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## **The Digital Euro: Navigating the New Digital Currency Landscape**

In our rapidly evolving payment landscape, consumers across the euro area are increasingly opting for electronic transactions over cash, using private payment service providers. As we navigate this digital transformation, safeguarding the integrity of public money becomes paramount. Therefore, the Digital Euro represents a crucial step in modernizing our financial systems, maintaining trust in our euro currency.

### **The concept of “Digital Euro”**

Digital euro is envisioned as a public electronic instant payment method that would complement physical banknotes and coins, offering a secure, privacy-friendly and cost-free option for natural persons (for the provision of basic payment services in digital euro), along with the other private electronic means of payment currently being used. It would be stored in an electronic wallet, such as the EU Digital Identity Wallet - a pilot project of the European Union - set up through a user’s bank or a public intermediary. With respect to the technological underpinnings of the Digital Euro, the European Central Bank (ECB) has yet to determine whether to employ distributed ledger technology, such as blockchain.

### *The legislative procedure of the Proposal for a Regulation on the establishment of the digital euro*

On 28th June 2023, the European Commission unveiled the COM (2023) 369 Proposal for a regulation on the establishment of the digital euro. Subsequently, on 12th January 2024, the ECB issued an opinion, designated C/2024/669, on the proposed regulation concerning the establishment of the digital euro, expressing explicitly its general satisfaction. Currently, the procedure is in the first reading stage, with discussions underway within the Council of the European Union and its preparatory bodies.

As the Union has exclusive competence in the field of monetary policy for Member States whose currency is the euro, the digital euro will be introduced and regulated by this proposal for an EU Regulation on the basis of Article 133 TFEU. The legislative bodies (European Parliament and the Council) regulate by means of Regulation the basic elements of using a digital euro, while the ECB decides whether and when to issue a digital euro and what its intrinsic features should be, establishing two parallel procedures. A Regulation is the appropriate instrument to contribute to the creation of a single rulebook, which is generally applicable and binding in its entirety and directly applicable in all euro area Member States, creating uniformity in its application and ensuring that the objective of using the euro as a single currency is achieved.

### **Key provisions of the Proposal of Regulation**

Under the Proposal for a Regulation in question, the digital euro is granted “legal tender status”, which implies, inter alia, its mandatory acceptance by payees unless otherwise provided for in the Regulation, such as in the case of small businesses or individuals in the context of a purely personal activity. The requirement to accept the digital euro is designed to respect the principle of contractual freedom. This means that if the payer and payee have previously agreed upon an alternative payment method, the payee is not obligated to accept the digital euro. Nonetheless, the payee is not allowed to impose contract terms that haven’t been individually negotiated, as stated. Such a practice

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would undermine the obligatory nature of accepting the digital euro for payees and infringe upon the payer's freedom to choose their payment method. In line with the ECB's opinion, the latter strongly supports the introduction into EU law of the right of individuals to obtain the digital euro from the payment service provider (PSPs) with which they currently hold an account, without having to switch PSPs to start using the services in a digital euro.

According to their authorisation to provide payment services under Directive 2015/2366, all PSPs authorised in the EU may provide payment services with a digital euro, including basic and additional payment services with a digital euro. For the purposes of distributing a digital euro, PSPs must enter into a contractual relationship with the digital euro users, excluding a contractual relationship between the digital euro users and the ECB. Users of the digital euro may have one or more payment accounts with a digital euro held with the same or a different PSP.

The provision of services denominated in the digital euro by PSPs shall be limited to (i) natural or legal persons resident or established in Member States whose currency is the euro, (ii) natural or legal persons who opened a digital euro account at the time when they resided or were established in Member States whose currency is the euro, but no longer reside or are established in those Member States; (iii) visitors; (iv) natural or legal persons resident or established in Member States whose currency is not the euro, subject to two conditions: (1) the non-euro area Member State requests and commits to comply with certain conditions; (2) the ECB and the non-euro area national central bank conclude an agreement setting out the necessary implementing measures and (v) natural or legal persons resident or established in third countries, including territories governed by a monetary agreement with the European Union<sup>1</sup>. According to point 11.5 of No. C/2024/669 ECB's Opinion, it should be explicitly stated that the conclusion of a high-level agreement between the Council and a third country should be complemented by an agreement between the Eurosystem and the central bank of that third country, verifying the ability of the third-country central bank to comply with Eurosystem requirements and to impose equivalent regulatory requirements on its established intermediaries prior to the distribution of the digital euro.

Furthermore, for natural persons who do not have a payment account denominated in a non-digital euro with a credit institution or do not wish to open a payment account in digital euro with a credit institution or with other PSPs distributing the digital euro, Member States will have to designate specific entities (i.e. local or regional authorities or post offices) that will be obliged to provide the basic payment services in digital euro.

The digital euro should be designed in a way that facilitates its use by the public, including economically excluded or at risk of financial inclusion, people with disabilities, functional limitations or limited digital skills and older people. Users of the digital euro will not be required to have a non-digital euro payment account or accept other non-digital euro products, with certain exceptions.

With regard to the privacy of digital euro, the digital euro for offline payments would provide a high degree of privacy for small-scale, offline, proximity transactions, mirroring the privacy offered by cash transactions. Conversely, the digital euro for online payments is mandated to align with data protection, privacy, and Anti-Money Laundering/Counter-Terrorist Financing (AML/CFT) regulations, akin to private digital payment methods. According to recital 25 of the proposal for Regulation in

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question, the ECB and, where applicable, the national central banks are designated as data controllers or, where appropriate, joint data controllers. Therefore, personal data processing operations should comply with the principles of Article 5 of the General Data Protection Regulation (GDPR hereinafter), inter alia data integrity, confidentiality and security by taking appropriate technical and organizational measures, such as pseudonymization or encryption, as well as data controllers should satisfy the rights of data subjects provided for by the GDPR.

The aforementioned regulations aim to: (1) facilitate the widespread use of the digital euro while ensuring fair competition with private sector payment solutions (preventing PSPs from being disinterconnected) and protecting financial stability and credit provision, (2) protect privacy while ensuring traceability, (3) integrate people with disabilities, (4) ensure contractual freedom and consumer protection; and (5) safeguard the strategic autonomy of the Union's payments ecosystem to respond to changes in the digitalised economy and society.

## By way of epilogue

The proposed Regulation under consideration aims to establish and regulate the digital euro. This new form of public digital money will be backed by the ECB and provided by PSPs. Upon adoption by the Council and the European Parliament, this Regulation will come into effect and it will be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

However, the exact issuance date of the digital euro remains undetermined. While agreement on the Proposal for a Regulation is a significant step, practical implementation depends on intricate technical considerations. It is a very complicated technical issue and the ECB will ultimately decide whether to issue the digital euro. This secondary decision-making process could take a few years, meaning that the digital euro may not be issued immediately after the Regulation comes into effect.



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