

**DIGITAL FINANCIAL SERVICES**

 **November 2020**

# BRUSSELS BULLETIN

### THIS MONTH’S FOCUS:

**CONSULTATIONS**

European Commission:

Commission welcomes feedback on crypto-asset and operational resilience legislative proposals

**Closes 1 December**

EBA:

“EBA Digital Platforms - Industry Survey 2020”

**Closes 7 December**

EBA:

“Consultation Paper on the revision of the Guidelines on major incident reporting under the Payment Services Directive 2”

**Closes 14 December**

ECB:

“Public consultation on the draft Eurosystem oversight framework for electronic payment instruments, schemes and arrangements”

**Closes 31 December**

FSB:

“Public consultation on outsourcing and third-party relationships”

**Closes 8 January 2021**

ECB:

“Public consultation on the digital Euro”

**Closes 12 January 2021**

### The Digital Euro

**ECB begins preparatory work for its own digital currency – why now?**

**EU Cloud**

**EU is one step closer to realising a European**

**Cloud Federation**

**Digital Services Act**

**Commission plans to regulate platforms:**

**what is the possible impact on the**

**financial sector?**

**DIGITAL FINANCIAL SERVICES TIMELINE**

**FOR MORE INFORMATION PLEASE CONTACT**

**Kelsey Paulding**

kelsey.paulding@kreab.com

**The Digital Euro:**

**ECB begins preparatory work for its own digital currency – why now?**

**Nicolὸ Bertoncello, looks at the road ahead**

When almost a year ago Christine Lagarde took over as the European Central Bank’s (ECB) President, she could have hardly expected to face an economic crisis caused by a pandemic. Even less so that COVID-19 is also turning out to be an unexpected innovation catalyst for digitalisation in the financial services space. The ECB’s publication of a [comprehensive report](https://www.ecb.europa.eu/pub/pdf/other/Report_on_a_digital_euro~4d7268b458.en.pdf) in October, examining the case for creating **central bank money available digitally to all parties,** is the central bank’s attempt at trying to stay abreast with the rapid changing world of digital currencies and payments. Arguably, with physical contact limited to the bare minimum and a large chunk of economic activity moving online, the ECB has realised that, in an increasingly interconnected world, the developments of a digital euro cannot be delayed.

The development of a digital euro is not a novelty for the central bank, considering that Yves Mersch, outgoing member of the ECB Executive Board, already discussed the possibility in 2017. Besides, more than eight out of 10 central banks are examining the possibility of launching their own central bank digital currencies (CBDCs), according to [a recent study](https://www.bis.org/publ/bppdf/bispap107.pdf) by the Bank for International Settlements. Among them, Sweden’s Riksbank, the Swiss National Bank and the People’s Bank of China have been working on a CBDC for quite some time and have progressed to late stage developments. In this respect, the ECB will have to play catchup should it decide to go ahead with the project.

Nevertheless, it is not just the increasingly competitive landscape that is occupying the mind of central bankers. The numerous concerns about Facebook’s stablecoin project, Libra, as well as other private initiatives, are also fundamental reasons behind the recent innovative willingness shown by the ECB. Stablecoins are digital currencies designed to minimise significant price swings that have plagued other cryptocurrencies such as bitcoin, by tethering themselves to reserves of fiat currency held at commercial banks against which they can be exchanged. However, there are many risks and challenges identified with stablecoins moving into the world of payments.

 Firstly, there is the risk of misuse of personal information for commercial or other purposes, which could jeopardise privacy and competition

and harm vulnerable groups as well as potentially raising issues of traceability in the fight against money laundering, terrorist financing and tax evasion. Secondly, a significant shift of bank deposits into stablecoins could increase financial volatility and potentially disrupt monetary policymaking. Finally, stablecoins would be vulnerable to ‘bank’ runs, as they lack the government guarantees that bank deposits have. All of this translate into possible risks to financial stability and monetary sovereignty. It is not just about the risks, however. Mr Fabio Panetta, ECB senior executive and one of the leading faces of the digital Euro project, has also noted that the pandemic has made even more evident that consumers’ preferences are changing, moving away from cash and towards electronic means of payments. Moreover, there is a first-mover advantage for countries that pioneer official e-money: it would stimulate payments-related innovation and allow users to adopt more convenient payments solutions as soon as they are available – whether the ECB provides them or not.

The issuance of a digital euro, however, is not without challenges. There are concerns about loss of privacy should the ECB be able to monitor the usage of digital euros, or, on the other hand, security concerns about the use of a digital currency for illegal usage, should absolute anonymity and privacy be guaranteed as is the case for cash. Another concern is bank disintermediation, and bank runs – the possibility that in a financial crisis people may see a CBDC as a haven, shifting money out of commercial banks and into the digital euro. A [possible solution](https://voxeu.org/article/cbdc-remuneration-world-low-or-negative-nominal-interest-rates) that has been put forth is a two-tier remuneration system, with attractive (or non-penalising) interest rates applied up to a certain threshold and lower (or negative) interest rate applied to larger amounts, thus discouraging digital euro accumulation. Other challenges regard the functional design of the digital euro, as well as legal and technical considerations. All aspects that are outlined in the ECB’s report have been laid out in a [public consultation](https://www.ecb.europa.eu/euro/shared/files/Questionnaire_on_a_digital_euro.pdf), which will run until January 12, 2021. In parallel, the ECB is also running experimentation, intending to decide whether to launch its digital currency by mid-2021. However, it seems clear– challenges permitting –it is more a question of “when” the digital euro will land in the e-wallets of Europeans, rather than “if”.

# EU Cloud

**EU is one step closer to realising a European Cloud Federation**

In October, EU Member States signed a [Joint Declaration on Cloud](https://ec.europa.eu/digital-single-market/en/news/towards-next-generation-cloud-europe) committing to the development a European Cloud Federation, building on GAIA-X. Initially, the initiative of establishing a European Cloud Federation was first presented in the [European Strategy for Data](https://ec.europa.eu/info/sites/info/files/communication-european-strategy-data-19feb2020_en.pdf) in February 2020, in which the European Commission stressed that EU-based cloud service providers (CSPs) only have a small share of the cloud market, making the EU highly dependent on foreign providers who may be subject to third country legislation such as the CLOUD Act. The Commission and the Member States therefore consider the European Cloud Federation one of the flagships of ‘EU digital sovereignty’, allowing the EU to gain back control over its data and enable the scaling of European providers.

The Declaration signed by Member States holds that CSPs subject to third country laws are welcome to join provided they put in place safeguards to ensure that any request for data of EU citizens by foreign governments complies with EU law (e.g. through storing data in the EU). Companies in Europe using cloud services will however not be mandated to buy services from CSPs that are part of the Federation.

To complete this project, the Commission has committed to funding €2 billion under the High Impact Project 2021-2017 (funded by Horizon Europe, the Digital Europe Programme and the Connecting Europe Facility), while Member States will mobilise national public and private funds, including from NextGeneration EU.

**Next steps:** The European cloud federation initiative is part of the EC’s long-term High Impact Project (2021-2027). As a key next step towards the development of this federation, the EC will launch a European Alliance on Industrial Data and Cloud by the **end of 2020**, through which Member States, industry and experts will work together to design a detailed business, investment and implementation plan.

# Digital Services Act

**Commission plans to regulate platforms: what is the possible impact on the financial sector?**

The **Digital Services Act (DSA**) aims to clarify responsibilities of digital services providers, reinforce the Single Market, provide small businesses with legal clarity, and promote a level playing field. Due to the presence of very large companies in the digital economy (i.e. ‘gatekeepers’) and their disproportionate power over digital markets, the Commission has identified two workstreams within the DSA, and ran two public consultations accordingly from June-September 2020 on: (i) the upcoming review of the e-Commerce [Directive](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32000L0031) and (ii) the issue of a level playing field in European digital markets (including the ‘ex-ante tool’ for gatekeeper platforms).

Parallel to the DSA, and complementary to its second workstream, the Commission also consulted on the **New Competition Tool (NCT),** designed to deal with structural competition problems that cannot be addressed by the existing competition toolbox. The NCT will allow the Commission to intervene when markets are close to “tipping.”

Following the conclusion of these three public consultations, the ex-ante element of the DSA and the NCT will be merged into the **Digital Markets Act (DMA)**, seeking to quickly tackle (and prevent) competition-related problems caused by gatekeepers in the digital economy. The Act is expected to impose restrictive legislative measures, even in the absence of abusive conduct.

Concerning the financial sector, the DMA is expected to be of most relevance, as it will affect companies that could be classified as data gatekeepers. This could apply also to issues related to data portability and access to technical infrastructure including providers of mobile payments, biometric identification, etc. The DSA will remain as a stand-alone proposal, addressing the review of the e-Commerce Directive and is expected to heavily focus on tackling the spread of illegal content and goods online.

**Next steps:** Commission to present Digital Markets Act and Digital Services Act on 2 December 2020.

#

**KREAB FINANCIAL SERVICES AND TECHNOLOGY FORUM**

Kreab’s Financial Services and Technology Forum (FSTF) allows stakeholders to engage in high-level discussions on the most pertinent technological and regulatory topics. Launched in 2014, the Forum has addressed a broad spectrum of topics, such as security tokens, crowdfunding, blockchain, payments, data protection, and Artificial Intelligence. This year the FSTF will host quarterly events on issues likely to take centre-stage in 2020, including crypto-assets, Artificial Intelligence in FS, Instant payments, and cybersecurity in FS.

On 3 December, Kreab is hosting an FSTF online event on the Pilot Regime for DLT Market Infrastructures from 10:30-12:00pm. The panel event will focus on the opportunities and implications of the Commission’s Pilot Regime proposal, the emergence of the use of DLT in financial services, and the development of a dynamic, emerging fintech sector in the EU. If you are interested in attending, please register [here](https://events.kreabeu.eu/the-pilot-regime-for-dlt-market-infrastructures).

# DIGITAL FINANCIAL SER VICES TIMELINE 2020-2021



**Q1 2021**

Alignment of law enforcement rules with data protection

Proposal for Additional measures on Critical Infrastructure Protection

**Q4 2020**

Proposal for a Digital Services Act and Digital Markets Act

Review of the Product Liability Directive

Publication of Data Governance Act

Commission to present revised eIDAS Regulation

**Q2 2021**

ECB to decide whether to launch a digital Euro

Review of the Directive on the Security of Network and Information Systems