some doubts regarding the drafting proposal for Article 15 (1a). In accordance with the new Article 15 (1a), the European Central Bank and Member States whose currency is the euro shall agree on the rules and procedure enabling temporarily a technical business continuity measure to support continuity of digital euro services in case of exceptional circumstances.
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- In our view, such a joint decision taking between Member States and ECB on matters relating to the legislative proposal is not foreseen in the Treaties.
- In addition, the proposed legal drafting appears rather vague (Articles 15(1a) and 16(2), point (d)). It should be considered to clearly set out that merchants would be the subject of those provisions and that the continuity measure mentioned is related to offline payments. There might also be merit in specifying whether merchants could use those offline holdings to meet their own payment needs during a crisis.

EE

(MS comments):

EE: We agree with and support the proposal in principle, but we believe it is better to include the principle to the scope of Article A in added point d) as follows: “d) ensuring continued availability of online digital euro in case waterfall mechanism is unavailable”. With such an approach, we can avoid the term “queuing” and drop the changes to Articles 15 and 16.

EL

(MS comments):

EL: In principle we agree that the proposal should be properly defined in the legal text. However we have some concerns on queuing regarding settlement finality.

Please also note that Articles 15-16 refer only to situations when switching is unavailable. If the intention is that the business continuity measure will apply when the waterfall functionality is unavailable (even if switching might be available), as the note seems to suggest, then the drafting in the DER should clearly indicate this.

	<p>ES (MS comments):</p> <p>Yes, we agree with the queuing of payments when the waterfall functionality is not available. We do not see the need to reflect this in the parameters to determine the holding limits since this would be an exceptional situation, and should therefore not guide the determination of the limits.</p> <p>As for the reception of payments by merchants, we would like to understand how it would work and whether it would make sense that the acquiring PSPs maintain the holdings and at the end of the day transfer the money to the D€ account of the merchant, automatically converting the amount into commercial money so that there would be no need to have D€ holdings.</p> <p>FI (MS comments):</p> <p>Yes, we support the idea of end-of-day settlement, since it would also provide robustness in case of shorter outages under normal circumstances.</p> <p>FR (MS comments):</p> <p>We believe that the concept of ‘payment queuing’ is a useful modality, which the ECB should take into account to ensure future processing of payments if the cascade mechanism is temporarily unavailable.</p> <p>However, we do not believe it is necessary to add it to the regulation. It would make the regulation too cumbersome and specific, when we are supposed to be defining the broad lines of the project.</p> <p>IE (MS comments):</p>
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	<p>Considering the availability of the offline functionality as part of the digital euro design, IE is unclear as to the value add of “queueing” and how burdensome this may be to technically implement. Therefore, IE does not support the proposal on the so-called “queueing” of the payments to be included in the legal text in cases whereby the waterfall functionality is not available. As such, IE does not agree with the proposed drafting suggested contained in Annex II, Articles 15 and 16.</p> <p>IT (MS comments):</p> <p>Based on the technical assessment performed by the ECB, we understand that the request would be to settle the incoming P2B payment - despite waterfall not being available - and holding the liquidity on the merchant digital euro account until waterfall is restored. Should this be the case, we are in favor of the proposal. De facto it would not be a queuing of payments (which would be settled and not queued) but a queuing of liquidity to be defunded.</p> <p>LT (MS comments):</p> <p>In the event scenario where offline functionality is required for making payments, it would be beneficial for both end-users and merchants to have the option to pay and accept digital euro payments. We would be grateful for the clarification whether both end-users and merchants would be able to pay and accept payments, and for how long. In addition, in the event that the end-users’ or merchants’ PSP is not available for a one or two weeks, it is possible that end-users and merchants may consider switching</p>
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	<p>to another PSP and defunding received offline euros. Could you kindly clarify whether the Articles 15 and 16 address such a situation?</p> <p>NL (MS comments):</p> <p>NL comment: Yes, although we have questions on the operational feasibility of such measures. As we understood, this queuing is feasible already (e.g. in airplanes) but it comes with credit risk more than operational risk. If this is not the case for offline digital euro payments, as is our understanding of the design, the queuing of payments seems reasonable and valuable.</p> <p>For merchants, it could in general be valuable to receive their digital euro payments end-of-day in one go, instead of receiving each individual transaction separately.</p> <p>This does leave the question who is responsible in case of malfunctioning devices or other disruptions which prevent completion of the transaction from taking place, but this is the case for offline payments in general.</p> <p>PT (MS comments):</p> <p>We consider that significant uncertainty remains in relation to merchants, particularly as the supported approach to establish a zero holding limit is not explicitly reflected in the text.</p> <p>While we consider that the text could allow for the possibility of queuing only when the payee of the digital euro transactions is a merchant, we</p>
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believe that further clarifications are needed specifically concerning i. the potential zero holding limit and ii. its practical implementation.

Moreover, we would like to add the following comments on the proposed redrafting of Articles 15 and 16.

It seems that “*emergency switching*” is intended to be the primary measure in exceptional circumstances, with other options being considered as subsidiary. Are we interpreting this correctly? We agree with this approach and would not oppose to more clearly introducing, in the text, a graduated approach to the implementation of such measures, considering the principle of proportionality.

We have doubts regarding how the ECB and MS would work together on the rules and procedures referred in Article 15(1a) and what would be the instrument resulting from the proposed approach. Are there any other situations where a similar provision has been foreseen?

SI

(MS comments):

SI: No, we do not agree with the PL PYC proposal. We are inclined to support the ECB's proposal, which suggest to temporarily allow merchants to hold offline digital euro, which would be stored in their payment terminals until connectivity is restored. Therefore the regulatory framework would need to specify the conditions for temporarily allowing

	<p>merchants to hold offline digital euro until the waterfall functionality is restored.</p> <p>SK (MS comments): We agree.</p>
<p>3. Definition of exceptional circumstances (Article 2)</p>	
<p><i>Q9. Do you agree with the proposal to have a definition of exceptional circumstances in the text? If yes, do Member States agree with the legal drafting in Annex II?</i></p>	<p>AT (MS comments): See our answer to Q1.</p> <p>BE (MS comments): Yes we agree.</p> <p>CY (MS comments): Agree</p> <p>CZ (MS comments): CZ: We support the direction of travel.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none"> • We do not consider this definition helpful. • It must be aligned with the definition provided for in Article A. • We believe that a definition can only provide added value if the scope of application is limited to the purpose of the regulation's

content rather than defining general cases of exceptional circumstances not related to digital euro payments.

DEU Drafting Proposal

37. (new) ‘exceptional circumstances’ means situations, limited in time, that can cause widespread and severe disruption of the continuity of payments services ~~disruptions in [the essential state functions and functioning of society, in particular disruption of] payment services[, or cause great property, economic or environmental damage, including a natural disaster, a major cybersecurity incident or other attack,]~~ negatively affecting the population of the Union or the whole or part of a Member State, and which is determined or officially declared in accordance with the relevant procedures under Union or national law, ~~in particular in case emergency switching to another PSP within the Member State is not possible or feasible;~~

EE

(MS comments):

EE: As described at the beginning (please see above) for us it essential that the full spectrum of exceptional circumstances is covered and compared to today, we will be better off with digital euro than today with private sector digital solutions and cash only in exceptional circumstances. We are open to put all that covers the definition of exceptional circumstances and list of measures that could be taken into one single Article, so the Article A and/or complement Article A with a Recital.

EL

(MS comments):

EL: Yes, we are in favour of an adequate definition of 'exceptional circumstances', in order to avoid possible misinterpretation, confusion,

or arbitrary use of the provisions and to allow a reasonably harmonised approach to similar circumstances. We can also support the relevant legal drafting in Annex II, but we suggest the following phrase should be deleted, as it creates cyclicity in the definition: “in particular in case emergency switching to another PSP within the Member State is not possible or feasible”. Emergency switching is listed in proposed Article A as a tool to address exceptional circumstances and thus cannot also be part of the definition.

ES

(MS comments):

See answer to Q1

FR

(MS comments):

We believe that adding a definition of exceptional circumstances is not imperative. If, however, a majority of Member States consider it appropriate to add one, we agree with the proposed wording, with the removal of the reference to switching to another PSP in an emergency, for the reasons given earlier in the discussions on questions 4 and 5.

HR

(MS comments):

We agree with the proposal to have a definition of exceptional circumstances in the text.

IE

(MS comments):

IE agrees with the proposal to have a definition of exceptional circumstances in the text and support the legal drafting proposed in Annex II i.e. *“exceptional circumstances” means situations, limited in time, that can cause serious and extensive disruptions in [the essential state functions and functioning of society, in particular disruption of] payment services[, or cause great property, economic or environmental damage, including a natural disaster, a major cybersecurity incident or other attack,] negatively affecting the population of the Union or the whole or part of a Member State, and which is determined or officially declared in accordance with the relevant procedures under Union or national law, in particular in case emergency switching to another PSP within the Member State is not possible or feasible.*

IT

(MS comments):

We agree.

LT

(MS comments):

We welcome and agree with the proposed definition of exceptional circumstances. Nevertheless, we would like to clarify if we have understood the definition correctly, i.e. does it cover the following situations:

- when the emergency switching is within the Member State, for example in the event of a short or long power outage;

- when emergency switching is not possible within the affected Member State, and cross-border emergency switching is required for both end-users and merchants.

Moreover, we agree to the case if it is a better legislative solution to have a separate article in DER that outlines exceptional circumstances and triggers the application of certain measures.

LV

(MS comments):

We agree with the proposal.

NL

(MS comments):

NL comment: We do not have a strong opinion with regards to this question. In our view, the framing as presented in the beginning of the paper on continuity of payments should be sufficient.

PT

(MS comments):

Yes, we agree with having a definition of “exceptional circumstances”. Nonetheless, we believe that it only should be considered for this purpose situations that have an impact on the provision of payment services. For this reason, we consider that the segment “*the essential state functions and functioning of society*” should be deleted. It is evident that if these core functions are jeopardized, the continuity of services, including payment operations, will also be compromised. Nonetheless, we believe

	<p>that the text should be more neutral and enhance the digital euro as a resilient payment solution.</p> <p>SI (MS comments): SI: Yes, we agree.</p> <p>SK (MS comments): We agree with the introduction of the definition. We support deletion of the reference to emergency switching from the definition.</p>
CHAPTER III	
Other discussion items based on Member States' written comments	
Digital euro infrastructure	
<p><i>Q10. Do you agree that resilience of the digital euro infrastructure is an important topic that should be further discussed in the Working Party?</i></p>	<p>AT (MS comments): We would welcome further technical input from the ECB on resilience measures taken for existing settlement infrastructure (T2S, TIPS) as well as the future dEUR settlement infrastructure.</p> <p>BE (MS comments): We think the resilience discussion is mature enough to close it.</p> <p>CY (MS comments): We believe that resilience is a significant aspect for the digital euro, but do not see the need for WP to decide technical aspects that are responsibility of the ECB</p>

	<p>CZ (MS comments): CZ: Yes.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• Regarding the three options presented, we believe that all these options could be very well-aligned and could mutually support each other. <p>EE (MS comments): EE: We strongly agree that the resilience of the digital euro infrastructure is an important topic that should be further discussed. We would also welcome consideration of this topic in a technical workshop.</p> <p>EL (MS comments): EL: In our view, resilience of digital euro infrastructure is of high importance especially given the current global geopolitical environment. We are therefore in favour of deepening discussions on resilience but without this being to the detriment of timely implementation of the digital euro. We believe that the legislative package should be finalized at the earliest and without delay, as the best way for the digital euro to provide additional resilience in euro area payments is to ensure its timely implementation and widespread adoption by citizens throughout the euro area.</p>
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	<p>ES (MS comments): Yes, we think that resilience of the D€ infrastructure should be further explored and discussed.</p> <p>FR (MS comments): The resilience of the digital euro is a strategic issue, but new discussions on resilience only seem relevant if the ECB has new technical elements to present.</p> <p>HR (MS comments): Yes, we agree that resilience of the digital euro infrastructure should be further discussed in the Working Party.</p> <p>IE (MS comments): IE views the resilience of the digital euro infrastructure as an important topic. IE deems it necessary for the Council Working Party to discuss the technical aspects involved further. Of particular importance is developing further details around operationalisation and funding of the mechanisms that will support the ‘exceptional circumstances’</p> <p>IE considers it important that resilience remains a topic of the Council Working Party until the relevant technical details are further clarified. In particular, IE would welcome greater clarity on the operationalisation and funding of mechanisms supporting exceptional circumstances. IE support</p>
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the ongoing work of the ECB and the technical contributions of the NCA's and would like to see these elements further developed before drawing final conclusion on this topic at Council Working Party.

IT

(MS comments):

Generally, we agree that the resilience of the digital euro infrastructure is a relevant technical issue. We would suggest the ECB might provide additional information about this topic in a dedicated technical seminar. This would allow all MSs delegations clarifying the design and measures that will be in place to guarantee resilience. Additionally, this would be much appreciated considering the Eurosystem ultimate responsibility in assessing and defining all the necessary measures to guarantee security, availability and resilience of the infrastructure - as currently the case for other critical market infrastructures operated by the Eurosystem (i.e. TARGET Services) - while preserving implementation time and costs. On the other hand, we would avoid to deep dive too much with technical aspects that do not concern specifically the regulation as they are more related to technological and operational choices that are up to the ECB to define.

That said, if appropriate given the nature of the work undergoing at the Eurosystem level, we would not oppose to include in recitals a high level reference to the use of state of the art technologies and/or a preparedness by design principle for the digital euro settlement infrastructure.

LT

(MS comments):

We suggest that the Eurosystem, the product owner, should be responsible for the technical implementation of the infrastructure. The Eurosystem has experience in developing and maintaining solutions for payments, e.g.

	<p>Target and TIPS. So, we suggest that the DER should not include any technical details. DER should be based on principles and be technologically neutral. Option 3 is the one that best follows the two principles above.</p> <p>LV (MS comments): The resilience aspects of the digital euro infrastructure is being considered as a high priority. If it is necessary to include such article in the Regulation, we are in favour of Option 3.</p> <p>NL (MS comments): NL comment: We thank the Presidency for tabling these options to further explore the work on resilience. For certain proposals, we would welcome being informed by the ECB about the possibilities – for example in a technical seminar - rather than having legislative discussions on this.</p> <p>PT (MS comments): Yes, we are open to support having such discussion.</p> <p>SK (MS comments): We are supportive to the further discussion of the topic.</p>
<p>○ Q10.1. If yes, which of the following options or a combination of options do you prefer to explore further?</p>	<p>AT (MS comments):</p>

	<p>We support the introduction of a state of the art technology clause and a preparedness by design principle to ensure a resilient settlement infrastructure.</p> <p>CY (MS comments):</p> <p>N/A</p> <p>CZ (MS comments):</p> <p>CZ: Option 1 and 3.</p> <p>DE (MS comments):</p> <ul style="list-style-type: none">• Option 1, the digital euro infrastructure, we are under the believe that the elements listed in the Paper would all be achieved and met by the DESP.• We would welcome more information on the practical implications of Option 2, which currently seems superfluous to us.• The rather technical Option1 should be accompanied by Option 3 which would be a legal provision and provide a legal framework for ensuring the practical implementation set out in Option 1.• We strongly support the idea of a technology clause (Option 3). Such a clause would confirm, in the operative provisions, that the digital euro would always be adopting state of the art technology. It would also ensure the constant development of new technologies. The idea would be to set out clearly the principles of ‘preparedness by design and privacy by design’. Given that the ECB’s reactions to the proposal of a technology clause were quite favourable in the past, we wonder whether the
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ECB might present a draft provision to be discussed further in this forum.

- Finally, one additional element that should be considered is that some components of the digital euro infrastructure will be provided by external entities, rather than by the Eurosystem. For instance, the offline functionality, which is referred to in the Presidency note as ‘a key feature for built-in resilience’, will also be provided by an external entity. The selection of this provider is therefore of particular importance, to avoid new vulnerabilities in the future.

DEU Drafting Proposal

Article 24a - NEW

Technical design of the digital euro

1. Adhering to the principle of preparedness by design, the European Central Bank shall implement appropriate technical and organisational measures to ensure at all times a state-of-the art technical design of the digital euro and the digital euro settlement infrastructure adopted by the Eurosystem.

2. The European Central Bank shall monitor technological developments, including new technologies which are in particular designed to protect privacy, enhance data protection, ensure security, elevate fraud detection and prevention, reduce fragmentation as well as to support competition, efficiency and innovation, to ensure that the technical design of the digital euro, including the digital euro settlement infrastructure adopted by the Eurosystem, continuously adapts to new technologies.

3. For the purpose of implementing appropriate technical and organisational measures pursuant to paragraph 1, the European Central Bank shall take into account the state of the art, the cost of

	<p>implementation and the nature, scope, availability at large-scale and purpose of new technologies as well as potential risks posed by them.</p> <p>Article 40</p> <p>Reports</p> <p>[...]</p> <p>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.</p> <p>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:</p> <p>[...]</p> <p><u>(e) the development of existing and emergence of new technologies which might be of relevance for the implementation of the technical design of the digital euro.</u></p> <p>EE (MS comments):</p> <p>EE: We are generally open to proceeding with the option or combination of options that receive the most support. We support the principles of options 1 and 3 in substance. In addition to substance, the follow-up discussions should include consideration of how to achieve these objectives and what is the most appropriate (legal) instrument (including the instruments used by the Eurosystem). The regulation should, at minimum, include a Recital on the digital euro infrastructure.</p> <p>EL (MS comments):</p>
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	<p>-</p> <p>ES (MS comments):</p> <p>We are especially interested in option 1, that strengthens the D€ settlement infrastructure of the ECB. We consider that DORA is a comprehensive piece of legislation that will help increase cyber-resilience. DORA includes rules on governance, incident reporting, regular testing. In any case, DORA does not apply to all players in the payments system. In Spain, we have taken the decision to increase the scope of application of DORA to other players in the payments system beyond PSPs (operators of payment systems, processing entities...). The D€ payments infrastructure should be subject to similar cyber resilience requirements as those foreseen in DORA. The proposal to include resources for a quick recovery, information sharing and regular testing go in that direction.</p> <p>We could also support the other proposals advocating for a more decentralized settlement infrastructure or requiring operating sites to be located in the EU, which could as well contribute to the objective of strategic autonomy.</p> <p>Options 2 and 3 are also interesting to explore.</p> <p>FR (MS comments):</p> <p>Options 1 and 3, taken together, seem important to us.</p> <ul style="list-style-type: none">- All the aspects mentioned in option 1 seem important to us.- Preparedness by design' must necessarily be taken into account in the design of the settlement infrastructure. <p>HR (MS comments):</p> <p>We prefer option 3 to explore further.</p>
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	<p>IE (MS comments): IE is flexible but would welcome further discussions on Option 1 and 3.</p> <p>IT (MS comments): See answer above.</p> <p>LT (MS comments): See reply to Q10.</p> <p>NL (MS comments): NL comment: Regarding option 1, we believe it would be very relevant to hear more from the ECB about the possibilities and technical feasibility of these measures, especially the geographical requirements, the possibility to base the system on European infrastructure and decentralized settlement. Having storage of data in Europe could for example be an important feature, if feasible given cloud storage limitations.</p> <p>However, these proposals should not all have to be incorporated in the legislative proposal, so as to limit the level of complexity and provide room for the Eurosystem to build and make decisions on the technical design.</p> <p>We believe option 2 with a voluntary Member State opt-in will be difficult to organise in practice and should not be explored further.</p> <p>We think option 3, to include a recital on resilience and preparedness-by-design, is a no-loss addition to the legislative proposal and would therefore welcome it.</p>
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	<p>PT (MS comments): In our view, all the options presented are relevant to promote the resilience of the digital euro infrastructure. Therefore, and given that the proposed measures are not mutually exclusive, we consider that all of them should be taken into account in future discussions on this matter.</p> <p>SI (MS comments): SI: We do not see the need for further debate on the topic of digital euro infrastructure resilience, as we believe the ECB is already working intensively on strengthening resilience. However, if the discussion is to be reopened, we remain open to explore option 3.</p> <p>SK (MS comments): We support option 3. Would welcome to be informed by ECB on the development regarding option 1</p>
<p>end</p>	<p>AT (MS comments): end</p> <p>BE (MS comments): end</p> <p>CY</p>

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