



Monero Policy Working Group (MPWG)

[MoneroPolicy.org](https://moneropolicy.org)

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Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins

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Introduction

1. The Monero Policy Working Group (MPWG) is a loosely formed quorum of individuals that contribute to the Monero¹ open-source project. Monero is a permissionless, privacy-preserving cryptocurrency network. The goal of MPWG is to work with regulators, policy makers and the wider financial services sector, to ensure a broad understanding of Monero, and other privacy-preserving cryptocurrencies, is communicated. We have specific interest in interacting with entities so they may understand Monero's component technologies, especially in the context of evolving regulatory and compliance requirements.
2. We would like to take the opportunity to acknowledge the suite of digital payment focused regulatory proposals that have been published. They are far reaching and substantially developed, and we welcome the ability to respond to six concurrent public consultations on the matter. The consultation phase also allows for due consideration of potential impacts, risks, the weighing of proportionality and necessity, as well as providing for a general level of transparency and accountability fitting of the industry.

Overview

3. We highly appreciate that the proposal in question recognizes the significance of some features of physical euro banknotes and coins. Of particular relevance is the following passage: "evidence shows that the main reasons why cash is preferred are that (i) cash is considered to make one more aware of one's own expenses, and (ii) cash is perceived as anonymous (and therefore protects privacy), whilst it has the unique feature of allowing for direct payments with immediate settlement without the need for a third party."² It is also recognized that physical cash and social inclusion go hand-in-hand: "This is particularly relevant for vulnerable groups with a dependency on using cash for payments, which

¹ see The Monero Project, <https://github.com/monero-project> and <https://getmonero.org>.

² Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins, p.2

typically include older people, those with a disability who may have difficulty in accessing digital payments, people with limited digital skills and/or income.”³ These important features of physical cash cannot be fully replicated by the digital euro or by commercial bank money, and thus make euro banknotes and coins irreplaceable.

4. While the proposal correctly recognizes that “euro cash is a dominant means of payment, as citizens and retailers use euro cash in daily transactions to make payments or give change in the euro area,”⁴ it also notices “a general decline in cash payments.”⁵ Given the unique features of physical banknotes and coins referred to in point 3, it is important to investigate the reasons for the decline in cash payments, with special consideration for the impact of regulations and of specific commercial bank policies. For example, the reduction of ATM networks to cut commercial banks costs, the implementation of thresholds for cash transactions, and the increasing unavailability of €100, €200, and €500 banknotes imply that citizens do not use physical cash in a variety of situations not because of their will, but because of regulatory and commercial limits imposed on them.
5. The initiative is intended to respect “the fundamental rights to freedom to conduct a business (enshrined in Article 16 of the EU Charter of Fundamental Rights of the European Union).”⁶ However, such freedom must include the ability for entrepreneurs to decide autonomously, without being mandated by law, which means of exchange and of payment are accepted by their businesses and which are not. Given the development of new means of exchange and of payment and of different business models, triggering a broad public discussion regarding the compatibility between basic economic freedom and legal tender laws should be a priority for EU institutions. This is brought more into focus with the existence and rising interest with other forms of value transfer, such as Bitcoin and Monero.

Article 6

6. Article 6 states: “The Commission is empowered to adopt delegated acts in accordance with Article 10 to supplement this Regulation by identifying additional exceptions of a monetary law nature to EN 17 EN the principle of mandatory acceptance. Those exceptions shall be justified by an objective of public interest and proportionate to that aim, shall not undermine the effectiveness of the legal tender status of euro cash, and shall only be permitted provided that other means for the payment of monetary debts are available.”⁷ It is our opinion that, as long as legal tender laws are in place, exceptions to the mandatory acceptance of euro banknotes and coins must not be admitted even when “other means for the payments of monetary debts”⁸ such as the digital euro are available. The reason is that

³ *ibid*

⁴ Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins, p.1

⁵ *ibid*

⁶ Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins, p.7

⁷ Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins, p.16-17

⁸ Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins, Art (6)

physical cash possesses features that cannot be replicated by its digital counterpart nor by any other form of money. Physical banknotes and coins are among the most socially inclusive and privacy-preserving means of payments available in the euro area, and public interest dictates that they cannot be dispensed with. Therefore, there must not be cases where the acceptance of the digital euro or of other means of payments is mandatory but the acceptance of physical cash is not. We urge the Commission to reconsider wording on this matter, within the mentioned delegated acts. It is not entirely inconceivable that the existence of digital forms of payment (e.g. digital euro) may entice merchants to preclude physical forms of payment, as we have seen evidence of across the Digital Single Market.

Article 12

7. The proposal places responsibility for fines and penalties onto competent authorities within Member States, but does not clearly outline an understandable scale (as it has done with similar penalty guidelines within complementary data protection and anti-money laundering regulation). Commercial banks knowingly restrict access to cash through business policy, while 'challenger banks' often (if not always) impose high relative charges for cash withdrawals (as do independently operated ATM networks). Providing guidance on how these sorts of practices might be curtailed through a strong penalty system would be helpful to curb these strong disincentives to the use of cash, and provide evidence that the Commission is serious about ensuring the ongoing maintenance of its use.

Conclusion

8. We thank you for the opportunity to respond to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins. We hope you will consider the points we raise in an open and transparent manner. We give consent for our contribution to be publicly published and are at your disposal through the email address provided above, should we be required to clarify any aspects of this response.