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**Position Paper of the Association of Foreign Banks in Germany on the
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on the establishment of the digital euro**

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The Association of Foreign Banks in Germany represents the interests of more than 200 credit institutions, investment firms, capital management companies and other financial services institutions that are established in Germany in the form of legally independent subsidiaries or legally independent branches and whose respective parent company or headquarter has its registered office outside of Germany. The decisive factor for membership in our Association is the foreign majority ownership. A large number of the credit institutions organised in the VAB are account-servicing payment service providers. It should be noted that only very few of these institutions offer payment accounts for private customers.

Our comments concern the intended obligation to contract for all credit institutions offering payment accounts: According to Art. 14 (1) of the draft regulation, all credit institutions offering respectively servicing payment accounts (in the meaning of the PSD) should be obliged to offer all basic payment services in connection with the digital euro to natural persons residing in a Member State whose currency is the euro if the customer requests this. As already indicated, a large number of the credit institutions organised in our association do not offer payment accounts for private customers; they mostly offer payment accounts for corporate and business customers or institutional customers. The reasons for such a business policy decision vary from institution to institution; on the one hand, often no competition is sought in the private customer market with the credit institutions already established in this market, as this market is highly competitive. On the other hand, participation in the retail market is not seen as very attractive, since a large number of regulatory aspects already go hand in hand with the retail business. With this business policy decision, the foreign banks in Germany are generally following the strategic intentions of their foreign parent companies or headquarters to limit themselves to the target group of corporate and business customers in the German market.

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Association of international banks,
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According to our understanding, the wording of Art. 14 (1) of the draft regulation, taken separately, does not result in a conflict situation with the business policy decision outlined above to not offer payment accounts for private customers, since the members of the association concerned do not currently have any natural persons (consumers) as customers who could submit the application for all basic payment services in connection with the digital euro mentioned in the text of the regulation. However, according to Article 14 (2) of the draft regulation, the obligation for account-servicing credit institutions is extended to **non-customers**, more precisely natural persons according to Article 13 (1) (a) of the draft regulation, who do not have an account for the non-digital euro. For these natural persons, the right of access to payment accounts with basic features according to Directive (EU) 2014/92 (Payment Accounts Directive) shall then also apply to basic payment services in connection with the digital euro.

Therefore, this provision in Art. 14 (2) of the draft regulation would result in a contracting obligation for all account-servicing credit institutions with the entitled natural persons, even if they do not offer payment accounts for any other natural persons (consumers) and thus will not issue the digital euro to any other natural persons. Since this would mean a major interference on the commercial autonomy of credit institutions which in principle do not offer payment accounts to private customers, and since this prospective obligation to contract would also not be in the spirit of the Payment Accounts Directive, we reject this wording and ask for it to be changed. This is because the Payment Accounts Directive only refers to account-servicing credit institutions that offer payment accounts to consumers on the market (compare hereto the wording in Art. 17 (1) sentence 2 of Directive (EU) 2014/92). This principle was clearly anchored in the PAD transposition into German law, as section 1 of the German Payment Accounts Act states that this act shall apply to all consumers as well as to payment service providers offering payment accounts to consumers on the market.

We therefore propose to amend the wording in Art. 14 (2) of the draft regulation as follows:
*“For natural persons referred to in Article 13(1)(a) that do not hold a non-digital euro account, Chapter IV of Directive (EU) 2014/92 on access to payment account with basic features shall apply, with the exception of Articles 17 and 18, to the access to digital euro account with basic services by consumers **at payment service providers offering consumer payment accounts on the market.**”*

Following on from this, we also recommend the following clarification in Article 14 (1) of the draft regulation:

*“For the purpose of distributing the digital euro to natural persons referred to in Article 13(1)(a), credit institutions that provide payment services as referred to in points (1), (2) or (3) of Annex I to Directive (EU) 2015/2366 **in the consumer payment account market** shall, upon request of their clients, provide those persons with all basic digital euro payment services as referred to in Annex II.”*
