

DIGITAL EURO REGULATION

Proposal COM(2023) 369 of 28 June 2023 for a Regulation on the establishment of the digital euro

cepPolicyBrief No. 15/2023

SHORT VERSION [\[Go to Long Version\]](#)

Context | Objective | Interested Parties

Context: The use of cash in payments is diminishing and we are seeing the worldwide emergence of central bank digital currencies (CBDCs) and so called “stablecoins”. The Commission fears that cash, as a form of central bank money that functions as legal tender and as a monetary anchor, will gradually disappear and the uptake of foreign CBDCs and stablecoins could challenge the role of the euro in payments. The proposed Regulation on the establishment of the digital euro is a reaction to these developments.

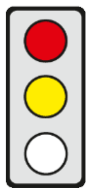
Objective: The aim of establishing the digital euro is to ensure that central bank money with the status of legal tender remains available, and a state-of-the-art and cost-efficient payment means is available to the general public in the euro area, while ensuring a high level of privacy in digital payments, maintaining financial stability and promoting accessibility and financial inclusion.

Interested Parties: Digital euro users, payment service providers (including banks), merchants, the ECB, national central banks, any companies contributing to the extended digital euro ecosystem.

Brief Assessment

Pro

- ▶ Allowing any payment service providers (PSPs) to offer digital euro payment services is to be welcomed as it may ensure the existence of a wide range of services and a competitive market environment.
- ▶ The envisaged restrictions on the use of the digital euro could block potential substitution effects and safeguard the banks’ intermediation role.

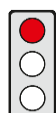


Contra

- ▶ The ECB and the Commission should refrain from introducing a digital euro at this stage. No market failure can be identified and there is no immediate added value from the digital euro that could justify its expensive implementation.
- ▶ The obligation for banks to offer basic digital euro payment services is overshooting the mark as they may be forced to invest monies in unviable and potentially unprofitable business models.
- ▶ Some design features of the digital euro raise doubts as to whether privacy can effectively be preserved, starting with offline payments which cannot provide fully cash-like transaction anonymity.
- ▶ If usage restrictions seek to preserve financial stability, they will come at a cost because they endanger the establishment of the digital euro as an anchor, harm user experience and increase complexity
- ▶ The Commission has the competence to introduce a legislative framework for the digital euro. However, the ECB does not have the power to issue the digital euro in the proposed design.

Establishment and issuance of the digital euro [Long Version A.1.1 and A.1.2]

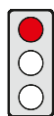
Commission proposal: The digital euro will be established as the digital form of the single currency, i.e. the euro. The Commission lays down its essential elements. After adoption of the proposed Regulation, the ECB will have the right to authorize its issuance. The digital euro will be a direct liability of the ECB or of the central banks of euro Member States towards digital euro users.



cep-Assessment: The ECB and the Commission should refrain from introducing a digital euro at this stage. No market failure can be identified and there are alternatives to the digital euro that are less intrusive, do not require excessive market intervention and do not unduly distort competition in the payment markets. There is no immediate added value from the digital euro that could justify its expensive implementation.

Legal tender of the digital euro [Long Version A.1.2]

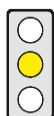
Commission proposal: The digital euro is to have legal tender status. This means that it cannot generally be refused by a payee in settlement of a debt denominated in the same currency, i.e. the euro (“mandatory acceptance”), it must be accepted at its “full-face value”, i.e. the monetary value of digital euro tendered in payment of a debt will be equal to the value of the monetary debt, and any payment with it discharges the payer from the payment obligation.



cep-Assessment: The Commission should stay away from establishing legal tender status for the digital euro. Market forces should decide whether or not the digital euro is a payment means worth investing in. If the legislature sticks with the legal tender status, PSPs and merchants should at least have the chance for a phasing-in such that implementation costs can be spread over time.

Limits to the use of the digital euro as a store of value [Long Version A.1.6]

Commission proposal: The use of the digital euro as a store of value “may” be subject to limits. The ECB “shall” develop instruments to limit the use of the digital euro as a store of value and must decide on their parameters and use. This may include quantitative digital euro holding limits.



cep-Assessment: The envisaged restrictions on the use of the digital euro, i.e. via holding limits set by the ECB, could block potential substitution effects and safeguard the banks’ intermediation role. They provide a reasonable defense against destabilizing effects for the EU’s financial system. However, this caution comes at a cost. It endangers the idea of establishing the digital euro for anchoring purposes, harms user experience, increases complexity and leads to practical difficulties.

Instruments to limit fees and charges [Long Version A.1.7]

Commission proposal: The use of the digital euro as a legal tender means of payment shall be preserved by limiting the level of charges or fees that natural persons must pay to PSPs, merchants must pay to PSPs (“merchant service charge”), and PSPs must pay each other (“inter-PSP fees”).



cep-Assessment: The setting of charges and fees limits is flawed. Their calculation is complicated, requires bureaucratic data collection and the results are ultimately arbitrary and artificial. There is, for instance no profound reasoning, why fees or charges must inevitable be compared to fees or charges for other existing payment means or why the profit margin must be set according to specific comparisons.

Privacy and data protection [Long Version A.1.15]

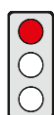
Commission proposal: PSPs are allowed to process personal data to fulfil tasks essential for the proper functioning of the digital euro. For the provision of offline digital euro, PSPs may only process personal data for the purpose of (de-) funding digital euro. PSPs are not allowed to process personal data in relation to offline digital euro payments. PSPs must ensure that data communicated to the ECB and the national central banks of the euro area does not allow for the identification of individual digital euro users.



cep-Assessment: The envisaged regulatory approach to ensuring a high level of privacy is commendable. Efforts to ensure the privacy-friendliness of the digital euro are, at least, visible. Whether these measures are enough to uphold trust among users is, however, debatable. Some design features – i.e. holding limits, multiple digital euro payment accounts – raise doubts as to whether private data gathering can be kept to a minimum.

Competence of the ECB [Long Version B.3]

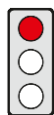
Commission proposal: The proposed Regulation is based on Article 133 of the Treaty on the Functioning of the European Union (TFEU). While the European Commission sets out the regulatory framework, the primary responsibility for issuing the digital euro lies with the European Central Bank (ECB).



cep-Assessment: The TFEU merely allows for the introduction of a digital legal tender that does not go beyond the digital representation of traditional banknotes. However, the proposal provides the digital euro with traits that are distinct from banknotes. Although the Commission has the power to introduce a legislative framework for digital euro, the powers of the ECB are limited by the TFEU. The ECB’s mandate does not cover the issuance of a digital euro in the design currently envisaged.

Commission’s power to adopt delegated acts [Long Version A.1.3]

Commission proposal: The Commission is granted the power to use delegated acts to add further exceptions to the obligation for payees to accept the digital euro.



cep-Assessment: Delegated acts can only be adopted for technical amendments to the Regulation. However, adding further exceptions to the obligation for payees to accept the digital euro does not, in fact, constitute a “technical” amendment, but a political decision and, as such, can only be taken by the European Parliament and the Council not delegated to the Commission.