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Digital Pound Consultation
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Dear Sir/Madam

Re: EMA response to the Bank of England and HM Treasury consultation on the digital pound: a new form of money for households and businesses?

We have set out below our responses to the questions posed in the consultation.

1. Do you have comments on how trends in payments may evolve and the opportunities and risks that they may entail?

The EMA represents an innovative payments sector. Payment products and services are mostly offered by electronic money institutions, payment institutions or crypto asset service providers. The sector has taken advantage of new opportunities presented by technological developments, whether in product design, in underlying business practices or by addressing payment opportunities neglected by established payment products. This has seen a range of services emerge, from e-money accounts offered by PayPal and wallet providers, prepaid cards and vouchers by a range of issuers, open banking functionalities, a revolution in acquiring using mobile devices first introduced by Square, digital wallets delivering tokenisation by Google, Apple and others, and significant efficiencies and functionality in money remittance and integrated payment functionalities. The space is vibrant, competitive and continuously evolving.

Some of the current trends have been identified by the Bank in its assessment such as that of 'embedded payments'; a direction of travel that has been characteristic of retail payments for over a decade. Payment services succeed and are used more effectively when they blend seamlessly into the underlying transactions, and adapt to the underlying processes, whether as incremental billing, conditional payments, alternative modes of payment (credit, debit or prepaid), or in the use of APIs to integrate payments into business processes.

Distributed ledger technology has also brought new business functionality to value transfers that are based on blockchains. The market is rapidly developing the necessary tools for integrating different functionalities into business processes on the one hand, while legislators and competent authorities introduce requisite regulatory regimes..

APIs have been deployed for some time by particularly innovative PSPs, their normalisation however through open banking and open data regulatory obligations promises applications that will provide users with added value services. These could range from automated or programmable payments to sophisticated decision-making based on disclosed data that could enable enhanced lifestyle offerings.

Whilst all such developments could herald a richer and more customer centric service proposition, the investments that are required are not inconsiderable, and will favour firms with resources that can be deployed in requisite development.

This is a reason why the EMA believes the digital pound should seek to minimise its distortion of the existing payments market, and to recognise the investments that will be needed to bring about the adoption of the new payment product.

We believe government can help mitigate some of this risk by setting aside a fund that can be accessed by PSPs for the purpose of furthering investment in the digital pound infrastructure.

2. Do you have comments on our proposition for the roles and responsibilities of private sector digital wallets as set out in the platform model? Do you agree that private sector digital wallet providers should not hold end users' funds directly on their balance sheets?

(a) The model is supported; the objective of creating a technologically agnostic platform, providing minimum functionality while enabling PIPs and ESIPs to build requisite functionality is welcome. We also welcome the proposal to make this into a platform for private sector innovation, with accessible open and extensible architecture.

Separately, there is an expectation for PIPs and ESIPs to meet the Bank's rules and to be operationally robust. We are again supportive of this approach but advocate for a proportionate approach that allows for an accommodation of the variation in size and complexity of service providers. This should of course not be at the expense of resilience and operational integrity. Any additional rules, over and above requisite regulatory authorisation must be risk based and must avoid discrimination between different types of regulated PSPs.

(b) We also note the intention for businesses to consider and arrive at the appropriate revenue model , including those for merchant fees, for high value and cross border fees as well as subscription and data related fees. We are conscious however of potential asymmetries between the issuing and acquiring sides of the business, between businesses of varying size, and the possible need for a multilateral scheme-like arrangement to address these. In addition, multilateral agreements, cooperation in standards development, user support, branding, combatting financial crime and of governance may all need to be addressed jointly.

We seek further clarification from the Bank and HMT on how they contemplate the evolution of a sustainable commercial and business fee model.

3. Do you agree that the Bank should not have access to users' personal data, but instead see anonymised transaction data and aggregated system-wide data for the running of the core ledger? What views do you have on a privacy-enhancing digital pound?

An important attribute of cash is its privacy, and for some, its anonymity. Whilst this introduces risks of financial crime, these are usually associated with higher value transactions.

Centrally operated electronic payment products on the other hand have the advantage of enabling tracking and monitoring of transactions, and if required in real time. They offer detailed pictures of the spending and the behaviour of users. PSPs are often able to intervene when there is a need to do so, suspending or freezing individual transactions or accounts. It is also possible to glean information regarding the relationships and interests of users, providing risk monitoring and financial crime tools that are entirely absent for cash.

It is appropriate that the Bank is not privy to personal information linking an account holder to a specific name and address. This however does leave the question of whether complete transparency of transactions, linked to personal information should be available to PIPs, and whether this should be for all transaction values.

There are good arguments for offering users a modicum of privacy, an anonymity that is restricted to low value transactions and low aggregate payment values. There is good evidence from the e-money industry, which has operated with such an allowance for over 20 years that this does not give rise to systemic risks of financial crime, it does not hinder monitoring and nor does it prevent intervention when abuse is identified. Reporting of suspicious activity with enriched data is still possible, providing law enforcement with meaningful information. This is because electronic payments leave a rich seam of information and are largely transparent to the PSP, even when full identification has not been carried out.

E-money products first benefited from an exemption from user identification and verification provided the annual aggregate spend limit did not exceed EUR 2500. This was set out at Article 11(d) of the third money Laundering Directive 2005/60/EC and implemented in the UK and across the EU. This was amended to a monthly limit of EUR 250 by Article 12(1) of the fourth Money laundering Directive EU/2015/849, with a number of condition also being introduced. There was however never any suggestions that either of these exemptions, nor the ones that followed gave rise to any systemic or significant risks of financial crime.

We firmly believe that limited exemptions are beneficial to take-up, to adoption and to exercising limited privacy. In the absence of such an allowance, civil society will have no means of exercising its right to conduct private transactions. This coincides with the Bank's own proposed approach, elaborated at section D2 of allowing different levels of identification; corresponding to different modes of use.

We are therefore supportive of a privacy enhancing digital pound, within monetary limits, and always subject to monitoring obligations.

This approach is consistent with that of FATF Guidance issued in 2013 on the application of the Risk based Approach to Prepaid Cards, Mobile Payments and Internet-Based Payment Services - (see: https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Rba-npps-2013.html), where a tiered approach was supported as well as simplified due diligence measures where these are merited including postponement of verification or in strict circumstances, exemption from CDD altogether – see paragraphs 95-100 of the Guidance.

4. What are your views on the provision and utility of tiered access to the digital pound that is linked to user identity information?

As set out in our response to Question 3, this is an approach that has been adopted by the e-money industry for a period in excess of 20 years and which is proportionate and risk based. It enables the allocation of resources to areas of greater risk, it affords users a modicum of privacy and has not to date given rise to systemic risks.

We are supportive of a risk-based approach to customer due diligence and of an allowance for limited anonymity for low values, provided monitoring and other forensic tools are available to identify and arrest incidence of abuse.

5. What views do you have on the embedding of privacy-enhancing techniques to give users more control of the level of privacy that they can ascribe to their personal transactions data?

The implementation of privacy enhancing techniques (PETs) as set out in the Technology Working Paper is a welcome proposal. All the solutions described could play useful roles in enabling a spectrum of user privacy and in relation to different stakeholders. Many will do so while also mitigating the risk of financial crime.

Data minimisation is consistent with Data Protection Principles, whether through the use of pseudonyms, by masking the purpose of information retrieved or through the adoption of attribute based encryption. Similarly, aggregate data analysis, distributed data analysis and encrypted data processing ensure user data is protected whilst being utilised for the permitted purposes.

Zero knowledge and other blind proof technologies also contribute to enhancing privacy in specific circumstances, while enabling disclosure when this is justified.

We acknowledge the additional complexity that can be introduced when implementing some PETs, and the relative costs and benefits will need to be assessed by different actors and for the specific purposes concerned. All users will however expect a minimum degree of privacy to be afforded, however it is delivered.

6. Do you have comments on our proposal that in-store, online and person-to-person payments should be highest priority payments in scope? Are any other payments in scope which need further work?

We concur with the prioritised interactions, which circumscribe the majority of retail transactions, and would add cash-like face to face interactions to the use cases, encouraging migration to the digital pound.

7. What do you consider to be the appropriate level of limits on individual's holdings in transition? Do you agree with our proposed limits within the £10,000–£20,000 range? Do you have views on the benefits and risks of a lower limit, such as £5,000?

The limits are driven by the expected utility of the product as conceived by the Bank. We do not see any significant downsides to the amounts provided. Depending on the use to which the products are deployed, it may additionally be helpful for users to hold multiple accounts for differing types of use. These would however maintain an aggregate value that is within the proposed limits.

The need to track the total amounts held across the different accounts may pose some challenges, and may also impact privacy features, or require PET tools to be utilised.

8. Considering our proposal for limits on individual holdings, what views do you have on how corporates' use of digital pounds should be managed in transition? Should all corporates be able to hold digital pounds, or should some corporates be restricted?

If corporate use is also for retail payments, it should be within the contemplated functionality of a digital pound and will merit inclusion, in the same way as individual users. If payments are however, made for wholesale purposes then the digital pound may not be an appropriate vehicle.

9. Do you have comments on our proposal that non-UK residents should have access to the digital pound, on the same basis as UK residents?

We believe that cross border functionality is a potential key attribute of a digital pound, and if combined with innovative means of payment, good privacy protections, and broad acceptance, then it may become an attractive means of payment both within and outside the UK.

This may then promote the use and utility of the pound as an international currency of choice. This would be a welcome means of promoting UK business beyond the UK's shores.

10.Given our primary motivations, does our proposed design for the digital pound meet its objectives?

The objectives as set out in the consultation include the following:

- Sustaining access to central bank money, as an anchor for confidence and safety of money, as well as underpinning monetary and financial stability
- Promoting innovation, choice and efficiency in payments, as well as payments resilience as an additional payments rail
- Financial inclusion and cross border payments

(a) Once the digital pound does gain broad acceptance, and is utilised by UK residents for day to day transactions, then it is likely to meet its objectives as an anchor for monetary and financial stability, and will also sustain access to central bank money, as the use of cash declines.

(b) The promotion of innovation through the platform is a compelling objective, but it will also have to sustain competition from other private means of payment, and platforms, perhaps offering equally compelling tools and functionalities.

(c) A separate but attractive approach may be to enable or encourage e-money and stable coin issuers to deposit funds representing issued value as central bank money. This could provide an additional and indirect means of underpinning financial and monetary stability. It would also act to decrease a number of risks for issuers: namely market, credit and liquidity risk.

(d) Care does also need to be taken with the impact the digital pound project will have on competition in the payments space; and particularly on new and innovative means of payment; many of which are regulated in a regime that defined these products as 'surrogates for bank notes and coins' -(see first and second electronic money Directives, implemented by way of the Electronic Money regulations 2011). There will be significant overlap between the product propositions for such existing products and services and that for the digital pound. It would be helpful if a study could be instigated to consider the impact of the digital pound on existing payment services; in a similar manner to that on the impact on lending and deposit taking.

(e) Competition issues do extend to a number of facets of the project including the limpact of legal tender status, the consequent obligation of businesses to accept a digital pound in payment; the accompanying commercial model for the digital pound and the relative values of revenue that could be generated compared to commercial money products. How will pricing be established, will it be entirely open to market forces? Or will the Bank incentivise use of a digital pound payment instrument?

(f) Financial inclusion should benefit from the digital pound and products could play an important role in decreasing exclusion.

(g) As stated in the consultation, cross border payment functionality will need some preparatory engagement with countries where payments are likely to be accepted. It is not clear if these will only be countries that have their own CBDCs or whether cross border payments as envisaged in the consultation contemplate residents of other countries holding digital pound accounts. We are supportive of cross border functionality and see this as a significant promoter of UK business.

In summary, we do believe the proposal would meet the objectives set out.

11. Which design choices should we consider in order to support financial inclusion?

Whilst financial inclusion is a single objective, the causes of exclusion are varied, and range from an inability to complete CDD processes, which again vary in their cause, to an inability to interact with digital channels, and to negative experiences or perceptions of the financial services sector.

These in turn will require different approaches to resolution. The e-money sector has worked very hard to address problems of onboarding and hence the allowances for SDD and limited exemptions from identification and verifications that have been set out in legislation. It would likely be similarly important for the digital pound to be able to benefit from similar exemptions within low value limits to enable onboarding and use.

Other barriers to inclusion may be related to the design of the product or to the availability of help and advice on an ongoing basis.

12. The Bank and HM Treasury will have due regard to the public sector equality duty, including considering the impact of proposals for the design of the digital pound on those who share protected characteristics, as provided by the Equality Act 2010. Please indicate if you believe any of the proposals in this Consultation Paper are likely to impact persons who share such protected characteristics and, if so, please explain which groups of persons, what the impact on such groups might be and if you have any views on how impact could be mitigated.

This is better addressed by civil society groups.