

Central Bank Digital Currency for the Public

Selected Challenges

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Introduction

Foundational principles

- **Do no harm.**
CBDC shall not impede a CB's ability to carry out its mandates, in particular, maintain monetary stability, by keeping prices stable and issuing trusted money
- **Coexistence.**
Legacy state issued types of money (cash, reserves) and future types should complement one another and coexist with robust private monies (commercial bank deposits, virtual currency)
- **Innovation and efficiency.**
Today's payment ecosystem has a two-tier structure with public actors (e.g. CBs) and private agents (CoB, PSP) that should be preserved



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Possible objectives

Overview

Responsibility primarily with the central bank

- Monetary policy
- Payment policy
 - Providing money for the public
 - Payment systems

Responsibility primarily with other authorities

- Stability of the financial system
 - NBA 5(2)(e):
Contribute to ...
 - TFEU 127(5):
Contribute to the conduct of policies relating to ...
- Economic policy
 - NBA 5(1) 3rd sentence:
Take due account of economic developments
 - TFEU 127(1):
Support the general economic policies in the EU
- Social policy...

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Possible objectives

Monetary policy (I/II)

Caveat: retail CBDC does not seem to be seriously conceived in this way

- **Objective** set = maintaining **price stability**
 - NBA 5(1)
 - TFEU 127(1) & 282
- **Task** assigned = conducting **monetary policy**
 - NBA 5(1) (“pursue”)
 - TFEU 127(2) 1st indent & 282, ESCB Statute 3.1 & 17 et seq. (“define and implement”)
- **Competences** conferred to this end, e.g.
 - Open market and credit operations NBA 9(1)(a)-(f); ESCB Statute 17
 - Accounts & deposits for market participants NBA 9(1)(a); ESCB Statute 18
 - Other monetary policy instruments list in NBA 9(1) is not exhaustive; ESCB Statute 20

Possible Objectives

Monetary policy (II/II)

- **Limit**
 - = principle of **open market economy with free competition**
 - Const. 94
 - TFEU 119, 127(1) 3rd sentence
 - **Setting** of monetary policy impulses in direct interaction with the **money market** only
 - **Transmission** of impulses **into the real economy** between private, competing actors only
- **No sufficient legal basis to conduct monetary policy in direct interaction with the public via an rCBDC**

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Possible Objectives

Payment policy: Overview

- **Objective set**
= smooth settlement of all financial liabilities in domestic currency
- **Tasks assigned**
= to ensure access to money
AND
= to facilitate cashless payment systems
- **Competences** conferred to this end, e.g.
= to issue and distribute cash to the public
= to maintain sight deposits for selected (payment) market participants
AND
= to operate payment systems and have them operated

Possible Objectives

Payment policy: Access to ideal money (I/II)



- **Task**
= to ensure public **access to the most ideal domestic monies** possible (state **and** private ones)
- **Competence** conferred to this end, e.g.
= provision of **cash**
 - NBA 5(2)(b): supply & distribution of cash
 - TFEU 128(1): issue of euro banknotes;
TFEU 128(2): approval of euro coin issue
- **Precondition** for the conduct of monetary policy
= promoting the unity of the currency
= helping stabilize the financial market
- Under the existing payments policy mandate, central banks have the right **AND** the duty to supplement tangible cash with rCBDC serving as the digital equivalent



Cash

- State **money** for the public (public good, public service, public interest)
- AND
- Quality **anchor** for all private money in euro
 - Handling is inclusive (easy, inexpensive...)
 - Control of privacy
 - Safe re counterfeiting and free of credit-risk



Possible Objectives

Payment policy: Access to ideal money (II/II)

Can the provisions on the supply of money to the public be interpreted functionally ?

- **No qualified silence** / not exhaustive regarding forms
- **Function:** carrier medium, on the cutting edge of technological development to make monetary value
 - perceptible
 - permanent (authenticity, integrity...)
 - assignable
 - disposable (storage, circulation)
- **Systematics:** Separate provisions for cash issuance and price stability
- Residual **competence of other authorities (e.g. treasury) to issue coins** is no obstacle
 - Only with regard to needs of payment transactions
 - Not for monetary financing

Possible Objectives

Payment policy: Facilitating payment systems (I/II)

- **Task assigned**
= to facilitate payment systems
 - NBA 5(2)(c)
 - TFEU 127(2) 4th indent, ESCB Statute 3.1 & 22
- **Power conferred**
= operate payment systems and have them operated
- **Outlook:** competition with private solutions; possibly
 $\frac{1}{4}$ of transaction value paid with cards
 $\frac{3}{4}$ of transaction value paid with other payment instruments
and in case of high demand $\frac{1}{2}$ of bank deposits
might be replaced by a **digital euro**



Possible Objectives

Payment policy: Facilitating payment systems (II/II)

- **Limit** = principle of **proportionality** (Const. 5(2)/36(3); TEU 5(4))
 - **Need for action**: declining use of domestic (state or private) money to threaten monetary objectives (price stability / smooth financial liabilities settlement)
 - **Effectiveness**: operation of an rCBDC payment system would actually improve the situation
 - No improvement by **milder** measures possible
 - e.g. through **existing** systems SIC5; TIPS
 - remaining displacement effects are kept at a **minimum**
e.g. by “specialization” of the **rCBDC as a mere means of payment** with
 - caps
 - unattractive remuneration
 - Issuance of rCBDCs as part of payment (system) mandate is conceivable within narrow limits.
 - However, the obligation to issue **money** to maintain the **anchor function** would remain unfulfilled

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Preliminary assessment

Monetary objects – which structure for a retail CBDC? (I/III)

Means of payment	Money	Near money investment
<ul style="list-style-type: none">• Transfers monetary value in the present• Limited storage function	<ul style="list-style-type: none">• Transfers monetary value in the present• Preserves monetary value over time <p>...</p> <p>Both functions available</p> <ul style="list-style-type: none">• at any time• unlimited	<ul style="list-style-type: none">• Limited payment function• Yielding (increases monetary value over time)

Preliminary assessment

Monetary objects – which structure for a retail CBDC? (II/III)

High demand scenario for a digital euro

- Up to 50% of bank deposits exchanged
- Up to 50% of paper banknotes exchanged
- 4% of banks hold 60% of Eurosystem excess reserves
- 96% of banks will rethink their balance sheet structure
 - Reduce balance sheet / lend less / credit crunch?
 - Central banks as LOLR despite insufficient collateral?
 - OR: pay interest rate commensurate with associated risks and align business activities in that they can afford it?

«Specialization» as a pure means of payment? ./.



Preliminary assessment

Monetary objects – which structure for a retail CBDC? (III/III)

«Specialization» as a pure means of payment?

- Impact on financial market stability
 - Impact on central bank independence
- Before implementing rCBDC, banks and the banking system must be or become truly sustainable
- Lessons from NBA 9(1)(a): positive remuneration includes negative as well

Preliminary assessment

Governance in the SIC system – a legal blueprint for a hybrid retail CBDC?

Swiss Interbank Clearing System

- Joint venture of the banking sector
- Maintains settlement accounts on behalf of SNB (for settlement among banks)

SNB maintains sight deposit accounts (for transactions with banks)

- Settlement accounts and sight deposit accounts considered legally as one
- Balance remains a liability of the SNB even if transferred to the settlement account during working day time

Possible legal blueprint for a hybrid retail CBDC !

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Conclusion

Short term

- Will the public buy into the concept of exchanging (paper) money for a mere (digital) means of payment ?

Long-term

- Impact on the monetary object level as well as on the institutional level (stability, CB independence)
- Open market economy with free competition
- Ideal outcome: banks retain bulk of deposits because they
 - Pay interest rate commensurate with associated risks
 - Align business activities and balance sheet structure to afford such interest rate
- A rCBDC should only be introduced once the banking/financial system can cope with it on its own.



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Thank you.

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Corinne Zellweger-Gutknecht is a Professor of Private Law and Economic Law at the University of Basel, an Adjunct Professor at the University of Zurich and a Professor at the Kalaidos University of Applied Sciences.

Corinne researches in the fields of monetary, currency and central banking law, and interdisciplinary issues between private and financial market law. She is particularly interested in the influence of digitization on public as well as private money, payment systems and the financial market, and the registration of crypto currencies in private, insolvency and currency law.

