ESTA
The Cash Management Companies Association

Position of ESTA on the draft Regulation on the digital euro (Com (2023) 369 Final)

19 June 2025

Contents

Position of ESTA on the draft Regulation on the digital euro (Com (2023) 369 Final)

19 June 2025

Introduction

The Commission presented on 28 June 2023 its single currency legislative package which includes the draft Regulation on the codification of legal tender for euro cash, and the two regulations on the establishment of the digital euro (hereafter "*the e-euro*") as a central bank money for the euro area. This position paper refers to the draft Regulation establishing a digital euro and replaces the previous position paper of 2023. ESTA has also presented a position on the draft Regulation on legal tender and another on the revision of PSD2, which was revisited in October 2024.

The proposal for the establishment of an e-euro and the papers related to it are in ESTA's views the best advocacy for putting in place a very robust defence of cash.

The rationale of the adoption of the e-euro is based on a number of observations which ESTA made some time ago for which we urged action to be taken by the EU monetary authorities. The reason motivating the establishment of the e-euro is primarily the "*weakened monetary anchor*" resulting from the reduction of cash in circulation, and particularly cash used for transactional purposes. As ESTA put it, the demise of cash is not happening just by chance: it is provoked. The sanitary crisis only accounts for part of the decrease in cash volumes. During the early days of the crisis, consumers were led to believe that cash could be a vector of contamination, more so than other everyday objects or, for example, plastic debit and credit cards. Some stakeholders with vested interests have disseminated the fear that one could be contaminated by cash. As a number of regular cash users are elderly people mostly exposed to the risks of COVID, this also increased fear and anxiety in the elderly that "*one can die for paying in cash*". In a massive promotion of contactless payments, they were presented as "*the safest payment method*" (if only physical shopping could be entirely contactless...) whilst cash was said to be "*extremely dangerous*".[1] No surprise that, as Mr Panetta from the ECB said, COVID was worth "seven years of digitalisation" of payments.[2] Arguably, the main boost brought by COVID to card and mobile payments is their major intrusion into micropayments, which most retailers were not allowing before COVID due to their high costs.

As ESTA has shown, the reduction of cash in society is primarily a consequence of the disengagement of commercial banks from cash, which compromises the access to cash by citizens and in turn contributes to the digitisation of payments. As the Impact assessment rightly states, "*Private money cannot replace central bank money as it cannot perform the core functions of central bank money as*

[1] Mastercard's position paper to the EBA, 20 April 2020, obtained by ESTA through a request for access to document under the transparency Regulation.

[2] Speech of Mr F. Panetta, ECB, "*Cash in time of turmoil*", 15 June 2021. Note that "*digitalisation*" is nothing short of "the weakening of the monetary abchor" of payments, which the e-euro proposal is tasked to address.

an anchor of the payments and monetary system".[3] However, ESTA thinks that there is no need to reinvent the wheel by inventing a digital euro. This is a rather difficult solution compared to defending the one that has always existed: cash.

ESTA has highlighted the causes and the risks on the cash infrastructure of this situation, and in particular of the "war on cash", where cash is subject to a fierce, and often unfair competition from powerful organisations which have alternative, more profitable, means of payment to offer to their customers, and which often publicly denigrate cash.[4] Commercial banks increasingly stop providing cash services. This is due to supply side factors, notably cost reduction as acknowledged by the ECB.[5] This is their unilateral, cost-based, decision, although they are a central stakeholder of the cash cycle. When doing so, commercial banks overlook their responsibility towards cash and their customers, which is also the duty to provide a public good and a public service to citizens. This service is, moreover, already paid for by their customers as part of the banking fees that financial institutions charge for providing them with a payment account.

This has led to cash dropping to dangerously low levels, triggering the risk of "weakened monetary anchor", which the draft Regulation seeks to address. However, addressing the reduction of cash through the establishment of an e-euro also exposes the monetary and financial system to a number of new risks, such as financial instability and the disintermediation of commercial banks and therefore the reduction of their capacity to fund the economy. None of those risks exist with cash which on the contrary contributes to the stability of the financial system and increases the ability of banks to lend.

Cash is a major factor of the stability of the banking system as cash is what maintain confidence of the public in the financial system which hold their deposits. Commercial electronic money rely purely on the trust of the public, and this trust relies on the "*redeemability*" of commercial e-money into cash (i.e. the conversion of sight deposits at par and on short notice), cash being the only means in the hand of depositors to withdraw their deposits from their bank.[6] As ESTA has stated already, "*Banks should fear the day when the public will consider that cash is becoming so scarce that it will lose confidence in its ability to withdraw its deposits from the bank.*"[7]

ESTA believes, however, that a digital euro, even guaranteed by Central Banks, will not be able to provide trust in the same way as cash, because in the public's perception, it will consist of dematerialised money held by private institutions in their name, with the fear that this money will go if the intermediary fails.

By design, the digital euro will be a competitor to private payment schemes. For this reason, it is to be feared that the digital euro will suffer the same fate as cash, in order to preserve the huge profits from payment services providers.

---

3 IA, at page 47.

4 See for example the final report ERPB Working group on access to and acceptance of cash, November 2021, which states that "the first obstacle to the acceptance of cash is its image" where the "*perception*" of cash is "*a payment method which is less and less appropriate for modern societies*", "*outdated*", "*not cool*", "*cumbersome*". ERPB final report at page 32.

5 Alejandro Zamora-Perez, " Guaranteeing freedom of payment choice: access to cash in the euro area" ECB; May 2022; https://www.ecb.europa.eu/pub/economic-bulletin/articles/2022/html/ecb.ebart202205_02~74b1fc0841.en.html

6 As the IA states, central bank money provides trust in electronic commercial money (page 47).

7 ESTA's position to the interim report of the ERPB's working group on access to and acceptance of cash, 10 June 2021.

I. *"Weakened monetary anchor"*

When looking at CBDCs such as the e-euro, the question might be, as raised by Michelle Bowman from the US FED: "*what is the problem that CBDCs are meant to solve* ?" And the second would then be "*are CBDCs the most efficient way of solving it?*"[8]

I.1 FROM CASH TO CASHLESS: LOOKING AT THE PAYMENT INFRASTRUCTURE

The shift from cash as a physical money to a digital euro is not simply a change in the forms of money, but a profound change of the payment infrastructure and of how payments are organised in society.

A digital currency is not just a non-physical form or cash. The development of cashless payment has led to merging two fundamentally different parts of financial intermediation, payments and credits. This is particularly evident with the use of credit cards, where payments are accumulated on an account and deferred at the end of an agreed period against the payment of an interest. The development of cashless payments has thus led to a substantial expansion of credit which is far more profitable. This is even more so that the segment of micropayments has been opened to cashless payments, particularly during the COVID crisis. Because of the entangled credit function, they have also become far more profitable, and even more so that there is a very large number of them.

As a consequence, the introduction of a digital euro is not just about money. Payment has never been a very profitable business: what made the e-payments so profitable is the entanglement of interest-bearing credit functions with payments tools. Since the digital euro is designed not to bear interest, it is bound not to be as profitable for intermediaries than private forms of electronic money. As it has been shown, the average credit rate on credit cards in the US is around four times that of the average credit rate charged by banks.[9]

This explains the very strong developments of the e-payment industry. But in turn, it also explains why a digital euro as a new form of public money, which would be confined to its payment function without any credit attributes, is unlikely to motivate private stakeholders to intermediate for digital euros. Since each digital euro transaction will continue to substitute for a commercial money transaction as cash does, it will therefore reduce the profitability of payments for PSPs and financial institutions. This is part of the disintermediation feared by the financial sector with the introduction of the digital euro. For this reason, it is very unlikely that it will like the digital euro more than it has disliked cash.

Since a justification of the digital euro is the preservation of a two-layer monetary system based on the coexistence of central bank money and private money (this time, however, both in digital forms), it might be important to assess the forces which have acted against cash, since the same interests are likely to act against the "digital form of cash".

---

[8] Cf "*Considerations for a Central Bank Digital Currency*"; Remarks by Michelle W. Bowman, Member of the Board of Governors of the Federal Reserve System at the Georgetown University McDonough School of Business, Psaros Center for Financial Markets and Policy, Washington, DC 18 April 2023.

[9] Barbara Brandl, David Hengsbach, Guadalupe Moreno: "*Cashless revolution and social inequality*" Goethe Universität Frankfurt, 2024. The study states that in 2023 in the US, the average credit card interest rate was 20% against 5% for te average credit rate charged by banks Barbara Brandl,)

On 14 February 2024, in a hearing in the Economic and Monetary affairs of the European Parliament, the ECB justified the digital euro by the probable "*disappearance of the infrastructure to pay in cash*", and the need to preserve a form of central bank money. Historically, cash has suffered from the formidable push against it that came from the far more profitable electronic payment solutions proposed by financial institutions to their customers for the reasons mentioned earlier.

The question is whether the digital euro is a solution to this issue of "weakening monetary anchor" or whether it will further accelerate the demise of cash. This relates to the next question, which is whether the digital euro witll only "complement cash", as it is argued, or (at least partially) substitute for it ?

1.2 FROM DISINTERMEDIATION OF BANKS TO COST

In recent communications on the digital euro, the European Central Bank was keen to reassure the commercial banking sector that the initiative would remedy, not aggravate, the disintermediation they may suffer from the introduction of the digital euro. Responses from banking associations have shown that there is still some convincing work to be done on the matter.[10]

Early in June 2025, the EBF released a study on the cost of the digital euro to commercial banks as a consequence of its introduction in the eurozone. The outcome is that the sector could suffer a significant increase in costs ranging from €18 bn to €30 bn.[11]

For 75% of it, the cost would arise from the "technical layer", wich includes several key areas, including the adaptation of payment channels (mobile applications, web frontends, physical cards), POS infrastructure for payment acceptance (POS terminals, payment pages, e-/m-commerce), interfaces (authorisation backend, digital euro access gateway, digital euro issuer hub and necessary interfaces), and branch and ATM networks. For each individual institution, the cost is estimated to 110 million euros, among which that of the adaptation of the ATM infrastructure is estimated at around 9 million euros. The general trend to remove ATMs may therefore accelerate if withdrawal of ATMs is a way to spare their adaptation costs to the digital euro.

The study questions whether the additional added value is worth the efforts required for its introduction. ESTA wonders whether European consumers may not finally have to carry two significant burdens of the digital euro: the reduction of cash available to them (see below section III) and the increase in bank fees charged to them.

[10] See for example the reponse from Mr Wim Mijs, EBF, to M, Cipollone, ECB, 13th Institute for Law and Finance conference (Panel 2), Frankfurt am Main, 24 January 2025

[11] "*Digital euro cost study:From concept to implementation: evaluating some economic implications of the digital euro for European retail banks*" EBF, June 2025. The study was commissioned to PwC by the three European Credit Sector Associations, namely the European Association of Cooperative Banks (EACB), European Banking Federation (EBF) and the European Savings and Retail Banking Group (ESBG)

I.3 JUSTIFICATION OF THE DIGITAL EURO: PROVIDING AN INFRASTRUCTURE FOR A EUROPEAN-WIDE PAYMENT SCHEME

In various hearings in the European Parliament, the ECB has presented the reasons for the introduction of the digital euro as the need to overcome the dominance, including for financial sovereignty reasons, of international card schemes on the European payment landscape. The decline of cash in payments bears the risk of the European cash payment infrastructure disappearing, leaving only private electronic payment schemes. The idea was expressed forcefully a number of times and lately on 15 May 2025:

> *"As people increasingly prefer to pay digitally and online commerce expands, the role of cash as a universal payment solution is declining. We thus risk being left without a European solution that allows us to pay throughout the euro area in all situations."*[12]

This, however, refers to private, not central bank, money. There exists be possibility for organising online shopping with payments in cash (e.g. at the time of delivery at home or in pick-up points), without the need to go through the very ambitious and complex project of introducing a new digital central bank money. The complexity is due to technical issues of linking all consumers, retails, banks and PSPs. This involves huge investments with high fixed costs and has created a very high barrier to entry which explains the difficulty of the European Payment Initiative to develop its own scheme. These barriers protect the current incumbents, even if they are not European. It is not just a lack of competitiveness and innovation that prevents a European solution, but the very significant hurdles of existing barriers to entry to pan-European systems.[13]

However, a private payment scheme that includes payment and credit makes it highly profitable, when a system that only provides for payments is not. The digital euro will not integrate credit functions.

It was also said that the initial benefit of the digital euro will be to create an infrastructure that private payment schemes will be able to use for pan-European solutions. That may be the case. However, this raises two questions:

- EU institutions may decide to provide a pan-European payment solution that private payment scheme may exploit. Unless users pay for the infrastructure, this would be a public subsidy to profit-making businesses;

- Once the infrastructure is made available for profitable private payments, how can it be ascertained that that it will not be used in a predatory manner against the digital euro, to protect profit-making services by private PSPs ?

In a hearing in the European Parliament on 8 April 2025, the ECB stated that once the legal framework will be adopted by the Council, it will take around two and a half year for the ECB to issue the first digital euros. However, the private sector will be able "*to embrace*" the infrastructure to offer pan-

[12] "*Harnessing the digital future of payments: Europe's path to sovereignty and innovation*", Speech of Mr P. Cipollone, Paris, 15 May 2025.
[13] This explains why 2/3rd of card-based payments is non-European, and why 13 EU Member States depend entirely on international card schemes or mobile solutions for in-store payments (P. Cipollone, 15 May 2025).

European payment solutions without the need for the international card networks. This would happen much more quickly and "*prevent billions of euros of fees*" to be paid to non-European operators.

This would solve the initial concern of providing the infrastructure needed for offering private European payment schemes to Europeans. These private schemes, however, will be in competition with the digital euro on its very own network. Since any payment in digital euro will deprive private PSPs from their fees, as cash has done, the question is how to make sure that what has happened to cash does not happen again to the digital euro.

II. "What is the problem to solve?"

Our initial paper on the digital euro commented on the rationale provided in the Impact assessment and in particular to the "weakened monetary anchor" of declining cash volumes. The ECB, in various speaking opportunities on the topic, has commented on this. It stated that "*soon the infrastructure to pay in cash will disappear*",[14] which prompted ESTA to write to the ECB to call for a robust defence of cash.

There is a risk of confusion in the real objective pursued. More than a central bank money, it appears that the digital euro is essentially meant to compete with VISA and Mastercard, and other non-European card schemes, since there is no pan-European substitute. However, in saying this, the ECB refers to private electronic money, not central bank/public money.

Monetary authorities have not been willing to make the use of cash more attractive and have consistently refused to engage in a strong defence of cash. Unless they act differently for the digital euro, the same causes will lead to the same consequences.

This risk is acknowledged in the digital euro proposal: As the Impact Assessment states, "*while the digital euro would offer an additional choice for users, ensuring a level playing field between payments in digital euro and with private services is important to ensure competition, and maintain and maximise the overall value of payment services for the EU's economy*".[15] Protecting the digital euro from predatory competition from private PSPs requires to take fully into account what has happened to cash. ESTA would submit that it is still time to protect cash, a solution which is more straightforward than working on its "digital form".

III. The digital euro will increase the decline of cash, not provide a solution to it

The role of the ECB is, among others, to keep inflation below 2%. Recently, due notably to the measures adopted to fight the COVID pandemics, inflationary pressures have pushed inflation way beyond this threshold.

[14] Hearing of Mr P. Cipollone ECON committee, European Parliament, 14 February 2024.
[15] IA at page 33.

The mantra is that the introduction of the digital euro will "complement", not substitute for cash. However, the initial assumption that the issuance of digital euros would not affect the ECB balance sheet is only possible in case the monetary base is not increased. This implies that the issuance of digital euros will come with a withdrawal of physical euros from circulation.

Indeed, the ECB has assessed how the issuance of the digital euro might affect both cash in circulation and sights deposits of banks.[16] This was assessed around three scenarios:[17]

- The low CBDC demand scenario would lead to a demand of digital euro of 30 bn, leading to a decrease in banknotes of 15 bn and of sights deposits of 7.5 bn.
- The medium demand scenario would lead to a demand of digital euro of 125 bn, a reduction of cash by 62.5 BN and of sights deposits of 31.25 bn.
- The high demand scenario would lead to a demand of digital euros of 512 bn, a decrease of banknotes by 256 bn, and a reduction of sights deposits by 128 bn.

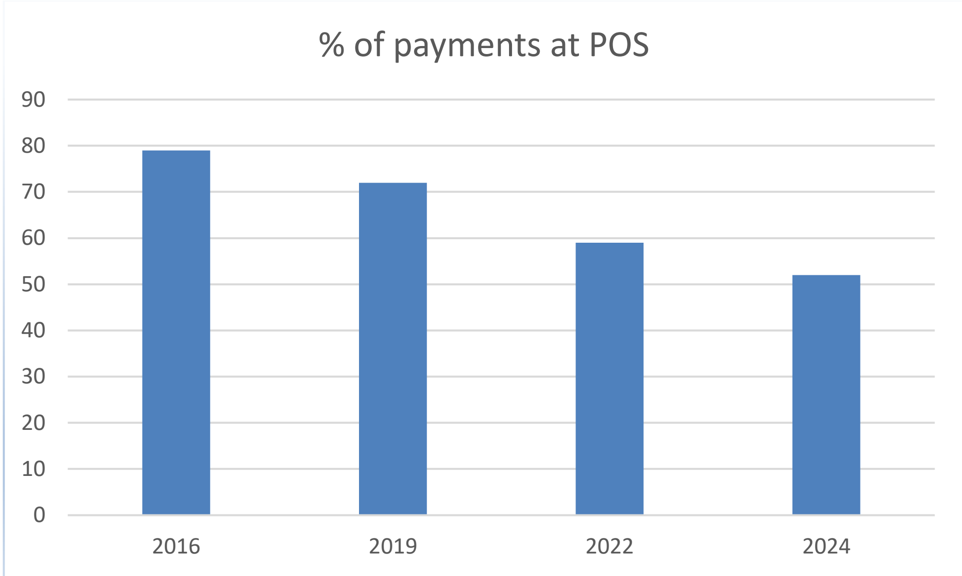
So, cash in circulation will reduce as a consequence of the introduction of the digital euro. The rationale of introducing the digital euro as a solution to a weakening monetary anchor is contradicted by

- the fact that the digital euro will substitute at least partially for cash
- the reality that none of the reasons which have led to the demise of cash are solved *per se* with the digital euro, which will still appear, as cash, as a competitor to much more profitable private electronic forms of money offered by financial institutions.

According to the European Central Bank's cash use surveys, the decline of cash is continuous and increasing in pace: 79% of all payments were in cash in 2016, then only 72% three years later in 2019 (-7 points), then only 59% (-13 points) another three years later in 2022. This means that the decline in cash has doubled in pace between 2019 and 2022 compared to 2016-2019: by definition, such an increasing pace is "exponential". In 2024, the rate of decrease came back to that of the first period, namely -7 points, at 52%.

[16] As the Association of cooperative banks has pointed out, the average income of their customers is lower than the planned holding limit of €3,000 euros: these customers are likely to convert all their deposits into digital euro, which will cost nothing to them but bring the security inherent to the nature of central bank money with legal tender.

[17] See "*The impact of CBDCs on central bank profitability, risk taking and capital*", U. Bindseil, M. Marrazzo, S. Sauer, ECB Occasional Paper Series No 360, 2024.



It should also be noted that the typical metrics in measuring cash as a percentage of point-of-sale purchases, by volume or value, is in reality misleading and leads to an overestimation of cash payments. A large number of payments outside points-of-sale cannot be made in cash, for legal or practical reasons, and this is not taken into account in the effective share of cash payments. In the structure of expenses of European households, more than 40% are payments for housing, utility bills, communications, education and health, which are usually paid through a bank account. Even other payments that used to be made through cash or card, such as leisure or entertainment, are being displaced by subscription methods through bank accounts or transfers through electronic payment platforms. The reality is that indeed hardly 5% of payments are made in cash.

IV. Asymmetries between the schemes for cash and that of the digital euro

IV.1 Asymmetry in the preservation of cash and the e-euro in the future

As ESTA has already pointed out a number of times, and lastly when responding to the consultation questionnaire of the ECB in March 2023, there is a damageable lack of clarity as to the future of cash and the willingness of EU monetary authorities to preserve cash beyond the establishment of the e-euro. We understand that the e-euro is meant "*to complement, not to substitute*" for cash (Recital 6). However, cash processing being a volume-driven business, the uncertainty as to the EU desire to restore pre-COVID cash levels post sanitary crisis cast some doubts on the future of cash. In its consultation questionnaire, the ECB raised a number of times the short to medium term question of the sustainability of the cash industry, but did not consider the long-term challenges of the cash industry: the concern seemed to ensure that as least one operator would remain in place for as long as it would be needed, but not beyond that point. As if the main issue was to ensure a smooth operation of cash only as long something else (obviously the e-euro) would be able to take over.

ESTA appreciates that the proposal for a Regulation on Legal Tender of the euro cash, which includes provisions to secure access to cash, is a critical step in the right direction. As developed in our position paper on the draft Regulation on Legal Tender, the main risks inherent to the scheme proposed is that the pace of remedies to deficiencies in acceptance of or access to cash may be too long to intervene to be effective, i.e. before cash falls below its critical mass in a number of countries.

Looking at the proposal on the establishment of the e-euro, and as will be developed in the next section, the need to protect the forthcoming e-euro from competition from other commercial e-money is necessary. Most likely, there are some lessons from the precedent of cash to be retained. It would contribute to reassure operators and cash users on the long-term desire to protect cash, and this therefore calls for correcting this asymmetry and ensuring that cash will be protected.

As ESTA stressed, the real issue of cash is that of its infrastructure and logistics: it can be quick to go, but far more difficult to restore once it has fallen below the critical point. Maintaining, as the ECB suggested, a spare capacity (i.e. "excess" capacity) of cash handling "just in case", e.g. for the cases of failure of a cash operator in the same market or in a neighbouring country, is simply not thinkable in an environment of fierce competition (even when there is only one operator in place[18]) and low margins.

Cash is at a use-it-or-lose-it turning point. Most citizens are unaware of the situation and whilst they are constantly nudged into using cards or electronic payments, they may not realise until is too late the dire implications of their payment choices, which will put this very freedom of choice in jeopardy.

Therefore, it is critical that a very robust defence of cash is urgently put in place to preserve cash from further damage from commercial electronic money predation.

ESTA notes the words in recital 9 of the draft Regulation that the e-euro, as a direct liability from the ECB and the euro system, "*should be issued for an amount equal to the face value of the corresponding liability on the consolidated balance sheet of the European Central Bank and the national central banks of the Member States whose currency is the euro*". ESTA is concerned that its introduction **may result in taking existing cash out of circulation** to accommodate the digital euro without unduly increasing the monetary aggregates, in which case, contrary to Recital 6, e-euros would indeed substitute, at least partly, to cash. This has now been quantitatively measured in the Bindseil et all evaluation referred to above and its three scenarios.

IV.2 ASYMMETRY IN THE PROTECTION AGAINST UNFAIR COMPETITION

ESTA noted with interest the developments in the Commission Impact Assessment on the need to protect the e-euro from unfair or predatory competition, which might possibly compromise the development of the e-euro. ESTA believes that the Impact Assessment rightly raises those concerns, as the risk is real, as recent developments on cash have shown.

As the Impact Assessment states, "*while the digital euro would offer an additional choice for users, ensuring a level playing field between payments in digital euro and with private services is important to ensure competition, and maintain and maximise the overall value of payment services for the EU's economy*".[19] ESTA would argue that not only the e-euro as central bank money should be protected against private services, but all forms of central bank's money should. The asymmetry of the need for

---

[18] See ESTA's position on the second implementation report of the Professional Cross-border CIT Regulation No 1214/2011 of 16 November 2011, 27 October 2022.

[19] IA at page 33.

protection is something that needs to be corrected in te legislative package, particularly as the e-euro will not suffice as a central bank money anchor.

There are obvious reasons why this asymmetry needs to be corrected. The e-euro would to some extent compete with private payments solutions. Intermediaries will therefore require "incentives" to distribute the e-euro.[20] Failing this, the development of the e-euro could also be at risk, the same way as cash supply, which is seen as a cost that commercial banks are keen to avoid, regardless of the needs for cash of their customers.

The risks associated with the distribution of e-euros by intermediaries with commercial conflicts of interests (as they are also marketing their own payment instruments competing with e-euros) is such that the draft Regulation regulates fees to be charged to e-euro users. Article 17(1) provides that no fee shall be charged to private users of the e-euro, and fees charged to business users will be monitored and capped to either the cost of providing the service or the fees charged by the intermediaries for "*comparable means of digital payments*", whichever is the lowest (Article 17(2)). This therefore provides for capping fees to a maximum, defined according to the MIF regulation. In fact, this provision **extends the MIF regulation to the e-euro in the eurozone**.

ESTA has two substantial comments on this. First, the draft Regulation acknowledges in effect the potential predatory role that commercial organisations acting as intermediaries could play for the e-euro, and therefore, finds it opportune to protect it against it. Second, ESTA would argue that by doing so, **the draft Regulation seeks to protect the forthcoming e-euro to the exact same risks that cash has been exposed to in the last decades**, which has led to the dire situation where it is today, and which justifies the proposal for the establishment of the e-euro. Therefore, the need to act to address the "weakened monetary anchor" resulting from the impact of decades of war on cash could also be addressed by protecting cash in a similar way as the Regulation intends to protect the e-euro.

V. COMMENTS ON SPECIFIC PROVISIONS OF THE PROPOSAL FOR AN E-EURO

V.1 SCOPE OF THE E-EURO

The choice made for the e-euro is to propose it to all operators: central bankers, businesses and consumers/households. This ambitious choice has a number of implications.

The choice could have been to establish an e-euro for "wholesale" monetary purposes only, either between central banks only or within the financial system with commercial banks and PSPs only. This would most likely have had benefits and would probably have avoided a number of risks identified with the e-euro in relation to the erosion of commercial banks deposits,[21] stability, digital bank runs and privacy.

By extending it to all, there are a number of risks to be considered:

- by definition, any digital account may be compromised by hackers and cybercrime, exposing the public to cyber fraud. The risk already exists with commercial e-money, and electronic

[20] ECB working paper 286, at page 20.
[21] IA, at page 181.

payment fraud is a major curse. However the temptation to hack central bank e-money accounts will generate a further incentive to fraudsters and criminals;
- the e-euro infrastructure may also be the target of cyber attacks of a terrorist nature, exposing the ECB and the Eurosystem more specifically, whether from hostile states, organised crime and/or religious political organisations;
- holders of e-euro, whether legitimate or not, may seek to hold e-euros in amounts in excess of legal holding limits, therefore undermining the stability of the financial system. The controls required for compliance to limits is a serious challenge, particularly in a multi-states area like the Eurozone comprising of 20 states with different administrative cultures.

V.2 Legal tender

Similarly to cash payment limitations in euro countries constituting restrictions to legal tender, holding restrictions in e-euros which are likely to be limited through implementation acts are a restriction to legal tender of the e-euros, notably since deposits limits will make it difficult to make payments above this limit (regardless of reverse waterfall provision which will require to link a non-e-euro account to the e-euro account).

The exception to legal tender based on proportionality (for natural persons and small businesses) expressed in Recital 18 and Article 9(a), is also of concern when it states that the **obligation to accept the e-euro would be complied with by operators who are not in a capacity to accept e-euro, but can accept "*comparable digital means of payment*"**, namely debit and credit cards. This might be seen as tantamount to giving the status of legal tender to commercial e-money, if in relation to these exceptions the obligation to accept e-euros could be legally satisfied when paying by debit or credit card.

The draft Regulation also states in Article 12 that "*Payees of a monetary debt denominated in euro shall accept payments in digital euro according to the provisions of this Regulation, irrespective of whether they accept payments in euro banknotes and coins in accordance with the Regulation* [on legal tender of cash]". ESTA is unsure of the meaning and impact of this language and fears that accepting e-euros might be considered as a good faith reason for not accepting cash. ESTA would caution that this could be a serious flaw in the strength of legal tender, particularly when, as said earlier, the obligation to accept the e-euro would be deemed fulfilled were merchants be allowed to accept "*comparable digital means of payments*" instead. The loophole would be that refusing cash could be justified by the obligation to accept e-euros, which in turn might also be satisfied by accepting comparable digital payments in small businesses: the shortcut would then be "no cash and no e-euros, only cards".

One of the asymmetries between the two forms of central bank's money, cash and the e-euro, is **the way ex-ante exclusions are treated**. Whilst Article 7 of the draft legal tender for cash regulation allows such exclusion to subsist for cash under the condition that they are monitored by Member States, and that Member States consider that these exclusions do not "*undermine mandatory acceptance*". Article 10 of the e-euro proposal is much more straightforward: "*Payees subject to the obligation to accept the digital euro shall not use contractual terms that have not been individually negotiated or commercial practices which have the object or the effect to exclude the use of the digital euro by the payers of monetary debts denominated in euro"*. Regardless of the substance of each respective provisions on ex-ante exclusion, the asymmetry results from a strict prohibition being mandated in the e-euro Regulation, therefore having direct effect in the entire eurozone, when the related provision for cash leaves it at the discretion of each Member States.

The difference in Member States' perception of what may be "undermining acceptance" and of what may not, which is reflected in the payment culture of the country (likely to be less cash-prone in low cash countries) is therefore unlikely to be effective: low cash country will find those exclusions much less impactful compared to higher cash country, leading cash most likely to continue to decline in Member States where it is already low. It further undermines legal tender as an EU exclusive competence, as a central element remains at discretion of each individual Member State, and does not solve the issue of "*legal tender à la carte*" if retailers still keep some discretion.

V.3 "WATERFALL" AND "REVERSE WATERFALL" CLAUSES

As ESTA stated during the various processes of public consultation on the e-euro, a key issue is the fate of payments received in e-euros which would come in excess to the holding limit ("waterfall") or the need to convert more e-euros than the holding limit would allow in order to make a payment ("reverse waterfall"). Article 13(4) provides for these situations. Whilst the "reverse waterfall" case is rather straightforward (i.e. a conversion from non-e-euro deposits into e-euro for effecting a specific payment), the waterfall case raises a more complicated situation. Article 13(4) provides that the excess in e-euro shall be automatically "defunded" on a linked non-e-euro account. The first consequence will be that the e-euro will be cumbersome to operate without a linked non-e-euro account.

However, nothing seems to be said about what happens to the defunded e-euros, and what their status becomes. Do "waterfall" e-euros simply become commercial scriptural euros, or are they kept as e-euros on another specific e-euro account? If they survive as e-euro, where will they go, and on whose account? And if not, will they be written off as e-euros and simply become commercial euros? Article 13(4) says nothing on this and neither do its related recitals 36 and following. This is critical, as monetary policy being an exclusive competence of the EU, this implies that the emission of e-euros is an exclusive competence of the ECB (as stated in Article 4). This also means that the *destruction* of e-euros is also an exclusive competence of the ECB. However, nothing is said in the draft Regulation on the destruction of e-euros.

The waterfall clause also has a serious drawback in relation to the very purpose of the draft Regulation which is to provide a Central Bank guaranteed e-payment instrument: in case a payment is received which leads to exceeding the maximum holding limit (which triggers the waterfall system), this means that only part of the payment would indeed be guaranteed by Central Bank's money, i.e. the part that fits within the payee's holding limit, not the part of the payment beyond this limit. This defeats the very purpose of any CBDC.

Interestingly, the waterfall functionality is required to ensure that holding limits are strictly enforced. It would cost another 3 to 4 millions euros to commercial banks in the eurozone according to the EBF study referred to above.

V.4 PRIVACY AND DATA PROTECTION

The Regulation provides that only very limited data related to the use of e-euros will be kept, and this excludes any transaction-related data, which shall not be retained by intermediaries, not even the ECB or national central banks (Article 37(2)). The idea is to make it as private as cash.

However, the very nature of e-activities of any kind is that they always leave a digital trace: data will be generated. Prohibitions to use this data may be imposed by law, but there are always two conundrums: the risk of operators not complying with the law, in an environment where "data is the new oil". Or a change of circumstances leading to a change of the law, for specific, overarching reasons that may subsequently appear, where data will then be used, possibly also retroactively.

This issue has been put in very unambiguous terms by the UK Parliament, in response to a Bank of England report on a digital Pound. "*To prevent their use in large-scale criminal activity, any CBDC system could not support anonymous transactions in the same way that cash can be spent anonymously. While there are design options that would provide some privacy safeguards, technical specifications alone may be insufficient to counter public concern over the risk of state surveillance.*"[22] As the UK Parliament concludes, any institution launching a CBDC may be drawn into "*very controversial debates*" on privacy.

V.5 HOLDING LIMITS

As said earlier, the need to restrict the ability of economic operators to hold e-euro is a serious limit to the role and function of the e-euro. ESTA understands that these limits are critically important to the stability of the monetary and financial system, which is precisely why an e-euro cannot fulfil the same core functions that cash does, as it bears inherently a major risk that the imposition of holding limits are meant to mitigate.

However, as explained in the Impact Assessment, central bank money is key to generating trust in commercial e-money by virtue of its "*redeemability*", as stated above. The stability of the financial system is fuelled by the trust of depositors that anyone will be able to withdraw their deposits from their bank at any time (obviously not everyone at the same time). Nevertheless, the confidence that anyone can withdraw their deposits from the financial system, should they so wish, is critical to the stability of the system.[23]

The e-euro could, in theory, fulfil this role and generate trust. However the mere existence of holding limits will compromise its ability to generate trust, as the level of these limits (likely 3,000 e-euros, according to the JRC's papers) will be much too low for that (compared for example to the 100,000-euro "haircut" guaranty under the financial stability provisions). This is particularly so as the public may have difficulties accepting e-euros considering the hurdles to using them in comparison to the level to which they will be able to hold them (see section I.2 above). Therefore, the e-euro might not be in a position to generate trust as cash does, precisely because of its holding limits.

---

[22] "*CBCDs: a solution in search of a problem*" Report from the UK Parliament, 13 January 2022, response to the Bank of England report on a digital pound.

[23] See notably F. Seitz and M. Krüge " *The blessing of cash*"; International Cash Conference 2017 – War on Cash: Is there a Future for Cash? 25 – 27 April 2017

V.6 USE OF THE E-EURO OUTSIDE THE EUROZONE

The cross-border use of the e-euro may have some interest but comes at a risk. The risks are those of financial stability in case of asymmetrical cross border holdings of e-euros, of the transmission of shocks and crisis due to an increased linkage between economies: "*CBDC creates a new international arbitrage condition that links together interest rates, the exchange rate and the remuneration of the CBDC. [….] This leads to stronger exchange rate movements in response to shocks in the presence of a CBDC – foreign agents rebalance much more into CBDC than they would into bonds*".[24]

The establishment of the e-euros therefore requires the setting of rules related to the distribution of the e-euro outside the eurozone to prevent risks being imported from other countries. This is not required in the case of cash, which therefore does not expose the Eurosystem to this risk. It therefore adds to the complexity of the establishment of the e-euros, compared to a solution which would primarily seek to robustly defend cash.

CONCLUSION: THE E-EURO, "A SOLUTION IN SEARCH OF A PROBLEM"?

ESTA welcomes the proposal for a Regulation on the establishment of the e-euro, however, not for what it brings but for the reasons which justify it, namely the awareness of a "*weakening monetary anchor*". This awareness is also the consecration of the impact of decades of war on cash. Instead of embarking on a robust defence of cash, the choice appears to be to reinvent the wheel and create a new form of cash.

The difficulties in the establishment of the e-euro are not to be underestimated. The risks associated with it are also considerable. To quote a famous British Prime Minister: "*Don't argue the matter, the difficulties will argue for themselves*".

The difficulties are twofold: those needing to be overcome in order to establish the e-euro, and those which will need to be overcome once it is established. The latter are arguably more critical than the former as they might put the entire stability of the monetary and financial system at risk. From a proportionality point of view, it is therefore questionable if the e-euro is the most efficient solution as a remedy to the sharp decline of cash, rather than putting in place a robust defence of cash.

The draft proposal on legal tender (and access to cash) presented on 28 June 2023 is by contrast a very appropriate response which needs to be further strengthened through its implementation acts. If sanctions to be put in place by Member States are appropriate and deterrent enough, it will play a substantial role in ensuring that the monetary anchor of central bank money is not weakened further, but also restored, which is the purported objective of the e-euro proposal.

The uncertainty of CBDCs is such that, for example, the Swedish Central Bank has announced that it is stopping work on the e-krona, as it fails to see a "*sufficient social need*" for it,[25] whilst it continues to look at the technicalities of the e-krona. Similarly, in the US, the FED is currently working on two questions before progressing on the e-dollar: "*what is the issue to be solved with it?*" and "*what current*

---

[24] "Ferrari, M., Mehl, A. and Stracca, L. (2020), "*The international dimension of a central bank digital currency*", VoxEU, 12 October", quoted in ECB working paper 286, December 2021.

[25] https://www.riksbank.se/en-gb/payments--cash/e-krona/

frictions exist or may emerge in the payment system that only a CBDC can solve or that a CBDC can solve most efficiently?".[26] These questions are highly relevant to the digital euro proposed which is why ESTA started this position paper by raising them.

This converges towards the conclusion of the UK House of Lords Economic Affairs Committee:

> "*We took evidence from a variety of witnesses and none of them were able to give us a compelling reason for why the UK needed a central bank digital currency. The concept seems to present a lot of risk for very little reward. We concluded that the idea was a solution in search of a problem.*"

Finally, the US federal reserve has also confirmed that no digital dollar would be issued in the near future.

Therefore, whilst there may a be a temptation to let cash continue to decline in the longer term as the e-euro might at some point take over,[27] ESTA would urge putting in place a robust defence of cash as cash may reach its critical mass level sooner than expected and in any case before the e-euro may be up and running and before it might be able to substitute for it. Therefore ESTA suggests that it may be necessary to:

- Set the conditions which would allow restoring cash levels as quickly as possible and put in place a robust defence of cash, as in any case the e-euro will not be able to operate without cash; these conditions include the rapid adoption of the Draft Regulation on the Legal Tender for euro cash which is urgently needed, the secure provision of change money and an adequate access to cash;
- The restoration of cash levels also requires an improved access to cash, and that implies inter alia better market conditions for independent ATM deployers. As it is today, global non-European market players are imposing individually and collectively pricing conditions which are weakening the profitability of independent ATMs deployers, therefore reducing the ATM density.
- Even more than access to cash, one of the main issues identified as an obstacle to the acceptance of cash is the difficulty that retailers face in banking their cash in, to have it credited on their bank account. Without convenient deposit facilities, retailers will be tempted not to accept cash, to avoid the time and cost of depositing it to their bank or the risk of accumulating excessive cash in their premises;
- Address as a matter of urgency the asymmetries in the various proposals on legal tender of cash and the e-euro which are clearly detrimental to cash and may compromise the policy purported to stop its continued decline;
- Look at competition issues related to the fierce competition of private/commercial providers of electronic payment solutions and prevent unfair competition against cash from commercial e-money operators, in a similar way the draft Regulation intends to protect the e-euro from their unfair competition;

[26] Cf " *Considerations for a Central Bank Digital Currency*"; Remarks by Michelle W. Bowman, Member Board of Governors of the Federal Reserve System at the Georgetown University McDonough School of Business, Psaros Center for Financial Markets and Policy, Washington, DC 18 April 2023

[27] As ESTA pointed out to the ECB in the 2023 consultation process which took place on the "concentration" of the CIT industry, in relation to the continuity of the cash cycle.

This would allow enough time to thoroughly look at the needs and challenges of the e-euro.

ESTA hopes that these comments will be of interest and remains available to develop them further.