



EUROPEAN CENTRAL BANK  
EUROSYSTEM

EN

ECB-PUBLIC

**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 12 January 2024**  
**on the phasing out of the 1 000 Danish kroner banknote**  
**and the lowering of the cash prohibition limit**  
**(CON/2024/2)**

**Introduction and legal basis**

On 1 December 2023, the European Central Bank (ECB) received two requests from the Danish Ministry of Business (*Erhvervsministeriet*) for an opinion on a draft executive order on Danmarks Nationalbank's withdrawal of certain banknotes (hereinafter the 'draft executive order')<sup>1</sup> and a draft law amending the Law on measures to prevent money laundering and the financing of terrorism (hereinafter the 'draft law')<sup>2</sup>.

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the second and third indents of Article 2(1) of Council Decision 98/415/EC<sup>3</sup>, as the draft executive order and the draft law relate to Danmarks Nationalbank and means of payment. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

**1. Purpose of the draft executive order and the draft law**

- 1.1. The purpose of the draft executive order is to phase out and withdraw old Danish kroner (DKK) banknotes issued from 23 July 1945 until 23 May 2011 from the 1944, 1952, 1972 and 1997 series, together with the 1 000 DKK banknote from the 2009 series, all of which will cease to have legal tender status after 31 May 2025<sup>4</sup>. After the withdrawal of these banknotes, they may still be redeemed by Danmarks Nationalbank for an additional year, up until and including 31 May 2026. After this date, Danmarks Nationalbank may redeem the banknotes where circumstances justify it<sup>5</sup>. The draft executive order enters into force on 1 January 2024.
- 1.2. The phasing out and withdrawal of the old DKK banknote series is done with a view to issuing a new future banknote series based on state-of-the-art technologies to prevent counterfeits<sup>6</sup>. In this respect, all existing Danish banknote denominations (500 DKK, 200 DKK, 100 DDK and 50 DKK) will be part

---

1 Bekendtgørelse om Danmarks Nationalbanks indkaldelse af visse pengesedler, BEK nr. 1706 af 11/12/2023.

2 Forslag til lov om ændring af hvidvaskloven.

3 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

4 See Section 1(1) and(2) of the draft executive order.

5 See Section 2(1) and(2) of the executive order. See also Section 8(3) of the Law on Danmarks Nationalbank (Lov om Danmarks Nationalbank, Lov nr. 116 af 7.4.1936), which likewise regulates an additional redemption period of 12 months after the period where a withdrawn banknote loses its status as legal tender. Subsequent to this additional 12 month period, Danmarks Nationalbank may still redeem banknotes which are no longer legal tender 'if circumstances justify it'.

6 See Danmarks Nationalbank's report 'The role of cash in a society with low usage of cash', November 2023, page 43.

of the new series except for the 1 000 DKK banknote, which is currently the highest denomination banknote in Denmark. According to the explanatory notes to the draft law<sup>7</sup>, which also include explanations to the draft executive order (hereinafter the 'explanatory notes'), Danmarks Nationalbank has, based on the Law on Danmarks Nationalbank<sup>8</sup> and with the permission of the Minister for Business, decided to phase out the 1 000 DKK banknote with a view to withdrawing it altogether. In this respect, Danmarks Nationalbank is of the view that the 1 000 DKK banknote is not necessary for Danish citizens and businesses to carry out safe and efficient payments. This is inter alia reflected by the generally reduced use of cash in Denmark, with the vast majority of cash payments amounting to less than 500 DKK. According to the explanatory notes, this is also based on the fact that the 1 000 DKK banknote, to a higher degree than other Danish banknotes, represents an increased risk of being used for criminal purposes<sup>9</sup>.

- 1.3 The purpose of the draft law is to lower the existing threshold for certain cash payments to professionals from a maximum of 20 000 DKK to 15 000 DKK. The draft law enters into force on 1 March 2024.
- 1.4 The lowering of the threshold for certain cash payments applies to professionals who are not covered by the scope of application of the Law on measures to prevent money laundering and financing of terrorism<sup>10</sup> (hereinafter the 'Law on money laundering') when receiving cash, and therefore only to this specific group of business-to-business and customer-to-business payments. According to the explanatory notes<sup>11</sup>, all businesses receiving cash will, until the phasing out of the 1 000 DKK banknote, be extraordinarily exposed to an increased risk of being misused for money laundering purposes<sup>12</sup>. However, the enhanced restriction on the cash limitation prohibition applies to all cash payments, and not only payments in connection with the withdrawal of the 1 000 DKK note<sup>13</sup>. According to the explanatory notes, while the lowering of the threshold is seen to generally have a positive effect for the fight against money laundering<sup>14</sup>, the lowering of the threshold may also entail certain impediments for persons with legitimate cash holdings wanting to use their holdings of withdrawn notes in retail trades<sup>15</sup>.
- 1.5 According to the explanatory notes<sup>16</sup>, the cash prohibition limit complies with Directive (EU) 2015/849 of the European Parliament and of the Council<sup>17</sup>, according to which Member States may make additional general limitations to the use of cash.

---

7 See point 1 of the general comments to the draft law.

8 According to Section 8(3) of the Law on Danmarks Nationalbank, where the Minister of Business gives his permission, notes may be withdrawn and shall then cease to be legal tender from the date which might be fixed by ordinance from the Minister for Business. After the expiration of twelve months from this date, the withdrawn notes shall lose validity as against Danmarks Nationalbank, provided that Danmarks Nationalbank shall have the right to redeem the notes also after this time, if circumstances justify it.

9 See point 1 of the general comments to the draft law and Danmarks Nationalbank's report 'The future of Danish cash', November 2023, page 4.

10 Lov om forebyggende foranstaltninger mod hvidvask og finansiering af terrorisme, lovbekendtgørelse nr. 316 af 11. marts 2022, som senere ændret.

11 See points 1 and 1.1.2 of the general comments to the draft law.

12 See point 1 of the general comments to the draft law.

13 See number 1 of the specific comments to the draft law.

14 See points 1 and 1.1.2 of the general comments to the draft law.

15 See point 5 of the general comments to the draft law.

16 See point 8 of the general comments to the draft law.

17 See recital 6 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European parliament and of the Council and Commission Directive 2006/70/EC (OJ, L 141, 5.6.2015, p.73).

## 2. General observations

- 2.1 Denmark is exempted from participating in the third stage of the Economic and Monetary Union, pursuant to the Protocol (No 16) of the Treaty on the Functioning of the European Union (TFEU) on certain provisions relating to Denmark. As for any abrogation of the exemption, the procedure set out in Article 140 TFEU will only be initiated at Denmark's request<sup>18</sup>. Therefore, in accordance with Protocol (No 16) and Articles 139(2), point (d) TFEU, Article 128 TFEU, which states that the euro banknotes issued by the ECB and the national central banks (NCBs) shall be the only such notes to have status of legal tender within the Union, is not applicable to Denmark<sup>19</sup>. Against this specific institutional backdrop, the ECB has prepared an assessment of the relevant provisions of the draft executive order and the draft law against relevant practices in the euro area, in particular the legal requirements for the euro and the legal tender status of euro banknotes.
- 2.2 The ECB understands that the draft executive order and the draft law have been influenced by a recent report of Danmarks Nationalbank on the role of cash in a society with low usage of cash. In this context, Danmarks Nationalbank notes that cash in recent decades has played a decreasing role for Danish citizens and business<sup>20</sup>. The relative decline in cash usage for payments and savings is seen by Danmarks Nationalbank as a natural development in the light of Danes' willingness to embrace new digital payment solutions combined with, at the same time, the digitisation of Danish society. This is also the case for numerous public and private initiatives to accelerate digitalisation. According to Danmarks Nationalbank, the decline in the use of cash has meant a general decline in the demand for cash, and the development in cash usage for payments also suggests that more people will live without cash in the future. This is seen by Danmarks Nationalbank to have consequences for the role of cash in Danish society, and has already resulted in major changes to the cash infrastructure and the need to continually adopt legislation on the use of cash for payments<sup>21</sup>.
- 2.3 In terms of the decline in cash usage more specifically, the total value of cash payments in Denmark has decreased from approximately 10 % of the total value of all payments in 2021 to less than 8 % in 2023<sup>22</sup>. Moreover, in physical trade, the proportion of payments made with cash was 11 % of the total amount of payments in 2023, which is understood to be equivalent to the level in 2021. However, the ECB understands that this should be seen in the context of physical trade in Denmark, which accounts for an increasingly small share of the total number of payments due to the shift towards more online trade and ever more in-app payments on mobile phones. Moreover, it is noted that the total value of DKK banknotes and coins in circulation has remained stable since 2017, and even increased by around 10 % at the onset of the coronavirus (COVID-19) pandemic in 2020<sup>23</sup>. To the ECB, this points to the relevance of physical central bank money, notably banknotes, during situations of financial stress, but also for in-person payments at the point of sale.

18 See paragraph 2 of Protocol (No 16) of the TFEU on certain provisions relating to Denmark.

19 See paragraph 3.2 of Opinion CON/2019/5. All ECB opinions are published on EUR-Lex.

20 See Danmarks Nationalbank, 'The role of cash in a society with low usage of cash', November 2023, p. 4.

21 See Danmarks Nationalbank, 'The role of cash in a society with low usage of cash', November 2023, p. 6.

22 See Danmarks Nationalbank, 'The role of cash in a society with low usage of cash', November 2023, p. 6.

23 See Danmarks Nationalbank, 'The role of cash in a society with low usage of cash', p. 14, Chart 8.

- 2.4 The statements on the role of cash in Danish society, as expressed in the explanatory notes, contrast with the ECB's views on the role of cash in society. The ECB considers that cash continues to play an important role in society irrespective of the fact that electronic payment instruments are increasingly used for retail payments in Member States, including Denmark<sup>24</sup>. Cash is generally appreciated as a payment instrument because it is widely accepted, fast and facilitates control over the payer's spending. It is currently the only payment instrument that allows citizens to settle a transaction in central bank money, which is also settled instantly<sup>25</sup>, while, importantly, ensuring privacy. Moreover, it does not carry the legal possibility of imposing a fee for the use thereof. Cash can play an important role in the event of contingencies, such as Hurricane Katrina in the U.S. in 2005, where alternative means of payment are temporarily not functioning<sup>26</sup> and it is robust against cyber-crime<sup>27</sup>, since cash payments do not require a functional technical infrastructure or related investment but are always available. Furthermore, cash payments are not subject to daily or weekly payment limits set by entities providing underlying payment services<sup>28</sup>. In addition, cash payments also facilitate the inclusion of the entire population in the economy by allowing citizens to settle a wide range of payment transactions in this way, thus ensuring freedom of choice as to the method of payment for all citizens<sup>29</sup>. The ability to pay in cash remains particularly important for all those citizens who, for various legitimate reasons, prefer to use cash due to its unique features, rather than other payment instruments. Also, cash remains important especially for those who do not have access to the banking system and electronic means of payments. These groups include not only elderly people, but also some disabled citizens, immigrants, socially vulnerable citizens, minors and others with limited or no access to digital payment services<sup>30</sup>. The ECB surveys biennially the payment habits in the euro area which revealed that around 60 % of the euro area citizens want to have the freedom to also use cash at the point of sale. Finally, a critical mass of cash in circulation is necessary to maintain the business case for third parties involved in the cash cycle. Thus, any further cash payment limitation or suppression of a denomination could lead to a situation where the unit costs of cash deter third parties from supplying cash any longer and, as a consequence, endanger the contingency feature of cash, if the cash infrastructure and suppliers were to disappear altogether or would be insufficient to cater for an unexpected surge in cash demand.
- 2.5 These characteristics of cash are also acknowledged by the European Commission in its Retail Payments Strategy which, while promoting the emergence of digital payments to offer more options

---

24 See paragraph 2.4 of Opinion CON/2017/8 and paragraph 2.4 of Opinion CON/2020/33.

25 See paragraph 2.4 of Opinion CON/2017/8, paragraph 2.1 of Opinion CON/2019/41, paragraph 9.2.1 of Opinion CON/2020/13, paragraph 2.3 of Opinion CON/2020/21, paragraph 7.2.1 of Opinion CON/2021/9, paragraph 2.1 of CON/2021/18, paragraph 2.1 of Opinion CON/2023/7, paragraph 2.1 of Opinion CON/2023/13 and paragraph 2.1 of Opinion CON/2023/39.

26 See paragraph 2.1 of Opinion CON/2019/41, paragraph 9.2.1 of Opinion CON/2020/13, paragraph 7.2.1 of Opinion CON/2021/9, paragraph 2.3 of Opinion CON/2021/18 and paragraph 2.1 of Opinion CON/2023/39.

27 See paragraph 2.2 of Opinion CON/2021/32, paragraph 2.1.1 of Opinion CON/2023/33 and paragraph 2.1 of Opinion CON/2023/39.

28 See paragraph 2.1 of Opinion CON/2023/39.

29 See paragraphs 2.4 and 3.1 of Opinion CON/2017/8, paragraph 2.7 of Opinion CON/2017/40, paragraph 2.6 of Opinion CON/2019/4, paragraphs 2.1 to 2.3 of Opinion CON/2021/18, paragraph 7.2.1 of Opinion CON/2021/9, paragraph 2.3 of Opinion CON/2021/38, paragraph 2.1 of Opinion CON/2023/13, paragraph 2.1 of Opinion CON/2023/13 and paragraph 2.1 of Opinion CON/2023/39.

30 See paragraph 1.5 of Opinion CON/2019/41 and paragraph 2.1 of Opinion CON/2023/39.

to consumers, will continue to safeguard the legal tender of euro cash and the availability of central bank money<sup>31</sup>.

- 2.6 Against this backdrop, the ECB closely monitors any national law developments that aim to limit cash payment possibilities and thereby interfere with citizens' right to pay in cash.

### 3. Specific observations

#### *Phasing out of the 1 000 DDK banknote*

- 3.1 The 1 000 DKK banknote, which is currently the highest denomination banknote in Denmark, has an approximate value equivalent to 134 EUR<sup>32</sup>. From 1 June 2026, when the 1 000 DKK banknote has been phased out and withdrawn and, therefore, no longer has legal tender status, the highest denomination banknote in Denmark will be the 500 DKK banknote, which has an approximate value equivalent to 67 EUR.
- 3.2 In the euro area, the first series of euro banknotes was originally issued in 2002, when the euro was introduced. It comprises seven different denominations: €5, €10, €20, €50, €100, €200 and €500. In May 2016, the ECB concluded a review of the denominational structure of the second series, also known as the Europa series, of euro banknotes. The ECB has decided to permanently stop producing the €500 banknote and to exclude it from the Europa series. In view of the important circulation of this denomination and its store of value function, also at the international level, and to safeguard trust in euro banknotes, the €500 banknote will remain legal tender and can therefore continue to be used as a means of payment and store of value. The €500 banknote, like the other denominations of euro banknotes, will always retain its value and can be exchanged at the Eurosystem NCBs for an unlimited period of time. Credit institutions, bureaux de change and other professional cash handlers may recirculate the €500 banknotes<sup>33</sup>.
- 3.3 In the euro area, the three higher denominations of banknotes remain available as a means of payment. The ECB highlights the risk for the cash infrastructure and the smooth supply of cash should Member States' policies be tailored in such a way that they disincentivise or prohibit citizens from using legal tender money for payments or as a store of value. Rather, the ECB considers that policy measures should be designed to guarantee the freedom of choice on how to pay.
- 3.4 As noted above, Danmarks Nationalbank can continue to redeem 1 000 DKK banknotes for 12 months after they have been withdrawn, until and including 31 May 2026, and may subsequently still redeem such banknotes 'if circumstances justify it'. The ECB notes that a sufficiently long redemption period of the 1 000 DKK and the old series DKK banknotes would serve to uphold trust in cash, and refers to the Eurosystem policy of exchanging €500 banknotes for an unlimited period. In this context, the ECB understands that Danmarks Nationalbank will assume 'justifiable circumstances' and redeem any DKK banknotes held legitimately by any persons in the Union and the European Economic Area, who have come to possess such banknotes as a result of the free movement of

31 See COM (2020) 592 final.

32 The euro value in this opinion is based on the DKK/EUR exchange rate (7,45 DKK per EUR) on the date of receipt of the consultation request by the ECB, 1 December 2023, as published by the ECB, available at: [www.ecb.europa.eu](http://www.ecb.europa.eu).

33 See paragraph 3.1 of Opinion CON/2019/5.

capital under Article 63 TFEU, if the person holding such banknotes is for good reason unable to present them for redemption before 31 May 2026, for instance due to greater obstacles by non-residents compared to Danish residents.

*Lowering of cash prohibition limit*

- 3.5 The purpose of the draft law is to lower the existing threshold for certain cash payments to professionals from a maximum equivalent of approximately 2684 EUR to 2013 EUR.
- 3.6 Under the Treaty, the European System of Central Banks (ESCB) has the basic task of promoting the smooth operation of payment systems<sup>34</sup>, and the ECB has the exclusive right to authorise the issue of euro banknotes within the Union<sup>35</sup>. The euro banknotes issued by the ECB and the NCBs of the euro area are the only banknotes with legal tender status within the euro area<sup>36</sup>.
- 3.7 Were Denmark to initiate an abrogation of its exemption status in accordance with Protocol (No 16) TFEU on certain provisions relating to Denmark, the draft law would represent a restriction of the legal tender status of euro banknotes, which would be assessed against the relevant Union law, as set out in paragraphs 3.8 to 3.13<sup>37</sup>.
- 3.8 The concept of 'legal tender' of a means of payment denominated in a currency unit has been considered by the Court of Justice of the European Union. In particular, the Court has clarified that the concept of 'legal tender' signifies that this specific means of payment cannot generally be refused in settlement of a debt, denominated in the same currency unit, at its full face value, with the effect of discharging the debt. In clarifying the concept of 'legal tender' under Union law, the Court has taken into consideration Commission Recommendation 2010/191<sup>38</sup>, which provides useful guidance for the interpretation of the relevant provisions of Union law. Point 1 of Recommendation 2010/191 states that, where a payment obligation exists, the legal tender of euro banknotes and coins should imply (a) mandatory acceptance of those banknotes and coins; (b) their acceptance at full face value; and (c) their power to discharge from payment obligations. According to the Court, this shows that the concept of 'legal tender' encompasses, inter alia, an obligation in principle to accept banknotes and coins denominated in euro for payment purposes<sup>39</sup>.
- 3.9 The Court has clarified that the concept of 'legal tender' is a concept of Union law that must be given an autonomous and uniform interpretation throughout the European Union<sup>40</sup>. Insofar as it allows the Union legislature to lay down the measures necessary for the use of the euro as the single currency, the Court clarified that Article 133 of the Treaty empowers the Union legislature alone to specify the legal rules governing the status of legal tender accorded to banknotes and coins denominated in euro, insofar as that is necessary for the use of the euro as the single currency. In this respect, the ECB notes that, on 28 June 2023, the Commission published a proposal for a regulation on the legal tender of euro banknotes and coins, which would establish rules on the legal tender of euro

34 Article 127(2) of the Treaty and Article 3.1 of the Statute of the ESCB and the ECB.

35 First sentence of Article 128(1) of the Treaty and first sentence of Article 16 of the Statute of the ESCB and the ECB.

36 Third sentence of Article 128(1) of the Treaty and third sentence of Article 16 of the statute of ESCB Statute and the ECB.

37 See paragraph 3.1 of Opinion CON/2023/39.

38 Commission Recommendation 2010/191 of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins (OJ L 83, 30.3.2010, p. 70).

39 See judgment of 26 January 2021, *Hessischer Rundfunk*, joined cases C-422/19 and C-423/19, EU:C:2021:63, paragraphs 46 to 49.

40 See judgment of 26 January 2021, *Hessischer Rundfunk*, joined cases C-422/19 and C-423/19, EU:C:2021:63, paragraph 45.

banknotes and coins in binding Union secondary law<sup>41</sup>. The explanatory memorandum of the proposed regulation states that discussions within the Euro Tender Expert Group (ELTEG) confirmed the existence of uncertainty and important differences regarding the practical application of the concept of legal tender across the euro area<sup>42</sup>. These differences would justify establishing rules on the legal tender of euro cash in a regulation adopted under Article 133 of the Treaty. The ECB has welcomed the proposed regulation and strongly supported the establishment of rules on the legal tender status of euro banknotes and coins in secondary Union law, as well as the measures laid down in the proposed regulation regarding access to cash<sup>43</sup>.

- 3.10 The Union legislature's exclusive competence precludes any competence on the part of the Member States in this matter, unless they are acting on the basis that they have been empowered by the Union to do so or for the implementation of Union acts<sup>44</sup>.
- 3.11 However, the Court further clarified that the status of legal tender calls for acceptance in principle of banknotes and coins denominated in euro as a means of payment, not for absolute acceptance. The Union's exclusive competence in matters of monetary policy is without prejudice to the competence of Member States whose currency is the euro to regulate the procedures for settling pecuniary obligations, which do not affect the principle that, as a general rule, it must be possible to discharge a payment obligation in cash. Thus, that exclusive competence does not prevent a Member State from adopting measures falling within one of the Member State's competences; for instance, a Member State may, based on its competence to organise its public administration, oblige the public administration to accept cash payments from citizens. Neither does it prevent a Member State, in the exercise of its own powers, from introducing, on legitimate public interest grounds, a derogation from that obligation for statutorily imposed payments, subject to compliance with certain conditions. In particular, the obligation to accept euro banknotes and coins may, in principle, be restricted by the Member States for reasons of public interest and subject to the principle of proportionality. This means that any such restrictions must be proportionate to the public interest objective pursued. When limiting the possibility, recognised by Union law, of generally discharging a payment obligation in banknotes and coins denominated in euro, Member States must ensure that any measures comply with the principle of proportionality, which requires in particular that they are appropriate for achieving the legitimate objectives pursued by the legislation at issue and do not go beyond what is necessary in order to achieve those objectives<sup>45</sup>.
- 3.12 The Court has established that restrictions of the legal tender status of euro banknotes in particular require that the legislation (i) does not have the object or effect of establishing legal rules governing the status of legal tender of euro banknotes; (ii) does not lead, in law or in fact, to abolition of those banknotes, in particular by calling into question the possibility, as a general rule, of discharging a payment obligation in cash; (iii) has been adopted for reasons of public interest; (iv) only entails a

---

41 Proposal of the European Commission of 28 June 2023 for a regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins (COM(2023) 364 final).

42 See the explanatory memorandum of the proposed regulation on the legal tender of euro banknotes and coins section 3, page 4, and the Final report of the Euro Legal Tender Expert Group (ELTEG) of 6 July 2022.

43 See paragraphs 1.1 and 1.2 of Opinion CON/2023/31.

44 See judgment of 26 January 2021, *Hessischer Rundfunk*, joined cases C-422/19 and C-423/19, EU:C:2021:63, paragraphs 50 to 52.

45 See judgment of 26 January 2021, *Hessischer Rundfunk*, joined cases C-422/19 and C-423/19, EU:C:2021:63, paragraphs 55 to 56 and 67 to 70.

limitation in on payments in cash that does not go beyond what is necessary in order to achieve the public interest objective<sup>46</sup>.

- 3.13 Regarding the proportionality of a restriction of the legal tender status of euro banknotes, the Court requires not only that the measure is appropriate for attaining the public interest objective pursued, but also that it must not go beyond what is necessary in order to achieve that objective. The ECB has opined on whether limitations may be considered appropriate<sup>47</sup>. In particular, the ECB has noted that the broader and more general a limitation is, the stricter should be the interpretation of the requirement for the limitation to be proportionate to the objective pursued<sup>48</sup>. When considering whether a limitation is proportionate, the adverse impact of the limitation in question and whether alternative measures could be adopted that would fulfil the relevant objective with less adverse impact should always be considered<sup>49</sup>.
- 3.14 The draft law does not have the objective or the effect of amending the legal rules governing the status of legal tender of euro banknotes or coins. The draft law does not lead, in law or in fact, to the abolition of banknotes in Denmark, in particular by calling into question the possibility, as a general rule, of discharging a payment obligation in cash<sup>50</sup>.
- 3.15 According to the explanatory notes<sup>51</sup>, the draft law is, as mentioned above, proposed to be adopted for reasons of public interest. More specifically, all businesses receiving cash are seen, until the phasing out of the 1 000 DKK banknote, to be extraordinarily exposed to an increased risk of being misused for money laundering purposes, whilst the risk is thought to be particularly high for professionals not subject to the procedures for fighting money laundering under the Law on money laundering. Therefore, it is considered necessary to enhance the protection against money laundering in retail and other trades where cash is accepted by lowering the threshold for certain cash payments, as a consequence of the phasing out of the 1 000 DKK banknote.
- 3.16 The draft law's objective of combating money laundering may, in general, constitute a 'public interest reason' justifying the dis-incentivisation of, and the resulting limitation on, the use of cash payments<sup>52</sup>. It is, however, difficult for the ECB to assess whether the measure contained in the draft law is appropriate for attaining the public interest objective pursued, and whether it goes beyond what is necessary in order to achieve that objective, especially in view of the absence of a concrete impact assessment of the expected effect of the draft law<sup>53</sup>.
- 3.17 The proposal for lowering the threshold for certain cash payments follows two previous reductions of the same threshold in 2013 and 2020 respectively, on which the ECB was consulted and adopted opinions<sup>54</sup>. In 2013, the cash prohibition limit was reduced from 100 000 DKK (approximately

---

46 See judgment of 26 January 2021, *Hessischer Rundfunk*, joined cases C-422/19 and C-423/19, EU:C:2021:63, paragraph 78.

47 See paragraph 4 of Opinion CON/2022/5.

48 See paragraph 2.7 of Opinion CON/2017/8, paragraph 2.11 of Opinion CON/2021/18 and paragraph 2.8 of Opinion CON/2023/39.

49 See paragraph 2.7 of Opinion CON/2017/8 and paragraph 2.7 of Opinion CON/2019/39, and paragraph 2.8 of Opinion CON/2023/39.

50 See paragraph 4.6 of Opinion CON/2022/5 and paragraph 3.2 of Opinion CON/2023/39.

51 See points 1 and 1.1.2 of the general comments to the draft law.

52 See, amongst others, paragraph 2.2 of Opinion CON/2014/37, paragraph 2.4 of Opinion CON/2017/18, paragraph 2.5 of Opinion CON/2017/40, paragraph 2.3 of Opinion CON/2019/46, paragraph 4 of Opinion CON/2022/5, paragraph 2.10 of Opinion CON/2022/43 and paragraph 3.6 of Opinion CON/2023/39.

53 See paragraph 3.7 of Opinion CON/2023/39.

54 See Opinion CON/2013/9 and Opinion CON/2020/33.



equivalent to 13 422 EUR) to 50 000 DKK (approximately equivalent to 6 711 EUR). At the time, the ECB noted<sup>55</sup> that any impact of the proposed provisions should be carefully weighed against the public benefits expected to be derived from them. Also, in view of the fact that the measures affected relatively low value payments, competent authorities should ensure that the effects of these measures do not go beyond what is necessary for achieving the objective of combating money laundering and financing of terrorism. In 2020, the explanatory notes of that draft law did not clarify what the impact had been of the lowering of the threshold since its introduction and adoption in 2013. Moreover, in 2020 the explanatory notes did not clarify why, seven years after the lowering of the threshold for certain cash payments, the threshold needed to be further reduced to just around one fifth of the pre-2013 threshold<sup>56</sup>. Likewise, the explanatory notes of the current draft law do not in any manner address the effect of the two previous reductions of the threshold. Neither do they contain any discussion as to possible alternatives to the proposed reduction. For instance, one possible alternative could have been to restrict the reduction of the threshold to only apply to cash payments made in 1 000 DKK banknotes instead of making it applicable to all cash payments irrespective of the banknote denominations used. For these reasons, it is difficult for the ECB to assess whether the objective of the current draft law will be effective.

- 3.18 The ECB also notes that the effect of the current inflation rates throughout Europe on the purchasing power of money is something which should also be taken into account when assessing whether the cash prohibition limit proposed in the draft law is proportionate to the public interest objective pursued.
- 3.19 The ECB acknowledges that other lawful means for the settlement of monetary debts with similar benefits to those of cash are generally available in Denmark above the proposed threshold equivalent to approximately 2013 EUR. Moreover, as noted above, the proposal to further lower the threshold for certain cash payments applies only to professionals who are not covered by the scope of application of the Law on measures to prevent money laundering and financing of terrorism, when receiving cash. Thus, the lowering of the threshold applies only to this specific group of business-to-business and customer-to-business payments. In this respect, the ECB welcomes the fact that this restriction is not intended to apply to payments between consumers, in the same way as is the case for the existing restriction of 20 000 DKK. However, as noted above, no substantiation has been provided in the explanatory notes on the effect of the previous 2013 and 2020 reductions of the cash limitations.<sup>57</sup> If such measures have not produced the desired effects, it is hard to understand why lowering that threshold to 15 000 DKK would be considered more appropriate and more effective<sup>58</sup>. Moreover, in respect of contingencies where alternative means of payment are temporarily not functioning, flexibility should be ensured for the settlement of payment obligations in cash.

---

55 See paragraph 2.3 of Opinion CON/2013/9.

56 See paragraph 2.9 of Opinion CON/2020/33.

57 See also paragraph 3.5 of Opinion CON/2022/9, with a view to fighting fiscal fraud, the limitation of cash payments from 2 500 EUR to 1 000 EUR was considered to be disproportionate, where at least one of the parties to the transaction acts in a professional or business capacity.

58 See paragraph 3.10 of Opinion CON/2023/39.

3.20 Against this background, it is therefore questionable whether or not the draft law could be considered proportionate to the objective pursued.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 12 January 2024.

A handwritten signature in black ink, appearing to read 'Chiyard', written in a cursive style.

*The President of the ECB*

Christine LAGARDE