

**European Commission's
Proposal for a Regulation on the
establishment of the digital
euro**

ABI – Italian Banking Association response

September 8th, 2023

ABI response to the Have your say

Compensation/business model.

While it is acknowledged that certain fundamental services must be provided to end-users without charges to ensure widespread adoption, it is imperative to facilitate the development of robust business models for intermediaries. This should rely on i) a more sustainable compensation model, not only based on transaction fees, but also considering infrastructure investments, account setup and management, lost revenues, and opportunity costs; ii) the possibility to develop value-added services based on the innovative characteristics of the digital euro (D€).

Limits and basic use.

To preserve financial stability, the D€ is not to be used as a store of value, but only as a means of payment. The application of limits on D€ holdings, with regard to both online and offline modes, is the best way to prevent excessive use of the D€. Moreover, for the D€ not to crowd out existing payment means (nullifying the investments already made and those in progress), it is important to set limits on the amount of a single transaction and on the number and total amount of transactions in a defined timeframe to be included in the basic use, free of charge. Beyond these constraints, the user will activate a value-added service, whose price will be set by market forces.

For this reason, the list of basic services should be revised, particularly for non-consumers and offline use, also circumscribing the number of services which are to be offered with no charge. As an example, free unlimited (de)funding mechanisms could incentivise uneconomical behaviour by users, as well as uncapped reverse waterfall would incentivise high value payments moving from CoBM credit transfers to the D€, thus increasing potential impacts on PSPs liquidity and overall payment profitability.

Innovative added-value.

To concretely achieve the ECB original goals, such as strategic autonomy, monetary sovereignty, and innovation, it is not possible for the D€ to merely replicate services that are already available through other payment instruments, but it is necessary to build the D€ to enable new ones: the D€ must act as a raw material to accelerate the European digital economy, including programmability functions. In this

way, it will be able to constitute a sufficiently attractive proposition for users, so as to ensure the minimum adoption that will enable the achievement of the objectives. The Regulation should be more explicit on this.

Offline.

Offline is conceived as a further version of the D€, with separate infrastructures, an ad hoc balance, and no visibility for intermediaries. Should these hypotheses be confirmed, we would note important critical issues. First, such an offline component generates only few benefits that cannot offset the high implementation costs and the time-consuming development. Moreover, for compliance with AML/CFT rules, PSPs need to have visibility on the information on the payee/payer. Also, since fraud prevention systems are fed by all transaction data, they need data also from offline transactions (that by the way, based on the experience of the card market, are the most prone to fraudulent use). So, dual offline functionalities (when both the user and the PoI are without connection) should be conceived only as a backup, strictly limited in time.

Multiple accounts.

The regulation enables natural persons to open an endless number of D€ accounts with different PSPs. While recognizing a potential benefit in terms of contestability in the market, multiple accounts may compromise the respect of the threshold of D€ holdings, potentially causing serious risks of bank disintermediation. Moreover, it is unclear how to ensure the respect of limits over time, when it is left to the final user to set and distribute them potentially across multiple distributors. This approach will increase complexity also for users. For these reasons, at least for an initial stage, we strongly recommend enabling natural persons to open only one wallet.

ABI initial assessment

CHAPTER I - SUBJECT MATTER AND DEFINITIONS

Articles	Observations
1 - Subject matter	/
2 - Definitions	<p>5. The definition of a “digital euro payment account” appears to be too broad because it would allow each person to have one or more accounts (some of which could be joint accounts) with one or more intermediaries, each of which could correspond to an online and an offline balance. This would generate a huge technical and operational complexity to be able to impose and control limits on different wallets, especially if they involve different PSPs. Moreover, this would involve by-design a longer implementation time (beyond higher set-up investments and maintaining costs). A progressive approach is strongly recommended.</p> <p>8. We suggest defining “digital euro service” rather than “digital euro payment service” as the lists in Annex I and II also entail services which are not associated directly to a payment service (e.g., onboarding, account management). Accordingly, we suggest removing the word “payment” from the title of Annex I and II and from the first line of Annex II. This amendment would also ensure more consistency with the PSD2 definition of payment services.</p> <p>22. The definition is deemed too broad where it refers generically to those who are in the Eurozone, for whatever reason and without providing for minimum limits of stay.</p> <p>25. Since even non-instantaneous credit transfers can be made at the point of interaction (e.g., QR Code payments), we suggest including all credit transfers at the POI.</p>

26. An unambiguous definition "unique digital euro payment account number" and/or "account identifier" should be provided.

In this respect it should be noted that maintaining the same account identifier in case of switching, in particular without closing the former digital euro payment account is defeating. Indeed, the possibility of having multiple digital euro accounts at different intermediaries is at odds with the idea of keeping the same identifier. Moreover, we warn that if some definitions are not agreed (e.g., "recurring payments") the same difficulties generated by the lack of uniform definitions in the implementation of switching under PAD will be perpetuated for the digital euro. The choice of the user identifier could have implications on the feasibility of the switching and maintaining the same account identifier. It is also noted that there is no definition of "account identifier" and this could lead to consider the provisions of PSD2 applicable in relation to the use of the IBAN (which, however, is also identifying the PSP holding the account and therefore could not be retained in case of portability).

27. It seems complicated that a user identifier created by a payment service provider would be handled by ECB as stated in article 35(8), also considering that the user identifier should not be known by the ECB and that the switching could entail it.

29. It is necessary to add a reference to relevant applicable legislation (Directive 2015/2366), exactly as done in the definition of "payment service provider" in point 7.

Annex II. The definition of the basic digital euro payment services can be on the one hand misleading, as opening, holding, and closing an account are "digital euro services",

	<p>but cannot be considered payment services (please refer to the comment to definition 8 above) and too broad on the other as the list/number of operations that are considered to be "basic" shall be limited (please refer to comments to articles 13, 16 and 17 below).</p> <p>Some definitions are missing such as local storage device.</p>
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CHAPTER II - ESTABLISHMENT AND ISSUANCE OF THE DIGITAL EURO

Articles	Observations
3 - Establishment of the digital euro	/
4 - Issuance of the digital euro	<p>We consider it appropriate to recall the importance of performing a careful analysis that assesses the medium- to long-term market impacts that the introduction of the digital euro could have.</p> <p>It is strongly recommended that the Regulation clarifies that ECB should define and share main principles and specific 'metrics' that would have to be met/prove before they are allowed to take a decision on the digital euro issuance.</p> <p>Additionally, following recital (9), the Regulation should detail the legal nature/meaning of the contractual relationship between PSP and digital euro user relating to a digital euro payment account.</p>
5 - Applicable law	<p>1. Typo → the referenced articles for which the Commission is empowered to adopt delegated acts should be 11, 34, 35, and 36. This typo should be corrected also in Article 38, para. 2, 3 and 6.</p> <p>5. Regulation 2015/847 is repealed and replaced by Regulation 2023/1113. The</p>

	reference should be updated accordingly. This applies also to Recitals 10, and 80.
6 - Competent authorities	In order to ensure the full harmonisation which is consistent with the digital euro being a form of the single currency the provisions of article 6, empowering Member States to define the competent authorities and, in particular, the sanctions, should be complemented by guidelines to which all MS must adhere to the benefit of fair competition within the Eurozone.

CHAPTER III - LEGAL TENDER

Articles	Observations
7 - Legal tender status	/
8 - Territorial scope of legal tender status	/
9 - Exceptions to the obligation to accept the digital euro	<p>a. No exceptions should be made for the acceptance of digital euro depending on the size of the payee enterprise, which would create unlevel playing field across Member States due to the different role of SMEs; this would result in huge differences in acceptance for the end user depending on the country. Moreover, in some countries, all enterprises shall accept digital means of payments for any transactions and, according to point a, will have to do the same for the digital euro. This mandate should be the same throughout the Eurozone. In any case, if this exception would be maintained, we suggest referring to the article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.</p> <p>b. It is deemed necessary to define how the payee may refuse to accept a payment in digital euro and be required to prove the unavailability of the acceptance systems.</p>
10 - Prohibition of the unilateral exclusion	We see a lack of proof and checks measures in the proposal. We would suggest including

of payments in the digital euro	measures to ensure an effective implementation of the provision. It is believed that it is necessary to provide for the possibility of explicit acceptance even in contracts on forms, while respecting the national discipline of unfair terms.
11 - Additional exceptions of a monetary law nature	/
12 - Interaction between the digital euro and euro banknotes and coins	We would suggest adding some wording to better specify the provision such as "without prejudice to articles 9 and 11".

CHAPTER IV - DISTRIBUTION

Articles	Observations
13 - Payment service providers	<p>In order to ensure a level playing field, we believe that one of two solutions must be opted for: either all regulated PSPs are obliged to offer basic payment services in digital euro, or all such services are left exclusively to credit institutions. A scenario in which some players are obliged to offer services, while others have the option of deciding whether or not to offer them, would create very strong market distortions, limiting the competitive space of some players.</p> <p>1. Beyond compliance, it is necessary to clarify that remain still the contractual freedom of PSPs and therefore set principles and guidelines to address specific situation where PSPs consider denying the contractual relationship with single natural or legal persons due to their risk assessment.</p> <p>3. While we welcome letter b) stating that the funding/defunding via cash should not be provided on a continuous basis, we suggest that this paragraph – directly or referring to a principle to be added in Annex II – should put a limit to the number of funding and</p>

	<p>defunding transactions which are included in the “basic services”. This would encourage proper and environmentally conscious use of digital euro account management services, tailored to effective needs of the users while limiting undue operational burdens (e.g., electricity, network, computing power) for PSPs and the Eurosystem alike.</p> <p>4. Only for (reverse) waterfall mechanism purposes, each digital euro payment account shall be linked to a single non-digital euro payment account.</p> <p>7. <i>“Digital euro users may have one or several digital euro payment accounts with the same or different PSP”</i>. This provision enables user to open endless digital euro payment accounts and also among different intermediaries. Having multiple accounts makes all checks that can be performed on the respect of the threshold of digital euros that can be held by a single user very complex and have the potential to cause serious risks of bank disintermediation. Moreover, it is not clear who is responsible to ensure the respect of the thresholds over time, when it is left to the final user to set and distribute them potentially across multiple distributors.</p>
<p>14 - Access to the digital euro in Member States whose currency is the euro</p>	<p>The offering of digital euro services implies initial costs for the development and running costs that should be properly considered. Moreover, PSPs are requested to provide basic digital euro services free of charge. This is at odd with the need of a coherent and consistent business model which is key to enable PSPs to offer and promote digital euro services.</p> <p>In order to facilitate user awareness, it will be necessary to launch adequate information campaigns through the different channels available to reach the population in a capillary way. These campaigns can also be carried out</p>

	in collaboration between public and private subjects.
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CHAPTER V - USE OF THE DIGITAL EURO AS A STORE OF VALUE AND AS A MEANS OF PAYMENT

Articles	Observations
15 - Principles	<p>1. We suggest amending “may be subject to limits” with “shall be subject to limit”.</p> <p>We suggest to impose a low holding limit that should be assessed against the reduction of physical cash in circulation and the impact on bank deposits and on other payment services. A high holding limit would be detrimental to bank’s ability to finance the economy (e.g., replication and higher funding cost) and to financial stability. To limit the deposits’ outflows, the article should either explicitly differentiate the holding limit for natural (€500/€1000) and legal (€0) persons or give a strong recommendation to ECB to do so.</p>
16 - Limits to the use of the digital euro as a store of value	<p>In order to not crowd out the existing payment services, we believe that a transaction limit should be foreseen also for online digital euro transactions. Moreover, a limit on the overall amount spent in a specific timeframe (e.g., day, week, month) should be foreseen. Otherwise, if not properly envisaged there can be critical consequences on the overlapping of the existing payment methods, and also can cause negative impacts on security and on bank accountability. Furthermore, the Regulation should clarify that any PSP distributing digital euro can impose limits to transactions as well as funding/defunding on the basis of considerations of their risk appetite and for fraud prevention, as it is currently the case with electronic payment instruments.</p> <p>2. The list of parameters seems very high-level. We should consider adding one more detailed parameter aiming at safeguarding</p>

the function of banks in the economy (deposit taking and lending).

5. The provision of the digital euro to visitors to the euro area should be further examined in coherence with AML regulation and the purpose to support European economy. In this respect, we believe that this offer should not be considered basic and therefore should not be for free.

6. See the comment above about article 13(7). It is not feasible to demand to users to split the holding limit to more than one digital euro accounts.

7. If our request for a single wallet per citizen were to be accepted (see article 13 for reasons to this regard), the limit on the maximum amount of digital euro could be imposed at the account level and not spread by a single person over the accounts (even joint accounts). This would make checks on compliance with the limits much easier. In addition, as co-ownership of an account could allow a citizen to have more digital euro at his/her disposal (the limit would be the sum of all accounts for the portion allocated by each person holding them), and would create complications both in the onboarding phase and in the relationship management phase (e.g., of holding limits, portability, etc.), we believe that the possibility to have more than one holder for each digital euro account is not acceptable. Furthermore, under the GDPR, "personal data" means any information relating to an identified or identifiable natural person ("data subject") and identifiable natural person is one who can be identified, directly or indirectly. Should there be a central point for the monitoring of the respect of the holding limit across multiple positions, there is also an issue of the exposure of personal data to the ECB.

	8. Welcome that the digital euro shall not bear interest.
17 - Fees on digital euro payment services	<p>It must be emphasized that adequate compensation for PSPs distributing the digital euro is essential in for its success (i.e., a portion of the increased seigniorage could provide an adequate economic support). The compensation model should not only be based on transaction-level fees but should also take into consideration cost of infrastructure investments, lost revenues and opportunity costs should be taken into account (meaning resources spent on digital euro, which will be substantial, cannot be spent on other innovative activities, within payments or elsewhere). More importantly, we strongly believe that legislation should provide principles for an effective business model, i.e., a sustainable economic model not only based on compensation but on costs, revenues and profits, in line with the principles of market economy. The free-market economy principles shall be derogated only for the selected providers according to Art. 14(3), which are fulfilling a public objective.</p> <p>Referring to the annex II, the list of basic digital euro payment services seems to be too wide, in particular considering that they have to be provided free of charge. For some of the basic services (e.g., reverse waterfall, waterfall, funding/defunding) only a limited number of transactions should be free of charge, for the reasons already mentioned with reference to Art. 13.3.</p> <p>We are against any legislative measure that goes against the principles of free market/free competition, and we are concerned about the possible consequences of this approach that would inevitably lead banks to limit they effort in the development of new and innovative</p>

services that require strong safeguards also to combat frauds.

As far as the free of charge services are concerned, we believe that it is necessary to introduce the possibility that only a certain number of transactions is free of charge (a sort of "basic package") over a given period of time is considered basic and has a "reasonable fee". This approach would be analogous to the one already adopted for the "payment account with basic features" under PAD.

The provision that mandates the ECB to set maximum levels of merchant service charge is considered too much invasive. It should be left to the competitive space following the principle of competition and free market. Moreover, the methodology indicated in the proposed draft is definitely not adequate to ensure cost recovery at market level – thereby contradicting the principle that fees should be cost-based – and may favour those providers that can support digital euro services via cross-subsidisation with other lines of business (e.g. the BigTechs); the fees on other digital payment instruments cannot be considered as a cap to digital euro fees because the costs can be very different.

In addition, while it is welcome that a "reasonable margin of profit" is recognised, it would be absolutely awkward to define such a concept all throughout the euro area, because the margin of profit by definition varies from a number of different elements from market player to market player.

Furthermore, regarding other types of merchant fees, the provision that a merchant cannot be charged with additional fees for funding and defunding transactions is particularly critical (on top of the comments already made above on the topic). It would be necessary to define a maximum number of

	<p>transactions, especially for large players, or to provide for other remuneration mechanisms.</p> <p>We advocate for an inter-PSP fee, that alongside with transaction fee mechanisms is introduced to cover for all other digital euro-related costs borne by intermediaries (initial investments, interest income lost, free provision of a limited number of basic services).</p> <p>To be noted that Recital 45 notes as comparable private means of payment also instant payments at Point of Sale, for which there is currently no (regulated) interchange.</p>
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CHAPTER VI DISTRIBUTION OF THE DIGITAL EURO OUTSIDE THE EURO AREA

Articles	Observations
<p>18 - Distribution of the digital euro to natural and legal persons residing or established in Member States whose currency is not the euro</p>	<p>/</p>
<p>19 - Distribution of the digital euro to natural and legal persons residing or established in third countries</p>	<p>1. A caution should be introduced in this article as embargoes must be respected and triangulations that allow cash flows between embargoed countries/subjects must be avoided.</p> <p>2. The extension of the possibility to give access to the digital euro through intermediaries established or operating in third countries exposes the risk of big tech restricting market competition and to the detriment of EU players, baffling the objective of enhancing EU sovereignty and independence in payments.</p>

20 - Distribution of the digital euro to natural and legal persons residing or established in third countries or territories under a monetary agreement with the Union	/
21 - Cross-currency payments	/

CHAPTER VII - TECHNICAL FEATURES

Articles	Observations
22 - Accessibility and use	<p>1. The wording "simple and easy to handle" may lead to multiple interpretations, and it may be difficult to translate as an objective requirement.</p> <p>2. The impact of this provision could be very extensive as users could potentially only use digital euro services to be offered free of charge - exacerbating both the disintermediation of banks and the threat to their sustainability as banks could recover not even partially the costs of distributing digital euro through the provision of other accounts and services. This kind of cross-subsidisation is forced upon banks by the combined effect of the provisions currently envisaged in this draft Regulation concerning fees, mandatory services, basic services free of charge, limits on fees etc.</p> <p>3. Please refer to the comment to art.2(26), wording should be aligned with the definition.</p> <p>5. As stated in article 16(7), we believe that the possibility of having digital euro accounts in the name of multiple parties is not acceptable as co-ownership of an account could allow a citizen to have more digital euro at his/her disposal (the limit would be the</p>

	<p>sum of all accounts for the portion allocated by each person holding them), and would create complications both in the onboarding phase and in the relationship management phase (e.g., of holding limits, portability, etc). As a way of derogation, we welcome the possibility of granting access to the digital euro account also to a designated person with prior authorisation (e.g., caregiver, legal guardian) and parenting services (e.g., to protect minors), but it needs to be clarified what is meant by "more than one digital euro users".</p>
23 - Offline and online digital euro payment transactions	<p>1. The Eurosystem stated in the "Digital euro – Prototype summary and lessons learned" document that there are still challenges to overcome to the delivery of a production-grade solution that fulfils the Eurosystem's requirements in the short to medium term (<i>five to seven years</i>). The mandatory availability of Offline since the first issuance would likely delay the whole roadmap and entails a low actual added value for users and high set-up investments and running costs for PSPs.</p> <p>2. It is pointed out that it might be difficult to ensure that online and offline versions, that have different characteristics and constraints, maintain the same perceived value. In addition, the offline version might have a higher level of fraud risk. For this reason, the list of basic digital euro services for the offline version, which will be offered for free, should contain less services with respect of the online one.</p>
24 - Conditional digital euro payment transactions	<p>To fully exploit the potential of the digital euro, it is of paramount importance that it can represent a significant innovation, so as to differentiate itself from existing payment instruments and to enable banks to expand their offerings with new services and innovative products that can meet the new</p>

	<p>and future needs of citizens. The European Central Bank should actively foster the innovation thorough the digital euro in the payment market interacting with private actors, in order to identify the best way to ensure a future proof digital euro.</p>
25 - European Digital Identity Wallets	<p>The concept of "interoperability" and the provision to be "ensured" by PSP need to be clarified.</p> <p>The use of EUDIW could generate operational complexities, fraud and reputational risks, as well as increase the risk of disintermediation. Therefore, we consider it necessary to define specific and clearly defined responsibilities of all actors involved in the end-to-end authentication and payment authorization process.</p> <p>It is considered of the utmost importance that this service be limited to user identification (i.e., onboarding) and not also to the subsequent authentication and authorisation stages of payment transactions.</p>
26 - Interoperability	<p>The interoperability between standards governing the digital euro and private means of payments is welcomed. However, this obligation should more clearly point towards the reusability/leveraging of existing standards governing private means of payment for the digital euro. This would make the digital euro deployment and provision more cost efficient.</p>
27 - Dispute mechanism	<p>1. The concept of "disputes" should be in the first place clarified: there are disputes between users, for which it is correct to refer to PSD2; but there are also disputes between distributing intermediaries as well as between ECB and the distributing intermediaries which should be covered as a matter of principle in this article.</p>

	<p>For the latter two cases it is deemed necessary to implement a body with arbitration functions, so as to ensure proper management of such disputes.</p> <p>3. It is not correct to state that the ECB is never part of a dispute. Technical errors may occur, and the ECB could be liable for them, so it could become part of a dispute. In particular, we refer, for instance, to settlement of transactions, the active role envisaged in fraud prevention or in the role of front end provider of the ECB app.</p>
28 - Front-end services to access and use the digital euro	<p>It is unclear what value a "front-end solution developed by the ECB" could bring, mainly considering that it would be operated by intermediaries and that the reasons claimed by the ECB of supporting smaller intermediaries and financial inclusion are, in our view, weak. Indeed, smaller intermediaries already rely on technology providers for the development and maintenance of digital solutions, nor that digital inclusion would not be solved by the ECB front-end. In any case, if the "front-end solution developed by the ECB " were to be confirmed, it should not show the ECB brand, but always the brand of the intermediary the user banks with.</p> <p>1. The choice of offering "digital front-end services to allow digital euro users to access and use digital euro payment services" should be left to the PSP discretion.</p> <p>3. The wording "quickly and easily" may lead to multiple interpretations, and it may be difficult to translate as an objective requirement.</p>
29 - Compliance with Union sanctions adopted in	<p>In principle we welcome the move from transaction-level sanctions screening to client database screening, similarly to instant payments. Maintaining transaction screening</p>

<p>accordance with Article 215 TFEU</p>	<p>would result in a high level of rejected transactions most of which would be false positives.</p> <p>However, the same challenges stand as for instant payments: in the absence of harmonized EU and global lists, many banks will still need to do transaction-level screening for Member State/third country lists.</p> <p>Carrying out verifications immediately after the entry into force of any new or amended restrictive measures adopted is somewhat of an impossible condition. In these dynamic sanctions environment, even when working almost in real time, there may be a technical delay before a list is updated and the whole customer database screened, while even minutes are enough for dozens of messages to pass through.</p>
<p>30 - Settlement of digital euro payment transactions</p>	<p>/</p>
<p>31 - Switching of digital euro payment accounts</p>	<p>According to the GDPR, "personal data" means any information relating to an identified or identifiable natural person ("data subject") and identifiable natural person is one who can be identified, directly or indirectly. Should there be a central point for the monitoring of the respect of the holding limit across multiple positions, there is also an issue of the exposure of personal data to the ECB.</p> <p>1. Make mandatory for the intermediaries to enable the switching, maintaining the same account identifier, could result in a significant burden for the PSPs. Moreover, account identifier portability has no precedent and will add a lot of complexity and cost. As mentioned above, with multiple accounts the concept of switching loses its relevance, and it would be hardly possible to maintain the same identifier.</p>

	<p>2. The “exceptional circumstances” should be more clarified to avoid interpretations and to translate it in objective requirements.</p>
32 - General fraud detection and prevention mechanism	<p>We expect that the fraud schemes that will support the digital euro will be no different from those that insist on other payment instruments, so we believe that approaches and countermeasures can be borrowed from past experience.</p> <p>Furthermore, it should be clear who carries the liability towards customers who become victims of fraud, when a centralised system is involved real time.</p> <p>A dedicated and centralized fraud detection and prevention mechanism is not feasible nor desirable for the following reasons:</p> <ul style="list-style-type: none"> • The authority's intermediation between PSP and customers could generate entropy proving more counterproductive than beneficial. • It could prove too costly. • No guarantee of effectiveness is provided. <p>It has to be noted that best practices in fraud prevention currently envisage the participation of the central bank in fraud prevention schemes without the need of its involvement in real time transactions.</p> <p>3. As previously recalled, the unique digital euro account identifier can be intended as a personal data according to the GDPR. In order to avoid issues of the exposure of personal data to the ECB, the coordination of the two legislative texts is needed.</p>
33 - Fair, reasonable and non-discriminatory access to mobile devices	<p>1. The concept of ‘effective interoperability’ need to be clarified.</p>

CHAPTER VIII - PRIVACY AND DATA PROTECTION

Articles	Observations
34 - Processing by payment service providers	<p>This article sets out provisions related to the processing of personal data (as defined in Annex III) by PSPs. The provision according to which “where a digital euro payment account held by one payment service provider is linked with a non-digital euro payment account held by another payment service provider in accordance with Article 13(4), these payment service providers shall be joint controllers” should be deeply analysed in the light of GDPR and also of with regard to the practical implementation of this provision(for example in terms of joint controllership agreement).</p>
35 - Processing of personal data by the European Central Bank and the national central banks	<p>This article sets out provisions related to the processing of personal data (as defined in Annex IV) by the ECB/NCBs. According to the current legislative draft the ECB would not have access to any personal user data but there are doubts about the practicality of this. It is not clear how the ECB would support checking various aspect of the digital euro holding and transactions (e.g., compliance with limits). We would ask for clarification to keep data privacy. As a potential solution there is the opening of one account only, which would reduce complexities substantially. Furthermore, it is necessary to clarify how Pseudonyms and encryption that are not compatible with AML regulations today will work.</p> <p>As already stated in the comments on article 31, having a single point of access to manage the unique identifier entails privacy issues.</p> <p>1. It must be clarified how these controls are to take place and what responsibility the intermediary has.</p>

36 - Processing by providers of support services	/
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CHAPTER IX - ANTI-MONEY LAUNDERING

Articles	Observations
37 - Anti-money laundering rules applying to offline digital euro payment transactions	<p>It seems like PSPs shall retain data mainly to make them available to the Financial Intelligence Unit (FIU) and other competent authorities (CA). We highlight that the retention of data to respond to the FIU and to CA are regulated at national level also in terms of threshold under which the data retention is not requested. Therefore, we suppose that the retention of data regards only transactions from the mandatory threshold established currently at local level (e.g., in some countries € 5.000). According to the mandatory information to be provided to the Financial Intelligence Unit we find an inconsistency in par. 4(b). The identifier of the local storage device for offline digital euro payments is not enough to correctly identify the payer/payee, unless there is digital euro payment account linked where the payer and/or payee are identifiable.</p> <p>Moreover, we do not see any specific reference to the customer due diligence requirements rather than specific reference to the Regulation 847/2015 unless offline payment is fully equivalent to cash transactions. The AML provisions applicable to the off-line transactions should be further clarified and assessed also in order to ensure compliance with the AML directive and the future AML Package.</p> <p>The information in (b) is not congruent with the information required by National Central Banks tracings, in which the real name of the payer and of the payee must be recorded and not an identifier that may correspond to an alias.</p>

	<p>According to national legislation, Italian intermediaries are also required to transmit monthly the so called “objective communications” to the FIU (they send the UIF a communication containing the data relating to each movement of cash of an amount equal to or greater than 10,000 euros carried out during the calendar month on relationships or through occasional operations, even if carried out through several individually operations with an amount of equal to or higher than 1,000 euro).</p> <p>Repeated transfer of digital euro accounts between PSPs may compromise customer knowledge and detection of suspicious transactions.</p> <p>2. The Commission is empowered to adopt implementing acts setting offline digital euro payment transaction limits and holding limits. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40 (not 39).</p> <p>5. The empowerment of the Commission to setting offline digital euro payment transaction limits and holding limits may determine the “implicit” introduction of limits, the adoption of which is currently left to Governments.</p>
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CHAPTER X - FINAL PROVISIONS

Articles	Observations
38 - Delegated acts	2, 3, and 6. Typo → the referenced articles for which the Commission is empowered to adopt delegated acts should be 11, 34, 35, and 36.
39 - Committee procedure	/

40 - Reports	In line with the recommendation above to provide for a single account per citizen, we also suggest that the reports following the introduction of the digital euro should include a specific study on the level of competition in the market.
41 - Review	/
42 - Entry into force	/