Payments Europe's view on the Digital Euro

Payments Europe appreciates the legislators' ambition to finalise the negotiations on the Digital Euro Regulation (DER) by the year's end. While our members welcome the digital euro as an additional means of payment in the European market, we would like to bring attention to the following aspects, which we believe are crucial for preserving current market integrity and minimising complexity for PSPs, merchants, and consumers.

The commercial model must be self-sustaining to ensure a level playing field with all electronic means of payment.

Payments Europe support the suggested staggered approach in determining the methodology for capping inter-PSP fees and merchant service charges. The transitional period should allow the collection of reliable cost and volume data and the carrying out of an independent impact assessment and market consultation to determine a permanent model. As setting the caps at the right level is crucial not only for the functioning of the digital euro but also for market integrity, we encourage the legislators to establish a transitional period of ten years after the first issuance of the digital euro, rather than five. This is to ensure the availability of adequate data for determining a permanent model that ensures merchants' and PSPs' ability to defray the costs of digital euro acceptance and basic services.

Given the legal tender status, the compensation model of the digital euro must account for the compliance and operational costs that merchants and PSPs will face when it comes to acceptance and to offering basic digital euro services. We are concerned about the European Parliament's suggestion to offer mandatory, free-of-charge, basic acquiring services, as this would risk the economic viability of the digital euro for PSPs, which will in turn likely reduce the digital euro's potential to contribute to wider policy objectives such as universal acceptance, innovation, and competition in the European payments market. We remind that, regardless of its legal tender status, acquirers are allowed to charge fees for cash management, and that in essence, opening and maintaining merchant accounts is more complex and expensive compared to consumer accounts.

Moreover, we encourage the co-legislators to ensure that PSPs maintain their capability of developing proprietary functions and pricing them accordingly. Limitations to value-added services would compromise their viability if there are no economic incentives for PSPs to cover the costs of offering digital euro services.

On open funding and defunding, we would be in favour of the Council position, providing for waterfall functionality free of charge where the accounts are held with the same PSP, while not requiring PSPs to offer this functionality where the accounts are held with different PSPs. This would allow for fairer distribution of value to those market participants who build, maintain and bear the cost of the underlying account infrastructure, deposits, compliance and operational resilience.

To ensure a level playing field, there must be a clear separation of the functions within the ECB.

Like any new payment solution, the digital euro has the potential to further strengthen the European payments market, which is built on a wide variety of solutions competing on a level playing field. However, the multiple roles entrusted to the ECB with regard to the digital euro (issuer, scheme owner, infrastructure provider, etc.) may risk disrupting the level playing field. This is because at the same time, the ECB is directly supervising and overseeing many market participants impacted by the digital euro and providing payment solutions that will compete with the digital euro. It is therefore crucially important to ensure by legislation that the role pertaining to the digital euro is completely separated from that of market supervision and oversight.

Payments Europe calls upon the legislators to require the ECB to establish a dedicated, independent unit for the operation and management of a digital euro payment system and infrastructure, with clear and functional separation from the ECB's monetary, supervisory, and payment systems oversight responsibilities.

Interoperability with existing acceptance technologies is essential to minimise complexity for users and merchants

We believe that the DER should set outcomes and interoperability requirements rather than prescribe or exclude interfaces, allowing banks and payment providers to develop appropriate solutions. Ultimately, this will promote the adoption of an open acceptance framework, using existing acceptance technologies and networks to facilitate payments in digital euro and minimise complexity for users and merchants. New infrastructure or standards should be introduced

only where existing solutions cannot meet clearly identified requirements, reducing cost and complexity and supporting merchant readiness, to minimise unnecessary duplication.

The highest level of privacy and data protection must be rooted in the existing EU legislative framework

The data protection framework for the digital euro should be carefully considered based on the GDPR, ensuring that all lawful grounds under Article 6(1) GDPR apply equally to digital euro services. In practice, personal data should be processable and shareable, in accordance with the GDPR, for contract performance, fraud prevention, cybersecurity, compliance and user-consented value-added services. Meanwhile, legal obligations, such as authentication, fraud monitoring, cybersecurity, and sanctions screening, should follow Privacy-by-design (Article 25) and data minimisation (Article 5(1)(c)) rules. To establish clear responsibilities, the DER should clearly allocate accountability among the ECB, EBA, AMLA and PSPs and avoid gaps in financial-crime controls or unequal rules for public and private payment solutions.

Moreover, the data protection rules should be aligned with the fraud prevention rules set in the upcoming Payment Services Regulation (PSR). In recent years, the EU has prioritised fraud prevention and mitigation. To ensure the highest standard of fraud protection, the same fraud protection requirements should apply to all payment methods. However, we observe that the European Parliament's approach forbids intermediaries from transferring personal data to third parties, while the PSR enables PSPs to enter into agreements to share fraud information. We are concerned that preventing PSPs from exchanging data on digital euro payments may reduce their ability to effectively carry out AML/CFT processes. If such an approach were adopted, the role and responsibilities of PSPs would need to be clearly defined, as the PSPs may not be able to access information necessary for preventing crime.

The practical enforcement of holding limits and their impact on financial institutions must be clarified.

The practical enforcement of individual holding limits to digital euro accounts remains unclear, and therefore, there is little to no awareness of the related liabilities and burden on financial institutions. With this in mind, we note that for instance automatic waterfall function combined with very low holding limits would have been much more predictable and comprehensible to the market players. Meanwhile, as for merchant balances, we support the Parliament's approach to allow temporary holding of incoming digital euro payments and encourage the legislators to follow this approach combined with end-of-day defunding. This would allow merchants to hold digital euro liquidity during the day (e.g., for handling rebates), while avoiding the complexity of implementing a "rolling" defunding of merchants' digital euro accounts if a 24-hour maximum time for holding digital euro liquidity was to be introduced. The implementation of the rolling limit on a per-transaction basis -which appears to be the natural application of this design- would introduce a significant burden on PSPs, without clear benefits for merchants (which, for example, would face unneeded complexity in payments acceptance information reconciliation and consolidation activities).

Finally, we note that the balance between holding limits and the privacy and data protection rules for the digital euro may lead to less privacy for consumers than what they are expecting and already have using many existing means of digital payments.