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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and the Banking Union (Digital Euro Package) Financial Services Attachés
Subject:	Digital euro - WP meeting on 15-16 May 2025 - Presidency Note on compensation

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

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Digital Euro Regulation

Brussels, 15-16 May 2025

Presidency discussion note on compensation

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Background

The issue of the digital euro's compensation model has already been discussed in four Council Working Parties throughout the different Presidencies: During the Spanish Presidency in November 2023, during the Belgian Presidency in April 2024, during the Hungarian Presidency in October 2024, and during the Polish Presidency in February 2025.

In the February CWP, the Spanish delegation put forward a non-paper with a proposal for a transitional compensation model. The current note builds on the Member States' reactions to the Spanish non-paper, aiming to put forward a proposal for the transitional and final compensation model that better allocates the Member States' concerns. **A majority of Member States expressed their preference for having a two phased approach for the compensation model, with a transitional model based on comparable means of payment**, due mainly to the lack of information on costs, and also taking into account the novelty of the project, the innovation arising in the payments market, the lack of information on costs, the uncertainty on the time it will take for the project to scale and stabilize and the existing heterogeneities on the payment's market of Member States.

This paper elaborates on the main elements of the transitional compensation model. It provides Member States with different options regarding the implementation of the caps. It also tackles mandatory acceptance and the lists of basic services (for acquiring and distributing PSPs). The Presidency intends to complement this discussion in the next CWP meeting with a proposal on (i) the main elements of the final compensation model, where all or some of the elements established for the transitional compensation model might continue to apply, after a review of its impact, alongside the cost-based cap for the inter-PSP fee and the MSC, and on (ii) the request of some Member States to evaluate the risk that the proposed list of basic services could lead natural persons to substitute entirely a private account by a digital euro account.

1. Main tenets for the caps to the MSC and the inter-PSP fee during the transition period

1.1 Caps for the MSC

No worse-off MSC cap

'No worse off' MSC cap for digital euro = Lowest MSC for comparable means of payment

The Spanish non paper proposed to cap on an individual basis, per PSP and payee, the

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MSC charged to payees with acceptance obligations based on a no worse off clause that would not allow to charge for the provision of basic digital euro services more than the lowest MSC charged for comparable means of payment to that same payee.

The advantages it offers is that:

- It protects payees with acceptance obligations from being worse off with digital euro than with other acquiring services they receive;
- It considers heterogeneities among merchants (including field of activity), in the payments market and among Member States (a homogeneous cap would not protect merchants in a Member State with more competitive payments markets);
- It minimises distortions;
- By selecting the lowest MSC offered, it can act as lever for the adoption of small innovative private means of payment solutions in different jurisdictions;
- It fosters price transparency in the payments market;
- It can be implemented from the start where no information on costs will be available.

Member States generally welcomed the direction of travel of the 'no worse off' MSC cap. Most of the concerns seemed to be related to the obligations derived from the implementation of the cap, the methodology for calculating the MSC of comparable means of payment; the excessive burdens that could derive from compliance and reporting obligations for PSPs; and, the list of basic acquiring services. All these elements related to implementation of the cap and to list of basic services will be tackled in sections 2 and 3 of the note.

EA uniform MSC cap

EA uniform MSC cap = EA average MSC for debit cards (domestic + international card schemes

The Spanish non paper proposed the introduction of a second cap to the MSC calculated as the average debit card MSC charged in the euro area. This cap would apply in the same way to all merchants across the euro area and constitute the maximum amount acquiring PSPs are allowed to charge.

This second MSC cap offers advantages:

- It protects small merchants from potential abuse as a result of mandatory acceptance;
- It would be a uniform fee cap across the euro area offering a cap also for merchants not subject to mandatory acceptance but that want to accept digital euro;
- It can also be implemented from the start

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- It is simple to communicate.

Data on card payment fees in the euro area shows that small merchants can pay on average 3 or 4 times more than larger merchants due to their more limited bargaining power, and their limited capability to provide scale for acquiring PSPs in private digital payments.

Small merchants face more obstacles when they wish to switch acquirers due to reasons such as merchant size/bargaining power, and access to 'clear' information on pricing, including challenges surrounding the costs that may be involved, for instance, regarding termination fees associated with exiting a contract. Smaller merchants may not have resources to process and analyse broken-down fee information and may have blended fee structures that do not allow to monitor and calculate compliance with the no worse off cap, whereas the uniform MSC cap would be published.

In that light, an EA uniform cap would particularly protect smaller and medium-sized merchants.

Most Member States agreed to complement the 'no worse off' MSC cap with a second cap aimed to especially protect small merchants. Member States expressed concerns on the way the cap should be calculated, voicing the need to avoid excessive burdens. The methodology would be tackled in section 2 of the note.

In the end, acquirers will be subject to two thresholds (joint MSC caps), and will need to apply the lowest when charging the MSC to their clients:

MSC for digital euro basic acquiring services ≤ Lowest of the 2 thresholds:

- **MSC for comparable means of payment ('no worse off' MSC cap)**
- **EA-uniform MSC cap**

1.2. Inter-PSP fee cap

ES proposal: Inter PSP fee cap:

- When MSC > 0,3% of the transaction value à Cap = 0,2% of the transaction value (cross-reference to Article 3(1) IFR).
- When MSC ≤ 0,3% of the transaction value à Distribution of 1/3 of the fee for the acquirer and 2/3 for the distributing PSP.

Presidency's new proposal:

Inter-PSP fee cap = Debit card cap established by each MS according to Article 3(2) IFR

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The Spanish non-paper suggested setting an inter-PSP fee cap at 0.2% of the transaction value, based Article 3(1) of the Interchange Fee Regulation. This would have two advantages:

- It would be easy to implement, as it would require no gathering of information and no additional calculations.
- It would incentivize distributing PSPs to promote an early adoption of the digital euro by natural persons during the transitional period, since distributing PSPs would receive a similar revenue as with debit cards without having to pay scheme fees, with the expectation that the cap will be lowered once the final cost-based model starts to apply.

The Spanish non-paper provided a safeguard for those cases where the MSC derived from the 'no worse off' MSC cap is too low, to ensure that acquiring PSPs are compensated for their services. The non-paper suggested that whenever the MSC cap is 0,3% of the value of the transaction or lower, the inter-PSP fee cap shall be 2/3 of the MSC, leaving the acquirer a margin of 1/3 of the MSC.

Most Member States agree with setting an inter-PSP fee cap by referencing to the interchange fee regulation cap for debit cards. The 1/3 – 2/3 rule raises however various concerns, regarding the sufficiency of the compensation in such cases and the adequacy of the percentages for distribution. Also, a Member State pointed out that there could be undesirable consequences deriving from the inter-PSP fee depending on the MSC of comparable means of payment: In those cases, the revenues of the distributing PSP will depend on commercial decisions of the acquirer PSP, so that if the acquirer sets very low fees to a merchant for commercial purposes, the distributing PSP would "suffer" from that commercial decision and would also be able to apply the pricing strategy of a competitor.

As the Presidency we suggest as a possible way forward to reference the inter-PSP fee cap to Article 3(2) of the Interchange Fee Regulation, which allows Member States to define a cap that is lower than 20bp per transaction and to include a fixed amount per transaction. The cap would then not be homogeneous in the Euro Area but depend on the Member States' implementation of the IFR. This would significantly reduce the possibility of the MSC no worse off cap being lower than the inter-PSP fee cap, eliminating the need to introduce the 2/3 – 1/3 rule.

Chart 1: Overview of caps applicable for a transitional period:

	Type of cap
MSC	*Comparable*: 'no-worse off' as comparable means of payment
	Comparable: EA-uniform MSC cap
Inter-PSP fee	*Comparable*: IFR Art. 3(2)

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Drafting suggestions

BE Presidency in *bold*, ES in *red*, PL Presidency in *blue*

Recital 43 - Main tenets of caps during the transition period

(43) The transitional compensation model ~~would~~ caps both the inter-PSP fee and the merchant service charge. The cap for the inter-PSP fee ~~is calculated as a uniform percentage of the value of the transaction~~ replicatesing the cap for interchange fees for domestic debit card~~s~~ transactions contained in Article 3.~~2~~1. of the Regulation (EU) 2025/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions. This provision allows Member States to define a per transaction interchange fee cap of 0,2% of the value of the transaction or lower and allows to include a maximum fee amount as a limit on the fee amount resulting from the applicable percentage. This cap will not be harmonized across Member States. Regarding the merchant service charge, acquiring PSPs obliged to offer basic acquir~~er~~ing services to payees with acceptance obligations that are already their clients cannot charge for those services more than the lowest fee that the acquiringer PSP charges that merchant for comparable means of payment. This ensures that merchants are not worse off accepting digital euros than not accepting them (no worse off clause). To protect smaller merchants, that face significantly higher fees than large merchants in current card payment schemes, ~~the average merchant service charge of national and international debit card schemes applied within the Euro area should be calculated and added as a second threshold, so that the cap should be the no worse off clause, unless the average merchant service charge is lower, where the second cap should apply~~ a uniform Euro Area average MSC cap is also included, that will apply whenever the no worse off leads to a higher MSC than this average. Merchants that do not have an obligation to accept digital euros will not benefit from the cap to the merchant service charge. New merchants without acceptance obligations that wish to accept digital euros and want to benefit from a regulated cap for those services would have to accept in parallel a comparable means of payment. This could have crowding in effects for new innovative and cheap comparable means of payment in the market, fostering competition. ~~When the cap to the merchant service charge is of 30 basis points or lower, the fee should be distributed between the distributing PSP, that should receive 2/3 of the amount of the fee) and the acquirer PSP (that should receive 1/3 of the amount of the fee).~~

~~To ensure that fees and charges to merchants and public sector entities are justified, non- excessive uniform across the euro area and proportionate any such fees should be limited in a uniform manner throughout the euro area. tThe Commission, with the technical support of the European Central Bank, should regularly monitor their level and , on this basis, be empowered to adopt, by means of delegated acts, the methodology for the calculation of maximum fees or charges publish the corresponding amounts together with an explanatory report. A maximum fee or charge should allow for free competition between intermediaries below that level. The fees or charges actually charged, while complying with the maximum fees and charges as determined in a Commission implementing act, may vary depending on the payment service provider, the Member State of their establishment, the relevant payment use cases and the type of payees, such as merchants and public sector entities.~~

~~Fees or charges should not exceed the relevant costs incurred by payment service providers for the provision of digital euro payment services in relation to digital euro payment transactions, which are objective elements, and may include a reasonable margin of profit. For that purpose, the Commission, with the technical support of the European Central Bank, should use an estimate of the representative average cost incurred by payment service providers across the euro area and should therefore be in a position to collect relevant data from payment service providers. The relevant costs for providing digital euro payment services in relation to digital euro payment transactions should be based on the costs incurred by a representative group of the most eficient payment service providers in a given~~

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~~year. Competent authorities designated by Member States should be responsible for ensuring compliance by payment service providers with these maximum fees or charges.~~

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2. For the purpose of Article 15(2), any merchant service charge or inter-PSP fee in relation to digital euro payment transactions shall comply with the principle of proportionality.

~~*During the first five years from the introduction of the digital euro a transitory model shall apply.*~~

Any merchant service charge or inter-PSP fee shall *be subject to caps. During a transitory period of [X years] from the introduction of the digital euro, the caps shall be based on the fees or charges requested for existing means of payment. After the transitory period, an additional cap based on the relevant costs incurred by payment service providers for the provision of digital euro payment services, including a reasonable margin of profit, shall apply.*

(2a) During the transitional period ~~a cap shall apply for the inter-PSP fee and the merchant service charge~~ the following caps shall apply for the inter-PSP fee and merchant service charge.

Payment service providers shall not offer or request a per transaction inter-PSP fee ~~of more than the percentage of the value of the transaction~~ exceeding the cap for domestic debit card transactions established in Article 3.2~~1~~. of the Regulation (EU) 2015/751 for any digital euro transaction.

Payment service providers offering acquiring services may charge their clients natural or legal persons as referred to in Article 12a(1) point (a)) ~~established or residing in the euro area~~ that do not benefit from an exception to the obligation to accept digital euros under Article 9(a) a merchant service charge that shall not exceed the lowest of the following two amounts:

(a) the lowest fee that the acquiring payment service provider is charging that payee ~~merchant~~ for a comparable digital means of payment;

(b) [EA uniform cap, described in the next section]

Question for the Member States:

***Q1**. Do you agree with a dual cap for the MSC based on a 'no worse off cap' and an EA-uniform MSC cap during the transitional period?*
***Q2**. Do you agree to cross-refer the inter-PSP fee cap to Article 3(2) IFR, so that it will not be homogeneous in all MSs?*
***Q3**. Do you have comments to the drafting suggestions?*

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2. Implementing MSC caps: methodology, reporting, compliance

2.1 Content in L1 and L2

Member States expressed their willingness to maintain in the **level 1 text of the Regulation** not only the main tenets but also **the main elements of the methodology, reporting and compliance of the caps.** The Commission should be empowered to adopt implementing and delegated acts in accordance with Article 38 to detail specificities once the main elements of the implementation of the caps have been agreed on in the Regulation.

2.2 Application of the 'no worse off' MSC cap

Determination of comparable means of payment to calculate the no worse off MSC cap

The majority of Member States supported the Belgian Presidency legacy drafting suggestions that defined comparable digital means of payment as "payments initiated at the POI where the payer's account is immediately debited, i.e. debit cards under international and domestic card schemes or credit transfers and direct debits including instant payments, initiated at the point of interaction". The inclusion of instant payments would increase the value of crowding in new means of payment.

Methodology for calculating the no worse off MSC cap

To apply the no worse off MSC cap, it will be necessary to calculate the MSC of comparable means of payment, to be able to compare them and select the lowest.

Most Member States agree that the comparison between MSCs of comparable means of payment should focus on the fees charged regardless of how these fees are charged (a % of the value of the transactions, a EUR amount per transaction, a fixed fee not linked to the value/amount of transaction).

Various Member States expressed support towards a standardized methodology for calculating the fees expressed as a percentage of the transactions throughout a period of time, but other MSs have expressed concern on the practical implementation of the cap, especially in countries where the MSC is not charged as a percentage of the transaction.

In order to reach an agreement on this issue, the Presidency suggests two different alternatives:

(i) A standardized calculation of the MSC

The Spanish non-paper suggested a standardized calculation of the MSC on the following terms:

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$$MSC_{comparable\ digital\ means\ of\ payment} = \frac{\sum Total\ fees\ charged\ for\ basic\ acquiring\ services\ of\ that\ comparable\ means\ of\ payment\ over\ time\ period}{\sum Value\ of\ transactions\ over\ time\ period}$$

Lowest MSC for comparable means of payment = 'no worse off' MSC cap for digital euro

- Comparable digital means of payment: The acquiring PSP would need to calculate the MSC for each comparable digital means of payment, as defined above, for each client.
- Total fees charged: All fees charged for basic acquiring services should be considered, regardless of the way they are charged (flat fee, transaction based).
- Basic acquiring services: Are defined in section 3.2 of the note.
- Time period: The Spanish non-paper suggested a period of 12 months. This would allow to take into account seasonal fluctuations in payment volumes and potential annual fees relating to the provision of basic acquiring services.
- Value of transactions during that time period: A MS expressed its preference to express this cap as an amount per transaction (dividing by the number of transactions instead of by value). Given that the methodology aims to bring standardization and following the logic of the IFR, stating that "it should also be possible to apply such a flat rate in combination with a percentage rate, provided that the sum of such interchange fees does not exceed the specified percentage of the total annual transaction value".

This calculation should be carried out and revised periodically (for instance, every 12 months). This way, the cap would be fixed referring to the 12 previous months before determining the price for digital euro acquiring services and it will apply for the following 12 months. Once the period is over, the MSCs of comparable means of payment would need to be recalculated and the necessary adjustments made.

This standardized methodology would be used for comparison purposes of the MSCs but would not prescribe the way that acquiring PSPs would have to charge the amount (neither for the digital euro, nor for comparable means of payment). Following the logic of the IFR, the actual fee applied may be a flat fee or a percentage fee or a combination of the two provided that the weighted average maximum cap is respected. In those cases where acquiring PSPs charge for digital euro services in a different way than prescribed for the calculation of the fee, at the end of the period, the calculation of the digital euro MSC charged should be calculated according to the methodology to verify whether adjustments need to be made.

(ii) A flexible calculation of the no worse off MSC

Another alternative could be to oblige PSPs to disclose information on the fees charged for basic acquiring services for comparable means of payment, without imposing on them the obligation to disclose the fees in a standardized manner. This transparency would allow the payee to verify compliance with the no worse off cap carrying out its own calculations.

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This reduces the burden on PSPs and leaves more room to negotiate different pricing strategies between acquirers and merchants, increasing however the complexity and burden for merchants to compare the fees.

Compliance with the 'no worse off' MSC cap

Regardless of the methodology selected for calculating the MSC, acquirers should be subject to **transparency requirements** towards their clients, that would allow merchants to compare on fees. Member States shall appoint NCAs to be in charge of merchants' claims in case they think that the 'no worse off' cap is not being respected, and they are being overcharged. The easiness of implementing and verifying the compliance of the no worse off MSC cap will vary depending on the methodology used for calculating the MSC of comparable means of payment, where the Presidency see a trade-off:

A standardized calculation of the MSC: Makes the verification of compliance with the no 'worse off' MSC cap easier for the merchant. However, there can be practical implementation difficulties when PSPs use a different pricing for different comparable means of payment. Also, the complication increases when the pricing for the digital euro services differs from the methodology used for the MSC calculation. The need to make adjustments at the end of the year based on the compliance with the percentage can be cumbersome for payees, especially for small merchants.

A flexible calculation of the MSC: Reduces burdens for acquiring PSPs that do not have to calculate the MSC, just disclose information. However, it will make the compliance verification more complicated for merchants and for NCAs when complaints are filed. Each claim will need to be analysed on an ad hoc basis for each PSP and merchant.

Reporting to evaluate the effects of the 'no worse off' MSC cap

Information on the MSCs of comparable means of payment will need to be gathered for the application of the 'no worse off' cap.

Several Member States were concerned with the extensiveness of the reporting obligations on PSPs that this might bring.

The Presidency suggests reducing the burden by limiting the amount of information gathered to two aggregated data points for each means of payment of each PSP: the total MSC charged during the observation period and the total value of transactions during that period.

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2.3 EA uniform MSC cap: Calculation and reporting obligations

The main concern that Member States expressed regarding this cap were: (i) the adequacy of the methodology for setting the cap and (ii) the reporting obligations needed for its calculation.

Methodology for setting a uniform EA MSC cap

Certain proposals for this methodology have already been put forward for discussion:

- The ES non-paper suggests calculating the cap as an average of the debit card MSC charged by all PSPs in the Euro Area.
- On the other hand, the COM legislative proposal suggests calculating a cap based on the MSC charged by a representative group of PSPs providing comparable digital means of payment.

The decisions that should be taken are mainly two:

- **First, it should be decided whether to include all comparable means of payment or to include only debit cards. The Presidency suggests to only include debit cards**, for various reasons: (i) reduces the data inputs simplifying the calculation, (ii) the no worse off clause already acts as lever for other innovative means of payment, (iii) the inter-PSP fee cap also refers to debit cards so there is a certain parallelism.
- **It should be decided whether to calculate an average based on the information of all EA PSPs or based on the data provided by a representative group of PSPs. The Presidency suggests opting for a representative group of PSPs** in order to reduce burdens by reducing the amount of information to be processed. The representativeness of the sample of PSPs to be used could be determined by NCAs at a national level considering the specificities of the national payment markets and the volume of transactions in debit cards. To ensure proportionality, NCAs may grant derogations where the reporting burden would be disproportionate in view of the size of such reporting agents or other thresholds[1].

[1] For example, the ECB Regulation on Payment Statistics establishes that the total value of transactions, as contributed by all payment service providers that could benefit from a derogation, shall not exceed 5% at national level. The NCAs could use their existing payments data collections to determine derogations based on the reported transaction volumes. Such PSPs could be exempted or subject to less frequent reporting obligations.:

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Reporting obligations and calculation of the EA uniform cap

To streamline the calculation on the cap, the data on the MSCs should be gathered from acquiring PSPs by NCAs and then aggregated country data should be communicated to the Commission and ECB, so they can calculate the average. The amount would be periodically calculated and published.

To reduce reporting obligations, the reporting of data to the NCAs should be carried out by the PSPs on an aggregated manner. Specifically, the following data elements on the total value of transactions and the fees received for debit cards would suffice:

- The total MSCs charged to the merchants during an observation period (e.g. last 12 months) in EUR.
- The total value of transactions during that period (e.g. last 12 months) in EUR.

The NCAs can use their existing data collections to the extent possible. The EA uniform MSC cap will be expressed as a percentage of the value of the transactions. Again, the actual fee applied may be a flat fee or a percentage fee or a combination of the two provided that the weighted average maximum cap is respected.

Chart 2: Summary of methodology of caps under transitional model

	Type of cap	EA-uniform?	Calculated by?	Enforced by?
MSC	*Comparable*: lowest fees charged for comparable digital means of payment for basic acquiring services	No	Acquiring PSP (transparency obligations towards merchants)	NCA
	Comparable: Average MSC of debit cards based on representative group of PSPs	Yes	COM/ECB (based on information provided by NCAs)	NCA
Inter-PSP fee	*Comparable*: IFR, Art. 3(2)	Yes	n/a	NCA

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Drafting suggestions

Drafting suggestions by BE Presidency (bold), ES (in red) and PL Presidency in *blue*

Recital 44 – Comparable means of payment for the no worse off MSC cap

(44) *For the application of the no worse off MSC cap ~~clause~~, ~~Furthermore, to ensure an effective use of the digital euro, that the legal tender status of the digital euro does not result in an increase in the fees for merchants and public sector entities as regards the acceptance of payments, and that a level playing field with other comparable digital means of payment is maintained, it is important that fees or charges for basic digital euro payment services are not higher than those requested for payment services for comparable private digital means of payment~~. ~~D~~d*ebit card transactions under ~~**i**~~**I**nternational *~~card schemes~~* **and national card schemes** regulated under Regulation (EU) 2015/751 ~~**of the European Parliament and the Council**~~[2], ~~**national card schemes**~~ **direct debits, and credit transfers, including** instant payments**, initiated** at the point of interaction provided by payment service providers should be considered comparable means of payment~~**s**~~. **Credit card payments, as well as credit transfers and direct debits that are not initiated at the point of interaction should not be considered as comparable means of payment for this purpose, taking into account that digital euro payments are debited immediately, and that other means of payment are only comparable if initiated at the point of interaction**. ~~*The representativeness of the sample should at least consider the specificities of the national payment markets, and the volume of transactions in comparable payment means.*~~

Recital 44b - Calculation of the MSC. The Presidency provides different options:

Option 1. Standardized methodology

(44b) The calculation of the fees (MSCs) charged for comparable means of payment should be standardized to be able to compare them, choose the lowest and verify compliance. Pricing methodologies for comparable means of payment may be different between comparable means of payment offered by a PSP to the same payee, between payees and between countries. Some PSPs may charge for certain ~~services~~ means of payment ~~a~~ transaction-based fee calculated as a percentage of the value of the transaction or calculated as an amount per transaction, PSPs may as well charge flat fees for certain services~~, others may charge~~ and transaction-based fees. To calculate the MSC charged for comparable means of payment, acquiring PSPs should add up the fees charged for basic acquiring~~er~~ services of each comparable means of payment, regardless of how it is being priced~~whether they are charged as flat fees or transaction based~~, during ~~a period of time, e.g.~~ the previous ~~last~~ 12 months; and divide it by the value or amount of the transactions processed by that PSP for that means of payment during those previous 12 months~~the period selected~~. If the acquiring PSP is charging a flat fee for services that include basic services and beyond, it should allocate the amount of the price corresponding to the basic services. The MSC will be ~~then~~ expressed ~~always~~ as a percentage of the value of the transaction ~~regardless of the way it is charged~~. For all comparable means of payment offered to the same payee it will opt for the same alternative. This methodology should serve to determine the cap but should not prescribe the way that the digital euro basic acquiring services should be charged. The Commission should be empowered to adopt delegated acts to further detail the standardized methodology.

Option 2. Flexible calculation

(44b) To ensure an adequate application of the 'no worse off' MSC cap, acquiring PSPs will be obliged to

[2] 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015,

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disclose the exact fees charged for comparable means of payment attributable for the basic acquiring services contained in Annex II. In case the acquirer is charging package fees for basic and non-basic services, it will have to allocate a proportion of the price to basic services.

Recital 44c - Calculation of the EA-uniform cap

The euro area uniform MSC cap should be calculated as the average MSCs charged by a representative group of acquiring PSPs for international and domestic debit card transactions in the euro area. Member States will appoint national competent authorities to gather the data from acquiring PSPs in their Member States and then share the information with the Commission to calculate a euro area average. The representativeness of the sample of PSPs should be determined by the national competition authorities at a national level considering the specificities of the national payments market and the volume of transactions. To ensure proportionality, national competent authorities might grant derogations where the reporting burden would be disproportionate. The reporting of data to the national competent authorities should be carried out by acquirers in an aggregated manner, sharing the total amount of MSCs charged during an observation period (e.g. the last 12 months) and the total value of transactions during that same period. This will allow to express the cap as a percentage of the value of transactions. This does not require pricing digital euro basic services as a percentage of the value of transactions. The Commission should be empowered to adopt implementing acts to specify and further develop the methodology for calculating the euro area uniform MSC cap.

~~*To calculate a baseline cap of the merchant service charge, national competent authorities designated by Member States should receive information by payees on the fees charged and share this information with the Commission, to calculate the average merchant service charge of debit card schemes in the euro area and with the European Central Bank that should provide technical support, for instance in standardizing the information that shall be provided from PSPs to the NCAs.*~~

Recital 44~~a~~d - Enforcement of caps

(44~~a~~**d) Competent authorities designated by Member States should be responsible for ensuring compliance by** *acquiring* **payment service providers with these** ~~*maximum fees or charges*~~ *caps, managing possible complaints from* ~~*merchants*~~ *payees with acceptance obligations*.

Article 2. Definitions

(24) 'merchant service charge' means a fee paid by the payee to a payment service provider when acquiring a digital euro payment transaction for the provision of basic acquiring services contained in Annex IIa ~~*calculated as the fees charged for those services for a period of time divided by the value of the transactions during a specific period of time*~~

Article 17. Fees on the digital euro payment services

1. For the purpose of **Article 15(2) ensuring an effective use of the digital euro as a legal tender means of payment**, without prejudice to any possible fees charged on ~~*other*~~ digital euro payment services *other than those referred to in Annex II, including fees for a package of services comprising both non-digital euro services and basic digital euro services*, payment service~~s~~ providers shall not charge fees to natural persons as referred to in Article ~~**13**~~ **12a**(1), points (a), ~~**(b), and**~~ (c) **and (f)**, **when such persons are acting as consumers,** for the provision of the basic digital euro payment services referred to in Annex *II* ~~*2*~~.

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~~The Commission is empowered to adopt delegated acts in accordance with Article 38 in order to supplement this Regulation by specifying the methodology for calculating the amounts referred to in paragraph 2. The methodology shall be based on the following parameters~~

By derogation from the first subparagraph, payment service providers may charge a reasonable fee for funding and defunding digital euros from or into euro cash. This charge shall not exceed the lowest amount charged by the payment service provider to the respective consumer for funding and defunding a non-digital euro payment account from or to euro cash.

(…)

(2a). During the transitional period ~~a cap shall apply for the inter-PSP fee and the merchant service charge~~ the following caps shall apply for the inter-PSP fee and merchant service charge.

Payment service providers shall not offer or request a per transaction inter-PSP fee ~~of more than the percentage of the value of the transaction~~ exceeding the cap for domestic debit card transactions established in Article 3.2~~1~~. of the Regulation (EU) 2015/751 for any digital euro transaction.

Payment service providers offering acquiring services may charge their clients natural or legal persons as referred to in Article 12a(1) point (a) ~~established or residing in the euro area~~ that do not benefit from an exception to the obligation to accept digital euros under Article 9(a) a merchant service charge that shall not exceed the lowest of the following two amounts:

(a) the lowest fee that the acquiring payment service provider is charging that payee ~~merchant~~ for a comparable digital means of payment;

(b) the average merchant service charge of debit card schemes charged by a representative group of acquiring payment service providers in the euro area.

~~*When the cap to the merchant service charge is of 30 basis points or lower, the fee should be shared among the distributing and acquiring payment service providers, as inter-PSP fee and merchant service charge, in a proportion of two-thirds and one-third, respectively.*~~

~~(…)~~

(2b). For the purpose of applying the 'no worse off' cap to the merchant service charge, comparable digital means of payment mean all payment instruments that may be used in a digital environment where the initiation of the payment takes place at the point of interaction and where the payment order is immediately processed after the payment is authorized in view of debiting the payer's payment account.

~~*National competent authorities shall share with the Commission and the European Central Bank information on the merchant service charges charged by debit card schemes in the European Union. The Commission shall be empowered, by means of implementing acts, to determine and periodically review the average merchant service charge of debit cards in the European Union. The ECB shall stand ready to provide technical support in this calculation.*~~

~~*The Commission shall be empowered, by means of implementing acts, to determine and periodically review the amounts referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39.*~~

(2c). For the purpose of implementing the 'no worse off' cap to the merchant service charge, acquiring payment service providers shall disclose to their clients with acceptance obligations the fees charged for the provision of basic services listed in Annex II

(In case MS opt for a standardized methodology, the article shall be complemented): *The merchant service charge of comparable means of payment that acquiring payment service providers are obliged to disclose shall be calculated according to a standardized methodology that provides a fee expressed as a percentage of the value of transactions ~~For the purpose of calculating the merchant service charges charged for comparable means of payment, the fees charged by payment service providers to merchants for the provision of services listed in Annex IIa shall be divided by the value of the transactions processed~~. The*

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Commission shall be empowered, by means of delegated~~implementing~~ acts, to determine ~~and periodically review the time period and further~~ the specifications of the methodology for calculating the merchant service charge of comparable means of payment. This methodology shall not impose a methodology for pricing digital euro basic acquiring services.

(2d). For the purpose of applying the euro area uniform merchant service charge cap, national competent authorities shall be appointed to collect the data from acquiring service providers in each country. These national competent authorities shall select a representative sample of payment service providers that should provide the data. The data collected shall be aggregated. It should include the total merchant services charge charged for international and national debit card transactions during an observation period and on the value of transactions during that period. National competent authorities shall share this data with the Commission to calculate a uniform cap for the euro area expressed as a percentage of the value of transactions, and with the European Central Bank that shall assist the Commission in the calculation. The Commission is empowered to adopt delegated acts in accordance with Article 38 to supplement this Regulation by providing details on the calculation of the euro area uniform cap to the merchant service charge.

(…)

3. *Member States shall designate national competent authorities to manage complaints of payees to ensure compliance with the caps.*

(…)

7a. Competent authorities designated by Member States shall be responsible for ensuring compliance by payment service providers with these caps.

Question for the Member States:

Q4. *For the application of the no worse off MSC cap, do you prefer the proposed standardized methodology for calculating the MSC for comparable means of payment to determine the lowest MSC and that could be further specified in L2 (standardized option)? Or do MS prefer to simply introduce a transparency obligation for acquiring PSPs on the fees charged for basic acquiring services for comparable means of payment without providing a standardised methodology (flexible option)?*

Q5. *Regardless of the methodology for the "no worse off" MSC cap, do you agree with introducing transparency requirements on acquirers towards their clients, and reporting obligations on aggregate data to NCAs for monitoring purposes as well as entrusting NCAs with the tasks of managing complaints of merchants and ensuring compliance with the fee caps?*

Q6. *As regards the methodology to calculate the EA-uniform MSC cap, do you agree with the proposal to include only debit cards based on statistically representative group of PSPs following the suggestions of the Presidency?*

Q7. *Have you got any other comments on this section and on the drafting suggestions?*

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3. Scope of the acquirers' obligation to provide digital euro acquiring services

3.1 Payees with the right to receive basic digital euro acquiring services

The Spanish non-paper suggested introducing an obligation for PSPs already providing acquiring services to provide digital euro acquiring services to their clients who are payees with acceptance obligations. An obligation to accept digital euro services due to the legal tender status of the digital euro should come with a right to receive digital euro acquiring services for those payees. **The Spanish non-paper also suggested limiting the scope of mandatory acceptance to ensure a correct functioning of the compensation model**, by exempting from mandatory acceptance payees who are enterprises or self-employed persons that only accept credit transfers and direct debits not initiated at the point of interaction (POI) and or cash.

The scope of the mandatory acceptance of the digital euro has been tackled in all CWP meetings held so far under the Polish Presidency. The position of Member States in this respect has been evolving. A group of Member States strongly support limiting the scope of mandatory acceptance, whereas some other Member States remain more sceptical and demand further proportionality justifications. It has been recalled that limitations to the principle of mandatory acceptance need to be objectively justified by elements that are inherent to the system and proportionate to achieving those objectives and that, therefore, a justification is needed for extending the scope of the limitations of the mandatory acceptance. In this line, the Presidency suggests the following justifications stemming from different angles:

- **First, the need to maintain a balance on the use of private and public money for payments.** Public and private money have coexisted for centuries, with certain exclusivity areas for making payments. In the 20th century, many payments were only possible in cash, whereas card payments had some exclusivity areas. The increasing digitalization of the economy has shifted the balance in favour of private money, sidelining the only form of public money available so far (cash) to a small and declining portion of payments, undermining the monetary anchor role of central bank money. Introducing a new form of public money with legal tender should help achieve a suitable balance between public and private money.
- **Second, the objectives of the digital euro project.** The digital euro project aims to increase EU's strategic autonomy in the payments market not to substitute EU

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competitive payments solutions. In the current geopolitical situation, economic dependencies are becoming threatening vulnerabilities. Third country dependencies exist in P2B transactions initiated at POI, where there is a high dependency on third party payments infrastructures and schemes. SEPA credit transfers and direct debits not initiated at POI make use of European infrastructures and schemes, not justifying a substitution based on reasons of strategic autonomy.

- **Third, disproportionate investment needs required for payees.** Obliging payees who do not receive payments initiated at POI to accept digital euro payments would lead to mandating massive investments upfront.

Member States largely agreed that there should be an obligation on acquiring PSPs to provide basic acquiring services upon request to their (merchant) clients under acceptance obligations.

Some Member States commented that the obligation to provide digital euro acquiring services should not burden acquiring PSPs in such a way that they would have to identify the merchants falling under the acceptance obligation or would have to serve merchants that do not fit in their current business model. By limiting the obligation on PSPs that already provide acquiring services to requests received by existing clients and in line with the environment (e.g., POS, e-commerce) the client already operates in[3], the burden placed on PSPs is limited. With a limited scope of mandatory acceptance, only acquiring PSPs offering their clients acquiring services for POI initiated payments will be obliged to provide digital euro acquiring services. This would ensure correspondence of digital acquiring services with market practices and follow a "no discrimination" principle of the digital euro vis-à-vis non-digital euro acquiring services, so that, for example:

- Acquiring PSPs that already contract high-risk merchants, e.g., casinos, are obliged to also provide digital euro basic acquiring services to these clients, but other acquiring PSPs that do not contract high-risk merchants are not forced to do so.
- PSPs not providing acquiring services would not be affected by this provision.

Some clarifications are warranted, given written comments by Member States: All acquiring PSPs would be allowed to provide digital euro basic acquiring services to whichever merchant they would like, and all merchants could request digital euro basic acquiring

[3] Member States largely supported a Polish Presidency proposal on Article 22 that was discussed as part of the CWP meeting on legal tender: "6. Payees that only operate in a physical environment and accept digital payments at a physical point of interaction shall accept digital euro payments in the same manner. Payees that only operate in a virtual environment and accept digital payments at a point of interaction in that environment shall accept the digital euro in the same manner. Payees that operate in both environments shall accept digital euro payments in both manners, depending on the relevant environment."

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services from any acquiring PSP – whereas mandatory provision would only apply to existing clients. This would ensure that the digital euro is accessible by all merchants. Moreover, acquiring PSPs may outsource the provision of (some) basic acquiring services to other acquiring PSPs.

3.2 List of basic digital euro acquiring services

Member States also largely agreed that the list of basic acquiring services should be used for the calculation of the MSC cap. To implement the 'no-worse off' cap, it would be used as reference to establish how much a PSP charges for a comparable digital means of payment for a list of comparable, basic acquiring services (including transaction-related and -unrelated charges). That charge would constitute the MSC cap for the digital euro basic acquiring services, that PSPs are obliged to provide to their clients. The acquiring PSPs shall not charge more than that for the provision of the basic acquiring services that fall under the MSC definition. Pricing of all other non-basic acquiring digital euro services would be left to the market.

The Spanish non-paper further proposed to define these basic acquiring services in a dedicated Annex II (a) of the Regulation. In line with Member States' comments as summarised above, the list would have the dual purpose of describing the content of the distribution obligation of acquiring PSPs as well as describing the scope of the MSC and the basis of the MSC cap. Given these purposes, it is crucial that all services that are deemed essential for the merchant to be able to accept digital euro payment transactions are included in the list. If a particular service would be essential for the merchant to comply with its digital euro acceptance obligation, the fees related to the provision of this service would need to be capped. If that would not be the case, taking into account the legal tender obligation, there is a risk that certain merchants could be faced with abusive charges, in particular small merchants with less power of negotiation. The list should also provide the necessary legal clarity to acquiring PSPs about what kind of services they shall provide to their merchant clients under a capped fee. At the same time, the list should be comparable with acquiring services of similar private payment solutions for an accurate implementation of the no-worse off MSC cap. Moreover, to enable a wide variety of acquiring PSPs and models to distribute digital euro, basic acquiring services should be worded at a sufficiently high level.

Based on the above considerations, it is proposed that the list of basic acquiring services includes account management services (i.e. onboarding, offboarding, profile management, balance enquiry, transaction history). Moreover, it shall include transaction management

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services, (i.e. enabling the initiation and reception of offline and online digital euro payment transactions by means of a respective electronic payment instrument which includes the cases of refunds). It shall also cover the waterfall and reverse waterfall services which are necessary for merchants in the presence of a holding limit. These services of 'moving money' are standard operations for acquiring PSPs to provide to merchants and priced as part of the MSC.

Outside of the list of basic acquiring services, for example, would be (pre)[4] dispute management for which PSPs could then impose unregulated charges[5].

Drafting suggestions

Drafting suggestions by BE Presidency in **bold**, ES in red PL Presidency in *blue*

Recital 18 – Exceptions to mandatory acceptance

(18) Since the digital euro requires the capacity to accept digital means of payment, imposing an obligation of mandatory acceptance of payments in digital euro on all payees could be disproportionate~~, introduce excessive distortions and not necessarily contribute to the main objectives of the digital euro related to its public good nature~~. To this end, exceptions to the mandatory acceptance of payments in digital euro should be provided for natural persons acting in the course of a purely personal or household activity. ~~*Exceptions to mandatory acceptance should also be provided for microenterprises* ***and self-employed persons****, which are particularly important in the euro area for the development of entrepreneurship job creation and innovation, playing a vital role in shaping the economy. Union policies and actions should reduce regulatory burdens for enterprises of this size. Exceptions to mandatory acceptance should also be provided for non-profit legal entities which promote the public interest and serve the public good performing a variety of goals of societal interest, including equity, education, health, environmental protection and human rights. For microenterprises, non-profit legal entities* ***and self-employed persons****, the acquisition of the required infrastructure and the acceptance costs would be disproportionate. They should therefore be exempted from the obligation to accept payments in digital euro. In such cases, other means for the settlement of monetary debts should remain available. Nevertheless, microenterprises, non-profit legal entities* ***and self-employed persons*** *that accept comparable digital means of payment from payers should be subject to the mandatory acceptance of payments in digital euro. Comparable digital means of payment****, for this purpose, refers to digital payments initiated at the point of interaction. This should include direct debits, credit transfers (also instant) initiated at the point of interaction, debit card payments and credit card payments should include debit card payment or instant payment or other future technological solutions used at the point of interaction****, but should exclude credit transfers and direct debits that are not initiated at the point of interaction. Microenterprises, non-profit legal entities* ***and self-employed persons*** *that do not accept comparable digital means of payment from their payers in settlement of a debt (e.g. they only accept euro banknotes and coins), but may use digital payments in settlement of a debt to*~~

[4] Pre-dispute refers to tools and processes that help merchants prevent or resolve customer issues before they turn into formal disputes or chargebacks, thereby reducing the cost of both merchants and PSPs.

[5] Article 27 of the draft Regulation specifies that disputes shall be governed by PSD2, without prejudice to disputes concerning the lawfulness of the processing of personal data.

~~their payees (e.g. they pay with credit transfers), should not be subject to the mandatory acceptance of payments in digital euro.~~ Exceptions to mandatory acceptance should also be provided to payees who are legal and self-employed natural persons, r~~R~~egardless of the size, when they ~~payee~~ only accept~~s~~ digital payments not initiated at the point of interaction, in particular by only receiving credit transfers or direct debits and/or cash. The digital euro project aims to strike a balance between public and private money that protects the monetary anchor role of central bank money while recognizing the importance of commercial bank money in the economy. In addition, obliging such payees to offer digital euro at the point of interaction would not contribute to increase the strategic autonomy of the European payments market ~~be proportionate~~ given that the payee is already accepting a purely European and competitive payments solution; and it would not be proportionate, given the necessary investments into new technical infrastructure ~~it will not be able to reuse its existing payment infrastructure to accept digital euro payments that will operate in the point of interaction~~. Also, ~~business to business should be excluded from the scope of legal tender, given that they do not support the public good nature of the project~~ with a view to the usage of existing payment infrastructures and market patterns, businesses, irrespective of their size, should not be forced to accept the digital euro in transactions between two businesses (B2B). However, in accordance with the policy objective to address the needs of a rapidly digitalising economy, the digital euro will support the use by businesses for B2B transactions. Both, the technical infrastructure and the legislative framework are ready to cater for B2B transactions from the outset, in particular with regard to conditional payments. Finally, a payee may also refuse a payment in digital euro if the refusal is made in good faith and if the payee justifies the refusal on legitimate and temporary grounds, proportionate to concrete circumstances beyond its control, leading to an impossibility to accept payments in digital euro at the relevant time of the transaction, such as a power outage in the case of online digital euro payment transactions, or a defective device in the case of offline or online digital euro payment transactions.

Recital 40 – Basic services:

[…] From the payee's side, the mandatory acceptance derived from the status of legal tender ~~status~~ of the digital euro justifies an obligation for aquiring~~er~~ PSPs that are providing acquiring services to payees with acceptance obligation to provide these clients with basic digital euro acquiring services. All services that are indispensable to receive digital euro services should be considered basic acquiring services. The fee charged for these basic services to payees with acceptance obligation will be limited. Any payee not already contracting acquiring services from a payment service provider may still request acquiring services for digital euro.

Article 2. Definitions

(24) 'merchant service charge' means a fee paid by the payee to a payment service provider when acquiring a digital euro payment transaction for the provision of basic acquiring services contained in Annex IIa [metholodogy TBD – set in Article 17] ~~calculated as the fees charged for those services for a period of time divided by the value of the transactions during a specific period of time~~;

Note: The definition of MSC should be specific for the DER and does not necessarily match with the use of the term in other EU legislation (e.g. the IFR).

(X) 'Point of interaction (POI)' means the payee's physical or virtual environment where a payment transaction is initiated.

Article 9. Exceptions to mandatory acceptance

By way of derogation from Article 7(3) and Article 8, a payee shall be entitled to refuse digital euro in any of the following cases:

~~(a) where the payee is an enterprise or a self-employed person which employs fewer than 10 persons or whose annual turnover or annual balance sheet total does not exceed EUR 2 million, or is a non-profit legal entity as defined in in Article 2, point (18), of Regulation (EU) 2021/695 of the European Parliament and of the Council, unless it accepts comparable digital means of payment initiated at the point of interaction~~;

(a2) where the payee is an enterprise, a self-employed person or a non-profit legal entity that only accepts credit transfers, or direct debits as digital means of payment in the course of its business interactions;

(b) where a refusal is made in good faith and where such refusal is based on legitimate and temporary grounds in line with the principle of proportionality in view of concrete circumstances beyond the control of the payee;

(c) where the payee is a natural person acting in the course of a purely personal or household activity;

(d) where, prior to the payment, the payee has agreed with the payer on a different means of payment, subject to Article 10~~.~~*;*

(d2) [placeholder to exempt B2B transactions]

Note: Editorial alignment with the language used in para (a2).

Article 14.1bis.

Payees' p~~P~~ayment service providers ~~within the meaning of Directive (EU) 2015/2366~~ shall provide to their clients, which are legal persons or self-employed natural persons under the obligation to accept digital euro payments according to chapter III of this Regulation and Article 22(6), ~~digital euro, benefit from an exception to they~~, basic acquiring services referred to in Annex II(a) *provided ~~for whom~~ that they already provide them with ~~acquirer~~ acquiring services for comparable means of payment. This obligation shall comprise the virtual or physical environment in which they are already operating.*

Note: Addition to a reference to Article 22(6). This relates to the PL Presidency drafting suggestion made to that article in the March CWP that received large agreement by MS.

Article 17. Fees on digital euro payment services

6. The *capped* merchant service charge shall be the only charge ~~*per transaction*~~ that payment service providers may apply to merchants *for the provision of basic acquiring services included in Annex IIa.*

Article 22. Accessibility and use

6. Payees that only operate in a physical environment and accept digital payments at a physical point of interaction shall accept digital euro payments in the same manner. Payees that only operate in a virtual environment and accept digital payments at a point of interaction in that environment shall accept the digital euro in the same manner. Payees that operate in both environments shall accept digital euro payments in both manners, depending on the relevant environment.

Annex II(a). List of basic acquiring services

Basic acquiring services shall consist of:

a) Opening, holding, managing and closing of digital euro payment accounts, including consulting balances and transactions, digital euro payment transactions referred to in Article 13(4)

b) Enabling the initiation and reception of online and offline digital euro payment transactions by means of an electronic payment instrument, including refunds, but excluding pre-authorisation of digital euro payment transactions

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Question for the Member States:

Q8. *Do you agree with the drafting suggestion for Article 14.1bis, establishing an obligation on PSPs that are already providing acquiring services to merchants to provide basic acquiring services to their clients that are obliged to accept digital euro?*

Q9. *Do you agree that the capped MSC is the only charge that shall apply for the provision of basic acquiring services?*

Q10. *Do you agree to the suggested list of basic acquiring services in a new Annex IIa of the Regulation?*

4. Duration of the transitional model

A length of maximum 5 years for the transitional model seems acceptable to Member States. The duration of five years could strike the balance between allowing for the gathering of some cost data while also moving swiftly to a final compensation model that gives long-term clarity to all stakeholders. It should be noted that five years may be insufficient to establish stable unit-cost data for digital euro payment transactions based on the experience with private payment solutions (see chart 3). It should be considered that according to data of private payment solutions, it can take more than five or ten years for the transaction volumes to stabilise. This underlines the importance of not exclusively relying on a cost-based cap for the final model.

Chart 3

Transaction volume growth of selected mobile payment schemes, value of transaction							
In EUR	**Y1**	**Y2**	**Y3**	**Y4**	**Y5**	**…**	**Y10**
iDEAL	**0.350bn**	**1.2bn**	**2.2bn**	**3.4bn**	**5bn**	**…**	**23bn**
Swish	**0.2bn**	**1bn**	**4bn**	**8.7bn**	**13.7bn**	**…**	**41bn**
Sources: Statista, Swish							

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Drafting suggestions

Drafting suggestions by PL Presidency in blue

Recital 42b- Transitory compensation model: Justification, duration, advantages

(42b) (….). Three ~~Five~~ years after issuance of the digital euro, the methodology for the fee caps should be reviewed in a report by the Commission.

Article 17. Fees on digital euro payment services

2. For the purpose of Article 15(2), any merchant service charge or inter-PSP fee in relation to digital euro payment transactions shall comply with the principle of proportionality.

~~*During the first five years from the introduction of the digital euro a transitory model shall apply.*~~

Any merchant service charge or inter-PSP fee shall *be subject to caps. During a transitory period of five years from the introduction of the digital euro, the caps shall be based on the fees or charges requested for existing means of payment. After the transitory period, an additional cap based on the relevant costs incurred by payment service providers for the provision of digital euro payment services, including a reasonable margin of profit, shall apply.*

Question for the Member States:

Q11. *Do you agree that the transitory period of the compensation model should not be longer than 5 years?*

5. Offline compensation model

There was large agreement among Member States that the fee caps for offline digital euro payment transactions should be – wherever possible – the same as for online digital euro payment transactions. This implies that the caps proposed above for the transitional and the final compensation model should also – wherever possible – apply for the offline modality. This alignment is important to minimise incentives for PSPs to promote the use of a digital euro modality over the other.

For the actual sharing of the inter-PSP fee between the distributing PSPs, there was majority support to go for a proxy-based allocation to maintain high privacy[6] and in the absence on information on the actual distributing PSP. First, the amount of total

[6] It would only be required for the acquiring PSP to process the defunded transaction value, and no extraction of transaction data from the POS device would be necessary.

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inter-PSP fee (in EUR) due would be calculated based on a share of the MSC. After this, the total amount of inter-PSP fee would be allocated across all the distributing PSPs participating to the digital euro scheme based on an allocation key derived from the selected proxy metric.

How would the caps proposed for the transitional be implemented for the offline digital euro with the proxy-based approach?

- All MSC caps considered for the online modality can also be applied to the offline modality. The applicable MSC would be agreed when contracting with acquirers and it will be applied when transactions are defunded from the POS device every time that the merchant initiates an offline digital euro defunding transaction. It is also worth noting that acquiring PSPs will be able to set different fees - as long as the applicable caps are respected – across online and offline to best reflect the different, relative cost structures.
- For the inter-PSP fee, applying EA-uniform, %-based caps would be possible under the proxy-based approach, but country-heterogenous inter-PSP fee caps based on Article 3(2) IFR would not be possible under the proxy-based approach. This is because the proxy-based approach does not include the processing of the distributing PSP identifier and therefore the location of the distributing PSP. Nevertheless, the policy objective[7] behind the applicability of country-heterogenous inter-PSP fee caps for the online modality could be reached in a different way for the offline modality: requiring that the acquiring PSP pays 50% of the MSC to a common pool from which the ECB then allocates compensation to distributing PSPs based on an allocation key (see details below). This 50/50 split is based on the average of MSC data for debit card payments[8] and would reflect the tasks of distributing (funding) and acquiring (defunding) PSP for offline digital euro. It would ensure that the acquiring PSP always gets compensated, even in cases of very low MSCs, and ensure uniformity across the euro area.

[7] The policy objective is to avoid systemically lower margins or loss-making for acquirer PSPs that could result from an MSC that – due to the 'no worse off' MSC cap that takes into account domestic, low inter-PSP fee caps – would be lower than 0.2% of the transaction amount, which would be the EA-uniform inter-PSP fee cap based on Article 3.1.

[8] Study on new developments in card-based payment markets, including as regards relevant aspects of the application of the Interchange Fee Regulation, the European Commission, 2024. https://competition-policy.ec.europa.eu/document/65d4f65a-6b23-49c7-91cb-e5cd166a19ed_en

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Details on implementing inter-PSP fees for offline D€ under proxy-based approach

Phase 1 ("acquiring PSP pays into inter-PSP fee pool")

The Eurosystem would need to collect the data on the defunding amount from acquirer PSPs, as well as the MSC applied to the respective merchant. The total value of inter-PSP fees to be allocated to distributing PSPs would be determined by requiring the acquiring PSP to pay 50% of the MSC to a common inter-PSP fee pool. From this common inter-PSP fee pool, the distributing PSPs would be compensated – see phase 2.

Phase 2 ("allocating compensation to distributing PSPs based on allocation key")

1. Over the decided observation period (e.g. one calendar month), all distributing PSPs participating to the digital euro scheme report to the DESP calculation fee component their respective observed metric chosen as proxy (e.g. aggregate EUR value of offline funding transactions during the same observation period).
2. At the end of the observation period, the DESP calculation fee component calculates the allocation key, i.e. the relative share of offline funding transactions attributable to each distributing PSP, dividing the EUR value of offline funding transaction EUR amount for each distributing PSP by the total offline funding amount for all distributing PSPs in the digital euro scheme.
3. For the following [Period to be identified], inter-PSP fees stemming from the common inter-PSP fee pool for offline digital euro transactions are distributed to all distributing PSPs participating to the scheme based on the allocation key.

Distributing PSP	**Aggregate EUR value of offline funding transactions during the observation period (proxy)**	**Relative share over total defunded value (allocation key)**
Distributing PSP #1	EUR 10 billion	20% (= EUR 10/50)
Distributing PSP #2	EUR 1 billion	2% (=EUR 1/50)
Distributing PSP #3	EUR 4 billion	8% (=4/50)
...	EUR xxx	xx%
Distributing PSP nth	EUR xxx	xx%
Total	**EUR 50 billion**	**100%**

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Alternative metrics that have been proposed to be used as proxy include:

1. Net offline funding amount (i.e. total funding amount minus total defunding amount)
2. Number of offline funding transactions
3. Number of offline devices distributed to end-users
4. Synthetic, blended metrics (e.g. a combination of the above)

The actual proxy used could be calibrated and determined via delegated act by the Commission, in consultation with the ECB once further details on the technical design and data points are available for offline digital euro, reflecting the use of offline devices and associated costs incurred by distributing PSPs.

Drafting suggestions

Drafting suggestions by PL Presidency in blue

Recital

(43a) Since for offline payments the identity of the payer's PSP is unknown to the acquiring PSP, the inter-PSP fee cannot be transferred directly. Therefore, a different system of allocation of the total amount of inter-PSP fees to distributing PSPs should be applied in the case of offline transactions. For the purpose of calculating this allocation, acquiring PSPs should transmit to the Eurosystem the amounts that merchants defund from their offline digital euro accounts and the merchant service charges applied to the respective merchant. The total value of inter-PSP fees to be allocated to distributing PSPs should be determined by requiring the acquiring PSPs to pay 50% of the merchant service charges to a common inter-PSP fee pool. Distributing PSPs should be compensated from this pool according to an allocation key calculated by the Eurosystem that reflects distributing PSPs' relative share in the total amount of offline funding by digital euro users.

Article 17:

(2a) […]

Payment service providers shall not offer or request an inter-PSP fee per transaction ~~of more than the percentage of the value of the transaction~~ exceeding the cap for domestic debit card transactions established in Article 3.~~21~~. of the Regulation (EU) 2015/751 for any digital euro transaction.

For offline digital euro transactions, payment service providers offering acquiring services shall transfer half of the merchant service charge that they receive for offline transactions to the European Central Bank. The European Central Bank shall distribute, on a [monthly/other periodicity] basis, the total amounts received in this facility to payment service providers offering digital euro payment accounts in proportion to the share of their customers' funding of offline digital euro accounts in the total amount of funding of offline digital euro accounts in that same time period.

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Questions for the Member States

Q12. *Do you agree with the proposed application of the caps for the transitional model to the offline modality, including the split of the MSC to ½ for the distributing (funding) PSP and ½ for the acquiring (defunding) PSP that reflects their respective tasks?*

Q13. *Do you agree with the corresponding drafting suggestions?*