Council Working Party on Financial Services and the Banking Union

Regulation on the establishment of the digital euro

Presidency note 3 for the Council Working Party - 24 October Discussion note on limits of the use of the digital euro as astore of value

1) Article 15

Article 15 establishes the **principles** that should govern the use of the digital euro as a store of value and as a means of payments[1].

The proposal uses different verbs for the different paragraphs: whereas the use of the digital euro as a store of value MAY be limited, the level of certain fees paid by users, PSPs and merchants SHALL be limited. Some MS ask for clarification in this regard, also some MS go beyond the need of clarification and suggest that the content of this article is not prescriptive (the Regulation is contained in articles 16 and 17) and should therefore be part of the recitals.

- According to the Commission, the idea behind this is that paragraph 1 on store of value is a "may" provision because it is an ECB competence, it is for the ECB to decide on the instruments used to limit the use as store of value and their parameters and use as mentioned in Article 16(1), but ECB may decide not to put limits. Paragraph 2 of Article 15 on fees is not an ECB competence, thus a "shall provision". The ECB applies a methodology and publishes the fees but the ECB is not the price regulator, fees are a monetary law issue and are justified by legal tender status granted to the digital euro as explained in the recitals.

Some MS would like to know the reasoning behind the mention to fees related to natural persons, when these payers should enjoy basic services for free as stated in Chapter IV.

Finally, some MS consider that further reference should be done to the foundation of the digital euro as a tool to protect the transmission of monetary policy but discarding its role as a monetary policy instrument.

2) Article 16

Article 16 regulates the limits to the use of the digital euro as a store of value. Paragraph 1 **mandates the ECB (i) to develop instruments to limit the store of value** function and (ii) to **decide on their parameters and use**. Finally, the Regulation mandates **ASPSPs to apply these limits** to digital euro payment accounts.

[1] The reference of article 15(2) to Chapter II for mandatory acceptance should be changed to refer to ChapterIII

The parameters and use of these instruments shall comply with the requirements of arts. 16.2 and 16.3: (i) safeguard **financial stability** and the **definition and implementation of monetary policy** (principles states in article 15 (1); (ii) ensure the **usability** and acceptance of the digital euro as legal tender; (iii) respect the **proportionality** principle and (iv) be applied in a non-discriminatory manner and **uniformly** across the euro area. Related to this, article 40(2) requires the ECB to inform co-legislators and the Commission on the instruments and parameters selected and prepare an analysis on how these limits are expected to meet the objective of safeguarding financial stability ahead of the planned issuance and before implementing any changes to the parameters.

MS have shown divergent views on this fundamental issue: from the agreement with the proposal of the Commission, since the control of the overall amount of digital euros in circulation falls within the definition and implementation of monetary policy, which is a competence of the ECB; to the view that since financial stability is a shared competence of MS and the ECB, more weight should be given to the MS on this matter.

- According to the Commission, regulating such limits would furthermore not be advisable from a practical point of view. Setting limits in the regulation or making any changes to limits subject to the lengthy ordinary legislative procedure would diminish the flexibility of the ECB to adjust such limits to changing circumstances. This could lead to stricter limits,affecting the digital euro's attractiveness.
- Some MS suggest to find an inter-institutional equilibrium by stating in the Regulation the kind of instruments that should be mandatorily deployed (i.e., the Commission proposal does not introduce per se an obligation to have holding limits); introducing further conditionings to the ECB parametrization task (e.g., setting some kind of absolute caps in Level 1 legislation); or creating procedures to make the limits more flexible in case of need. Also, it should be noted that, even if it is not excluded (it would be possible under article 16(3) as a non-discriminatory measure that the ECB could decide to introduce), the Commission proposal does not explicitly include the idea that legal persons may have a zero holding limit, as discussed at the EGBPI.

The following paragraphs (arts. 16.4-7) add rules for specific cases:

- **Interaction between offline and online** digital euro: any potential digital euro holding limit[2] established by the ECB should be allocated for the total holdings of offline and online digital euros of a user. The user can decide to set a limit for offline digital euros between zero and the maximum amount set out in article 37 (to be discussed at a later WP).
- **For users outside of the euro area:** shall be subject to limits that are not higher thanthe limits for euro area users. For MS outside of the euro area the limits shall be applied in a non-discriminatory way and uniformly, with previous consultation to theirnational central bank.
- **In case users are allowed to have multiple accounts:** the user needs to specify to each PSP the decision on how to allocate his holding limits among the different accounts. Even if it is technically feasible, in line with their comments to article 13.7, some MS have raised the technical challenge for PSPs to monitor this digital euro allocations.
- **In case an account is owned by several users:** the holding limit of that account is the sum of the individual holding limits per user allocated to this account. For this

[2] Note that this is the first reference of the Article stating indirectly that the instrument to limit the store of value function can consist of a holding limit.

case, MS wonder whether users that have a joint account should be automatically excluded from having individual accounts. Also, the possibility to have joint accounts could in practice increase the holding limit of a given individual. This question should be further considered when reading it together with the criteria to become a digital euro user (like residence).

Additionally, art. 16.8 specifies that for the purposes of the Regulation, the digital euro shall not bear **interest**. In a previous WP, the COM clarified that this provision should be understood as the digital euro not yielding any nominal interest as a liability of the central bank (as it is the case for banknotes and coins, but not for commercial banks reserves at the central bank accounts). Nonetheless, one can think that a loan of digital euros between private actors could yield some interest rate for the lender (though the asset that is yielding an interest rate is indeed a monetary debt; the digital euro would just be the form of money that the borrower uses to settle the debt).

Questions to MS:

- *Do MS agree with the wording of Article 15?*
- *What degree of flexibility should the ECB have to develop instruments that limit the use of the digital euro as a store of value?*
- *Should the Regulation differentiate between limits applied to natural and legal persons?*
- *What are MS concerns regarding the specific aspects of digital euro limits (offline, non-EA users, multiple accounts and joint accounts)?*
- *What are MS views on the prohibition for the ECB to pay an interest for digital euroholders?*