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## **WORKING DOCUMENT**

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**From:** Presidency  
**To:** Working Party on Financial Services and the Banking Union (Digital Euro Package)  
Financial Services Attachés

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**Subject:** Single currency package - Digital euro WP meeting on 1 April - Presidency Discussion Note on International use

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WK 3949/2025 INIT

**LIMITE**

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Polska Prezydencja w Radzie UE  
Polish presidency of the Council of the EU  
Présidence polonaise du Conseil de l'UE

**Digital Euro Regulation**  
*Brussels, 1 April 2025*

**Presidency discussion note**  
**Discussion on international use**



The issue of international use has been discussed several times, both under previous presidencies and under the Polish Presidency at the January CWP meeting. In the Presidency's view and on the basis of Member States' comments, the discussion on this topic has advanced sufficiently to be able to summarise it.

## **1. Distribution in countries or territories under a monetary agreement (Article 20)**

Regarding Article 20 of the Digital Euro Regulation (DER) on the distribution of the digital euro to natural and legal persons residing or established in third countries or territories under a monetary agreement with the Union, Member States almost unanimously agreed with the wording as proposed by the Commission in its original proposal with no need for any amendments.

## **2. Acceptance of digital euro payments by merchants outside the euro area (Article 3, Article 12a, recital 48a)**

Based on Member States' written comments and the Council Legal Service's comments on Article 12a(f), the Presidency suggests amending the provision appropriately. Although many Member States agreed with and supported the wording proposed by the Presidency at the January CWP meeting, some supported the Council Legal Service's comments on keeping the term 'citizens of the Union' instead of 'natural persons'. Moreover, the Council Legal Service and some Member States indicated that it would be beneficial to refer to free movement rights in general, without introducing any further qualification. The Presidency therefore suggests the following amendments to Article 12a(f).

Drafting suggestions (**bold** marks BE and HU PCY drafting suggestions, **red** marks PL PCY drafting presented at the January CWP meeting, **green** marks new drafting suggestions):

### **Article 12a(f)**

**(f) Citizens of the Union who (i) reside in a Member State whose currency is not the euro or in a third country and legal persons established in a Member State whose currency is not the euro, and (ii) where these citizens or legal persons exercise their free movement rights in a Member State whose currency is the euro as workers, self-employed persons or by providing services.**

Member States broadly agreed with the proposed approach and drafting suggestions (for Articles 3 and 12a and recital 48a as presented in section 2.2 of the January discussion note<sup>1</sup>) in terms of allowing merchants outside the euro area to receive digital euro payment transactions without being able to hold digital euro.

<sup>1</sup> Digital euro – WP meeting on 31 January 2025 – Presidency discussion note on international use of digital euro – Distribution of digital euro outside of the euro area and in third countries – WK 1025/2025 INIT.

However, some Member States argued that the term ‘merchant’ is not defined in the Regulation and should be either legally defined or replaced by another term, such as ‘business’. The Presidency therefore suggests introducing a definition of ‘merchant’ as per the Member States’ proposal.

Drafting suggestions (green marks new drafting suggestions):

**Article 2(10a) – new provision**

10a. ‘merchant’ means a payee that contracts acquiring services with a view to receiving digital euro payments;

One Member State suggested specifying that the reference to ‘national central banks’ in recital 48a pertains to the euro area national central banks. The Presidency takes this proposal on board.

Drafting suggestions (green marks new drafting suggestions):

**Recital 48a**

Merchants outside the euro area being allowed to receive digital euro payment transactions, without being able to hold digital euro, would promote the free movement of payment services across the European Union. At the same time, effects on the consolidated balance sheet of the European Central Bank and national central banks of the Member States whose currency is the euro [...]

Furthermore, Member States generally agreed with the approach and the proposed drafting suggestions regarding the extension of the approach in which PSPs are allowed to provide digital euro payment services, solely for the purpose of accepting payments from merchants in non-EA Member States, to merchants in third countries in the absence of an agreement as per Articles 19 and 20.

**Questions for the Member States:**

*Q1. Do you agree with the amendments proposed in this section? If not, please provide drafting suggestions, especially for the definition of ‘merchant’.*

**3. Distribution of the digital euro in Member States whose currency is not the euro (Article 18)**

Member States generally agreed with the clarification presented in section 3.1 of the January discussion note that entry into force of the arrangements should be conditional on adapting national legislation, whereas the signing of the arrangement would be conditional on the fulfilment of Article 18(2), points (a) and (b). The new drafting suggestions presented below reflect this clarification supported by a majority of Member States.

In addition, in response to section 3.2 of the January discussion note, the majority of Member States concluded that the clarifications provided there address the concerns regarding the term 'relevant requirements'.

Drafting suggestions (**bold** marks BE and HU PCY drafting suggestions, **red** marks PL PCY drafting presented at the January CWP meeting, **green** marks new drafting suggestions):

## Article 18

1. Payment service providers may only distribute the digital euro to natural and legal persons residing or established in a Member State whose currency is not the euro if the European Central Bank and the national central bank of that Member State have signed an arrangement to that effect **and this arrangement has entered into force**.

2. The **signing and entry into force** of the arrangement referred to in paragraph 1 shall be subject to all of the following conditions:

(a) the Member State whose currency is not the euro has notified to the **other Member States Council**, the Commission and the European Central Bank **the request its decision to provide access to and use of allow the provision of digital euro payment services** to natural and legal persons residing or established in that Member State;

(b) in ~~its request~~, **the arrangement with the ECB**, the **central bank of the** Member State whose currency is not the euro ~~has undertaken~~:

(i) to ~~ensure that its national central bank shall~~ abide by **any** the rules, guidelines, instructions or requests issued by the European Central Bank in relation to the digital euro **as outlined in the arrangement**;

(ii) to ~~ensure that its national central bank shall~~ provide all information **that the European Central Bank may require** on **the access to and the use of the digital euro as part of access to and use of the the provision and use of** digital euro payment services, including digital euro holdings, in that Member State ~~that the European Central Bank may require~~.

2a. The **entry into force of the arrangement referred to in paragraph 1 shall be subject to the condition that**

(c) the Member State whose currency is not the euro has adopted all **the national legal provisions legislations that are** necessary to ensure respect, **insofar as is relevant**, of the **relevant provisions of this Regulation and the relevant measures, rules and standards requirements laid down in this Regulation or the rules and standards** adopted **by the European Central Bank** pursuant to Article 5(2).

3. The **agreement arrangement** referred to in paragraph 1 shall specify the **main rights and obligations of the contracting parties, including the** necessary implementing measures and procedures, **clauses regarding cooperation and exchange of information** and the cases under which the **agreement arrangement** may be restricted, suspended, or terminated.

4. Payment service providers shall implement the limits set by the European Central Bank in accordance with Article 16(4) on the use of the digital euro by natural and legal persons residing or established in Member States whose currency is not the euro, which are applicable in those Member States.

**5. This Article is without prejudice to the provision of digital euro payment services to natural and legal persons referred to in Article 12a(1), points (b), (c) and (f).**

A majority of Member States agreed to define the term 'distribution' in Article 2 DER. As this was a general question and no drafting suggestions were proposed by the Presidency at the January CWP meeting, the Presidency puts forward the following proposal.

#### **Article 2(8a) – new provision**

8a. 'distribution of the digital euro' means provision of digital euro payment services, including basic and additional digital euro payment services, as well as services enabling to receive digital euro payment transactions;

The Presidency notes that once this definition has been included in the Regulation, consequential amendments may be necessary throughout the text of the Regulation. This is because, in some cases, in addition to the reference to the 'distribution of the digital euro', there are also references to, for example, 'digital euro distribution'. Alternatively, the legal text could be harmonised to use the phrase "provision of/providing digital euro payment services" throughout the Regulation.

#### **Questions for the Member States:**

*Q2. Do you agree with the amendments proposed in this section? If not, please provide drafting suggestions, especially for the definition of 'distribution of the digital euro'.*

#### **4. Distribution of the digital euro to natural and legal persons residing or established in third countries (Article 19)**

As regards Article 19, most Member States agreed that the changes to Article 18 proposed at the January CWP meeting should be transposed to Article 19, and therefore agreed with the suggested amendments.

However, one Member State suggested that, for the sake of completeness, a cross-reference should also be made to Article 31 of the AMLR<sup>2</sup>, which refers to the third countries that have been identified, at European level, as posing a specific and serious threat to the Union's financial system, as Article 19(3), point (b), currently refers only

<sup>2</sup> 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 for the purposes of money laundering or terrorist financing.

to the third countries covered by Articles 29 and 30 of the AMLR. Based on this comment, the Presidency therefore suggests amending Article 19(3), point (b).

#### **Article 19**

[...]

**(b) the cases under which the agreement may be restricted, suspended, or terminated, in particular where the third country has been identified as a third country with significant strategic deficiencies in its national anti-money laundering and combating the financing of terrorism regime as referred to in Article 29 of Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing or as a third country with compliance weaknesses in its national anti-money laundering and combating the financing of terrorism regime as referred to in Article 30 of Regulation (EU) 2024/1624 or as a third country posing a specific and serious threat to the Union's financial system as referred to in Article 31 of Regulation (EU) 2024/1624. Where appropriate, the Council may consult the Authority for Anti-Money Laundering and Countering the Financing of Terrorism to this end.**

**The agreement shall be complemented by an arrangement between the European Central Bank and the national central bank and, where appropriate, the national competent authorities of the third country.**

#### **Questions for the Member States:**

*Q3. Do you agree with the amendments proposed in this section?*

### **5. Cross-currency payments (Article 21)**

Member States agreed with the Presidency's view that there is no need to amend Article 21 further, or for any further clarifications (see section 6 of the January discussion note). Member States are of the opinion that this article should generally remain open-ended in order to ensure that there are no future limitations on the interoperability of the digital euro with another global CBDC or potentially commercial bank money.

### **6. Article 4(1) of the Article 114 TFUE proposal**

The Presidency has received some comments regarding potential doubt over the interpretation of Article 4(1) of proposal for a Regulation on the provision of digital euro services by payment service providers incorporated in Member States whose currency is not the euro (Article 114 Proposal) and Article 14(1) DER.

Article 4(1), subparagraph 1, of Article 114 Proposal reads as follows:

*1. The requirements laid down in Article 13, Article 14(1), Chapter V, Article 18, Chapter VII, Chapter VIII and Chapter IX of Regulation (EU) No X on the establishment of the digital euro, shall be applicable to payment service providers incorporated within the territory of Member States whose currency is not the euro that provide digital euro payment services in accordance with Article 1 of this Regulation.*

The reference to paragraph 1 of Article 14 DER, which concerns ‘*access to the digital euro in Member States whose currency is the euro*’, may be ambiguous and open to various interpretations. Article 14(1) DER obliges credit institutions, upon request of their clients that are natural or legal persons residing or established in the euro area, to provide those persons with all basic digital euro payment services. According to the Commission, this obligation, via Article 4(1) of Article 114 Proposal, also extends to credit institutions established in Member States whose currency is not the euro decided to provide digital euro payment services, upon request of their clients, irrespective of their choice. That is, insofar as these credit institutions have euro area clients - natural or legal persons residing or established in the euro area - that request digital euro services, they would have to provide the basic services. In the Commission’s view, this is needed to ensure the wide accessibility of euro area residents to the digital euro as a legal tender means of payment and a level playing field for credit institutions on the internal market.

In the Presidency’s view, such a reading appears to contradict the wording of Article 3(1) of Article 114 Proposal according to which the non-euro area payment services providers “may” provide digital euro payment services to other types of clients. It would also seem to be at odds with the proportionality principle, as the (digital) euro does not have legal tender status in those Member States. While the obligation to distribute the digital euro in the euro area Member States is justified by its status as legal tender, meaning it must be accessible to all residents to ensure the proper functioning of the monetary system and the ECB’s monetary policy, the digital euro remains merely an optional means of payment in non-euro area Member States. The burden on non-EA PSPs is therefore disproportionate as they would be obliged to offer basic digital euro services to the clients residing or established in the euro area even if only one client requests provision of these services.

Moreover it has to be noted that a similar conclusion can be found in point 9.6 of the opinion of the European Central Bank of 31 October 2023 on the digital euro (CON/2023/34)<sup>3</sup>. In the ECB’s view, as outlined in the opinion, obliging credit institutions established in Member States outside the euro area to distribute digital euro may raise questions of proportionality.

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<sup>3</sup> Opinion of the European Central Bank of 31 October 2023 on the digital euro (CON/2023/34).

9.6. However, it would be proportionate, and thus preferable, if the requirement to provide digital euros upon demand were extended to those PSPs in the euro area that offer retail payment instruments (i.e. those that offer the services set out in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366, thereby enabling the user to obtain an IBAN). This would (1) establish the principle that people who already have a payment account to make day-to-day payments do not need to change provider to obtain digital euros, irrespective of which PSP is already providing that payment account; and (2) ensure a level playing field for all entities entitled to offer the services set out in points (1), (2) or (3) of Annex I of Directive 2015/2366. In order to offer all these entities equal rights to influence the digital euro rulebook, it is proportionate that they are subject to the same obligations. By contrast, the proportionality of requiring credit institutions established in Member States outside the euro area to distribute digital euros may come under scrutiny if the vast majority of their existing clientele were unable to hold digital euros.

Point 9.6 of the ECB's opinion

Furthermore, it can be argued that if credit institutions established in the Member States whose currency is not the euro were obliged to provide services in digital euro to euro area residents upon their request, it would create a situation where an obligation would be imposed but the question of supervision in this respect would remain open.

In view of the above, the Presidency considers that non-euro area credit institutions and payment service providers should be able to freely choose whether or not they would like to provide digital euro services, as this would be appropriate from the perspective of proportionality. In addition, such an approach would be in line with the current treatment of euro cash outside the euro area. Given the above considerations, in order to address the proportionality issue, the Presidency proposes deleting the reference to Article 14(1) DER from Article 4(1) of Article 114 Proposal and/or provide any other drafting adjustments that might be needed to avoid any doubt in this respect.

#### **Questions for the Member States:**

*Q4. Do you agree with the approach presented by the Presidency?*