



Electronic Money Association

67 Square Marie-Louise

Brussels 1000

Belgium

www.e-ma.org

EBA

(response submitted online)

26 October 2026

Dear Madam/Sir,

Re: EMA response to [Consultation Paper](#) on the Draft Regulatory Technical Standards on DGS payouts of client funds deposits under Article 8b(4) of Directive 2014/49/EU

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, cryptoasset services and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members can be accessed [here](#).

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Thaer Sabri'. The signature is written in a cursive style with a long horizontal line extending from the end.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA responses

Q1: Do you have comments on Articles 1 and 2 of the draft RTS, in particular their suitability for the identification of clients for the purpose of repayment in accordance with Article 8 DGSD3?

EMA comment:

Both electronic money and payment institutions are required to safeguard funds received from their customers in a safeguarding account held with a credit institution. Some of the funds in such safeguarding accounts will be regarded as client funds deposits under the DGSD and will therefore fall under the proposed rules of the draft RTS.

However, in contrast to client funds in an account held by, for example, a law firm, the funds in an e-money safeguarding account are not the funds with which payments are made between the firm's customers; these are made in e-money. Even in relation to payment institutions, safeguarded funds are merely used to settle at the end of what is often a complex system of transactions involving several parties and only after fees and charge backs have been accounted for. This means that a layer of relationships and services lies between the credit institution and the ultimate beneficiaries of the client funds; services that may continue to be performed for a short time without being affected by the credit institution's insolvency.

Three relevant consequences follow:

- 1) The first is that payouts by the relevant DGS will likely be made to the e-money or payment institution itself rather than the underlying clients. This is because in most cases, the business of the e-money or payment institution can continue undisturbed if payouts are made to the institution, while direct payouts to clients would require the ceasing of all payment transactions and the 'freezing' of entitlements to the safeguarded funds so that DGS eligibility can be determined. Art. 3 of the draft RTS correctly reflects this default position on payouts.
- 2) The second is that stress-testing that is based on snap-shot information of client holdings at any one point of time can give no more than a general idea of the payouts that the DGS would need to make to the e-money or payment institution if the credit institution became insolvent. The identity of the relevant clients for DGS purposes, their eligibility for DGS protection and the amounts involved change continuously and at rapid speed, as e-money changes hands and payments make their way through the system. In this respect, information on determining the potential eligibility of clients is helpful, but granular identity information serves little purpose if it can be ensured that clients are in fact identifiable.
- 3) The third is that, where anonymous e-money under Art. 19(7) AMLR is concerned (the holders of which are eligible if they are in principle 'identifiable' even if not yet 'identified' (Art. 7(3) DGSG)), stress testing involving actual identity information would require the identification of hitherto unidentified clients, which is not practically feasible for low-value products without disrupting the business of the issuer.

Together, these consequences mean that the stress testing process as currently envisaged by Art. 1(2)(b) of the draft RTS disadvantages financial institutions undertaking payments, as they will need to elect between participation in an onerous process that renders little information of practical value but will ensure protection of their clients' funds, and conducting their business undisturbed by stress

testing requirements but risking some of the funds they safeguard for their clients being cut off from deposit protection.

To avoid this outcome, we advise the EBA to consider:

- Providing for simplified contractual requirements in relation to safeguarding accounts. These should aim at informing the DGS as best as possible about future payout liabilities without unduly interfering with the financial institution's payment business.
- Requiring information in aggregate rather individual form particularly where anonymous clients are concerned, whom financial institutions should not be required to identify solely for stress testing purposes.
- Allowing for the reporting of non-eligible client details rather than of eligible client details, with the remaining balance of the safeguarding account indicating the total future payout liabilities to the relevant DGS.

Separately, we are concerned by the potential anti-competitive effects of making available client information to credit institutions competing in the same area. While we support the provisions on non-decryptable information in Art. 1(4), we advise the EBA to consider:

- Providing in a new subparagraph 4 to Art. 2 that credit institutions are explicitly prohibited from using information they receive on client funds for purposes other than those of the DGSD and RTS.
- Providing in a new subparagraph 5 to Art. 2 that credit institutions are required to keep this information separate from information about their own clients.

Q2: Do you have any specific comments on how to limit the burden of sharing information in going concern, while still allowing DGSs to prepare for DGS payouts in order to protect clients and prevent contagion of the financial institution?

EMA comment: Please see our comments to Q1 above.

Q3: Do you have comments on the proposals in Article 3 on the criteria under, and the circumstances in which, the repayment is to be made to the account holder for the benefit of each client or to the client directly?

EMA comment: We support the proposed provisions.

Q4: Do you have any comments on the proposed Article 4, in particular to avoid multiple claims for payouts to the same beneficiary?

EMA comment: No comments are provided.

Q5: Do you have comments on the proposed application date of 24 months after entry into force?

EMA comment: No comments are provided.

Q6: Do you have any other comments on the proposed RTS?

EMA comment: No comments are provided.