EUROPEAN CENTRAL BANK

EUROSYSTEM

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OPINION OF THE EUROPEAN CENTRAL BANK

of 8 October 2026

on the right to use cash, access to cash, electronic means of payment, and free payment services

(CON/2026/32)

Introduction and legal basis

On 24 July 2026 the European Central Bank (ECB) received a request from the Slovenian Ministry of Finance for an opinion on a draft law on accessibility and use of means of payment instruments (hereinafter the 'draft law').

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 Article 2(1), first, second, third, and fifth indents, of Council Decision 98/415/EC[1], as the draft law relates to currency matters, means of payment, Banka Slovenije and payment and settlement systems. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. General

1.1 *Purpose of the draft law*

1.1.1 Based on the explanatory memorandum accompanying the draft law (hereinafter the 'explanatory memorandum'), the purpose of the draft law is to implement the new Article 74a of the Slovenian Constitution, entitled 'Right to use cash', which provides as follows: 'Everyone has the right, in accordance with the law, to use cash in banking transactions and other forms of legal transactions.' The draft law is intended to guarantee the direct and full realisation of this right in practice.

1.1.2 Based on the explanatory memorandum, the primary objective of the draft law is to enable consumers and businesses to make payments and access cash, and to pay by various electronic means of payment at most points of sale. The draft law will enable the implementation of the abovementioned new constitutional provision, while also contributing to the implementation of the Commission's Retail Payments Strategy for the EU[2] and following the guidelines on digital development. The explanatory memorandum notes that cash remains relatively easily accessible to the majority of the population of Slovenia, notwithstanding the trend of removing automated teller machines (ATMs) and closing bank branches across Slovenia over the past 15 years. According to the available data, the number of ATMs has decreased by just under 30 % and the number of credit institution branches by around 50 % since 2011. At the end of 2025, there were 1 304 ATMs and 820 branches (452 of which were in post offices) in Slovenia. Taking into account that Slovenia

1 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, ELI: http://data.europa.eu/eli/dec/1998/415/oj).

2 COM(2020) 592 final.

had a population of 2 135 107 on 1 January 2026[3], this corresponds to 61,1 ATMs and 38,1 branches per 100 000 inhabitants. Overall, at the end of 2025, 91 % of the population had access to cash within a road distance of five kilometres. The objective of the draft law is to gradually increase the share of the population with access to a cash access point within a road distance of five kilometres to 95 %.

1.1.3 The explanatory memorandum also notes that another key objective of the draft law is to provide a free package of payment services for consumers who receive regular income into a payment account or a basic payment account, and to remove financial barriers to the use of services that are essential for receiving salaries, pensions, social benefits and scholarships, as well as for making everyday payments. The free package of payment services is intended to reduce household costs and promote financial inclusion.

1.1.4 The explanatory memorandum notes that the draft law also aims to strengthen the social protection of vulnerable groups, enhance legal certainty and the predictability of costs for consumers, and ensure an appropriate balance between the social function of basic payment services and the competitive functioning of the banking market. To this end, it establishes a framework under which the basic payment services necessary for receiving and using regular income are accessible to all eligible persons under equal conditions, while ensuring that the measures are proportionate and subject to effective supervision.

1.2 *General Observations*

1.2.1 The ECB was previously consulted on draft proposals to amend the Slovenian Constitution by adding to it the abovementioned new Article 74a, pursuant to which the draft law is to be adopted, and adopted two opinions thereon[4]. In those opinions, the ECB considered that, insofar as the proposed constitutional provision established a general right for everyone to use cash in legal transactions, it effectively laid down as a general rule the mandatory acceptance of euro cash as a means of payment. The ECB therefore considered that, in the light of its objective and content, the provision appeared not to regulate the procedures for settling pecuniary obligations in the exercise of national powers, but rather to regulate the status of euro cash as legal tender, which is an area of exclusive competence of the Union under Article 133 of the Treaty[5].

1.2.2 The ECB welcomes the basic objective of the draft law to safeguard the functionality of cash as a means of payment and to ensure that consumers and other entities can pay by at least one electronic means of payments at most points of sale in Slovenia. The ECB also welcomes the objective of ensuring that basic payment services remain affordable, thereby mitigating the risk that individuals are excluded financially. This is in line with the objectives of the ECB's comprehensive payment strategy, which, inter alia, focuses on achieving innovative euro retail payments and considers financial inclusion to be an important element of this aim.

1.2.3 As the ECB has noted previously, cash continues to play an important role in society. Cash is generally useful as a payment instrument because it is legal tender, widely accepted, fast and facilitates control over the payer's spending. Moreover, it is currently the only payment instrument

3 Source: Statistical Office of the Republic of Slovenia (SURS).

4 See Opinions CON/2024/26 and CON/2025/26. All ECB opinions are published on EUR-Lex.

5 See paragraph 3.2.4 of Opinion CON/2024/26 and paragraphs 3.2.3 and 3.2.4 of Opinion CON/2025/26.

that allows citizens to settle a transaction instantly and directly between two parties in central bank money, while ensuring privacy[6]. Cash payments facilitate the inclusion of the entire population in the economy by allowing it to settle any kind of financial transaction in this way, thus ensuring freedom of choice as to the method of payment for all citizens[7]. The ability to pay in cash remains particularly important for those who, for various legitimate reasons, prefer to use physical money for payments rather than other payment instruments, or do not have access to the banking system and electronic means of payment. These groups include not only elderly people but also people with disabilities, immigrants, socially vulnerable people, minors and others with limited or no access to digital payment services[8]. Given the high relevance of cash for citizens and the wide use of cash as a means of payment, it is also important that businesses can effectively use cash in their transactions with other businesses[9].

1.2.4 Furthermore, cash may play an important role in the event of a disturbance in the payment system[10] and it is robust against cybercrime[11] and power outages as it guarantees person-to-person payment transactions in such situations. Cash also has an important function as a store of value. The availability and accessibility of cash and its fallback function in case of disruptions to electronic payment systems contribute to trust in the financial system, which is important for the smooth functioning of monetary policy[12].

1.2.5 Against this backdrop, the ECB closely monitors any national law developments that aim to put a limit on cash payments which, as a result, interfere with citizens' or entrepreneurs' right to pay in cash[13].

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6 See, for example, 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 Opinion CON/2021/18, paragraph 2.1 of Opinion CON/2023/7, paragraph 1.8 of Opinion CON/2023/31 of the European Central Bank of 13 October 2023 on a proposal for a regulation on the legal tender of euro banknotes and coins (OJ C, C/2023/1355, 1.12.2023, ELI: http://data.europa.eu/eli/C/2023/1355/oj), paragraph 2.1 of Opinion CON/2024/1, paragraph 2.1 of Opinion CON/2024/3, paragraph 2.1 of Opinion CON/2024/8, paragraph 2.1 of Opinion CON/2024/19, paragraph 2.1 of Opinion CON/2024/22, paragraph 2.5 of Opinion CON/2024/39, paragraph 2.2 of Opinion CON/2025/21, paragraph 2.2 of Opinion CON/2025/26, paragraph 2.2 of Opinion CON/2026/3, paragraph 2.1 of Opinion CON/2026/14 and paragraph 2.1 of Opinion CON/2026/22.

7 See paragraph 2.1 of Opinion CON/2024/3, paragraph 2.1 of Opinion CON/2024/8, paragraph 2.1 of Opinion CON/2024/19, paragraph 2.1 of Opinion CON/2024/22, paragraph 2.1 of Opinion CON/2026/14 and paragraph 2.1 of Opinion CON/2026/22.

8 See, for example, 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 2.3 of Opinion CON/2021/18, paragraph 2.1 of Opinion CON/2023/13, paragraph 1.7 of Opinion CON/2023/31, paragraph 2.1 of Opinion CON/2024/1, paragraph 2.4 of Opinion CON/2024/2, paragraph 2.1 of Opinion CON/2024/3, paragraph 2.1 of Opinion CON/2024/8, paragraph 2.1 of Opinion CON/2024/22, paragraph 2.5 of Opinion CON/2024/39, paragraph 2.2 of Opinion CON/2025/26, paragraph 2.2 of Opinion CON/2026/14 and paragraph 2.1 of Opinion CON/2026/22.

9 See, for example, paragraph 2.1 of Opinion CON/2026/22.

10 See, for example, paragraph 2.1 of Opinion CON/2019/41, paragraph 9.2.1 of Opinion CON/2020/13, paragraph 2.3 of Opinion CON/2021/18, paragraph 2.1 of Opinion CON/2024/1, paragraph 2.4 of Opinion CON/2024/2, paragraph 2.1 of Opinion CON/2024/3, paragraph 2.1 of Opinion CON/2024/8, paragraph 2.1 of Opinion CON/2024/26, paragraph 2.5 of Opinion CON/2024/39, paragraph 2.2 of Opinion CON/2025/26, paragraph 2.2 of Opinion CON/2026/14 and paragraph 2.2 of Opinion CON/2026/22.

11 See, for example, paragraph 2.2 of Opinion CON/2021/32, paragraph 2.1 of Opinion CON/2024/1, paragraph 2.4 of Opinion CON/2024/2, paragraph 2.5 of Opinion CON/2024/39, paragraph 2.2 of Opinion CON/2025/26, paragraph 2.2 of Opinion CON/2026/14 and paragraph 2.2 of Opinion CON/2026/22.

12 See, for example, paragraph 2.2 of Opinion CON/2024/8, paragraph 2.2 of Opinion CON/2024/19, paragraph 2.2 of Opinion CON/2024/22, paragraph 2.5 of Opinion CON/2024/39, paragraph 2.5 of Opinion CON/2025/14, paragraph 2.2 of Opinion CON/2025/26, paragraph 2.3 of Opinion CON/2026/3, paragraph 2.2 of Opinion CON/2026/14 and paragraph 2.2 of Opinion CON/2026/22.

13 See, for example, paragraph 2.3 of Opinion CON/2026/22.

1.2.6 Finally, the costs for credit institutions of implementing the new obligations under the draft law should be taken into account by the Slovenian legislator.

2. Mandatory acceptance of payments in cash, exceptions, and prohibition of surcharges

2.1 *Purpose of the relevant provisions of the draft law*

2.1.1 Article 3 of the draft law provides that, in accordance with Article 128(1) of the Treaty, Article 11 of Council Regulation (EC) No 974/98[14] and the Slovenian Law governing the introduction of the euro[15], suppliers of goods and services must accept cash payments at the point of sale. For this purpose, a point of sale is defined as a physical or online place where a consumer is able to pay for goods or services[16]. The explanatory memorandum notes that the purpose of this provision is to give effect to the constitutional right to use cash by translating the pre-existing legal concept of the legal tender status of euro banknotes and coins into a clear and enforceable obligation to accept cash payments at the point of sale.

2.1.2 The draft law provides for six exceptions to the general obligation to accept cash[17]. As noted in the explanatory memorandum, these exceptions are based on the constitutional nature of the right to use cash as a relative rather than an absolute constitutional right and are intended to comply with the principle of proportionality. The explanatory memorandum further states that they are consistent with the case-law of the Court of Justice of the European Union in Joined Cases C-422/19 and C-423/19[18] and, to a large extent, follow the proposal for a regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins[19] (hereinafter the 'proposed regulation on the legal tender of euro cash').

2.1.3 The first exception permits suppliers of goods or services not to accept a cash payment where the payment is made with a banknote of EUR 100 or more and the value of the banknote is manifestly disproportionate to the amount due[20]. The explanatory memorandum notes that the purpose of this exception is to protect suppliers of goods or services against disproportionate risks relating to the availability of change and liquidity, while not materially restricting the consumer's ability to pay in cash, as lower denomination euro banknotes or euro coins remain available.

2.1.4 The second exception permits suppliers of goods or services not to accept a cash payment where they exceptionally do not have sufficient change available or where accepting the payment would leave them without sufficient change for their ordinary daily business transactions[21]. The explanatory memorandum notes that this exception is intended to address a practical and objectively verifiable circumstance that is consistent with the principle of proportionality because it

14 Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1, ELI: http://data.europa.eu/eli/reg/1998/974/oj).

15 Zakon o uvedbi eura (ZUE), Uradni list RS, št. 114/06.

16 Article 2 of the draft law.

17 Article 4 of the draft law.

18 See judgment of 26 January 2021, *Hessischer Rundfunk*, C-422/19 and C-423/19, ECLI:EU:C:2021:63 (hereinafter the 'judgment in *Hessischer Rundfunk*').

19 COM(2023) 364 final.

20 Article 4(1), point (1), of the draft law.

21 Article 4(1), point (2), of the draft law.

is temporary in nature and does not amount to a general exclusion of cash.

2.1.5 The third exception permits the payer and the payee to agree, prior to the payment and in accordance with the applicable rules, on an alternative means of payment. The draft law further provides that a notification by the supplier that it does not accept cash constitutes an ex ante unilateral exclusion of cash and is not in accordance with this provision[22]. The explanatory memorandum notes that this provision is intended to prevent the obligation to accept cash from being gradually undermined through the unilateral exclusion of cash by suppliers, without consumers having a genuine opportunity to choose or negotiate another means of payment.

2.1.6 The fourth exception permits suppliers of public passenger transport services not to accept cash on board vehicles, provided that cash payment is available before the service is used at the supplier's ticket office or at another point of sale located within one kilometre of the public transport stop[23]. The explanatory memorandum notes that this provision seeks to reconcile the practical need to facilitate passenger boarding with the commitment to preserve the availability of cash payments for passenger transport services, while ensuring that this is achieved in a manner that is less burdensome for transport operators.

2.1.7 The fifth exception excludes distance sales, including online sales, from the obligation to accept cash, except where the supplier offers in-person collection and payment at its point of sale[24]. The explanatory memorandum notes that this exception appropriately limits the obligation to accept cash to circumstances in which the supplier and the consumer are physically present at the same time.

2.1.8 The sixth exception provides that additional exceptions to the obligation to accept cash may be laid down by other legislation[25]. The explanatory memorandum notes that this is intended to ensure consistency with specific legal regimes in other areas of law without duplicating such provisions in the draft law. As an example, the explanatory memorandum refers to Article 36 of the Law on tax procedure[26], which generally requires legal and other persons, sole proprietors, self-employed individuals, public authorities and holders of public authority to make payments for supplied goods and services, as well as other payments, by transfer to the recipients' payment accounts, subject to certain exceptions.

2.1.9 The draft law further provides that, in relation to the first, second and third exceptions, the burden of proof rests with the supplier of goods or services[27].

2.1.10 Furthermore, the draft law prohibits suppliers of goods or services from charging a fee for payments made in cash[28].

22 Article 4(1), point (3), of the draft law.
23 Article 4(1), point (4), of the draft law.
24 Article 4(1), point (5), of the draft law.
25 Article 4(1), point (6), of the draft law.
26 Zakon o davčnem postopku, Uradni list RS, št. 13/11 – uradno prečiščeno besedilo, s spremembami in dopolnitvami.
27 Article 4(2) of the draft law.
28 Article 5 of the draft law.

2.2 *General observations*

2.2.1 The ECB has the exclusive right to authorise the issue of euro banknotes within the Union, and the euro banknotes issued by the ECB and the national central banks of the euro area are the only banknotes with legal tender status within the euro area[29]. The legal tender status of euro coins is provided for in secondary Union law[30].

2.2.2 The concept of 'legal tender' as 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 of Justice 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 of Justice took into consideration Commission Recommendation 2010/191/EU[31], 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 of Justice, 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[32].

2.2.3 However, the Court of Justice further clarified that the status of legal tender calls only 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 the Member States whose currency is the euro to regulate the procedures for settling pecuniary obligations, provided, in particular, that the legislation does 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 a measure 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 all measures comply with the principle of proportionality, which requires in particular that they are

29 Article 128(1), first and third sentences, of the Treaty and Article 16, first paragraph, first and third sentences, of the Statute of the European System of Central Banks and of the European Central Bank.

30 Article 11 of Regulation (EC) No 974/98.

31 Commission Recommendation 2010/191/EU 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, ELI: http://data.europa.eu/eli/reco/2010/191/oj).

32 See the judgment in *Hessischer Rundfunk*, paragraphs 46 to 49.

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[33].

2.2.4 The Court of Justice has established that restrictions of the legal tender status of euro banknotes in particular require that the legislation (a) does not have the object or effect of establishing legal rules governing the status of legal tender of euro banknotes; (b) 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; (c) has been adopted for reasons of public interest; (d) only entails a limitation on cash payments that is appropriate for attaining the public interest objective pursued; and (e) only entails a limitation on cash payments that does not go beyond what is necessary in order to achieve the public interest objective[34].

2.2.5 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 undertaken additional reflections in its opinions with respect to whether limitations may be considered proportionate[35]. In particular, the ECB has noted that the broader and more general a limitation is, the stricter the interpretation of the proportionality requirement should be. When assessing whether a limitation is proportionate, the adverse impact of the limitation in question should always be considered, as well as whether alternative measures exist capable of fulfilling the relevant objective with a less adverse impact[36].

2.2.6 The Court of Justice 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 Union[37]. It has also established 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. Furthermore, the Union legislature's exclusive competence precludes any competence on the part of the Member States in the matter, unless they have been empowered by the Union to do so or for the implementation of Union acts[38]. In this respect, the ECB notes that, on 28 June 2023, the Commission published the proposed regulation on the legal tender of euro cash, which will establish rules on the legal tender of euro banknotes and coins in binding Union secondary law. The explanatory memorandum accompanying the proposed regulation on the legal tender of euro cash states that discussions within the Euro Legal Tender Expert Group (ELTEG) confirmed the existence of legal uncertainty regarding the legal tender of euro cash and differing application of its principles in the euro area[39].

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33 See the judgment in *Hessischer Rundfunk*, paragraphs 55 to 56 and 67 to 70.

34 See the judgment in *Hessischer Rundfunk*, paragraph 78.

35 See, for example, paragraph 4 of Opinion CON/2022/5 of the European Central Bank of 16 February 2022 on a proposal for a directive and a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ C 210, 25.5.2022, p. 15).

36 See, for example, paragraph 2.7 of Opinion CON/2017/8, paragraphs 2.8 and 2.9 of Opinion CON/2022/9, paragraph 2.8 of Opinion CON/2026/3, paragraph 4.2.6 of Opinion CON/2026/14 and paragraph 3.7 of Opinion CON/2026/22.

37 See the judgment in *Hessischer Rundfunk*, paragraph 45.

38 See the judgment in *Hessischer Rundfunk*, paragraphs 50 to 52.

39 See section 3, page 4 of the explanatory memorandum accompanying the proposed regulation on the legal tender of euro cash and Principle 6 of the final report of ELTEG of 6 July 2022, available on the Commission's website at www.ec.europa.eu. See also Opinion CON/2023/31, paragraph 2.9 of Opinion CON/2026/3, paragraph 4.2.7 of Opinion CON/2026/14 and paragraph 3.8 of Opinion CON/2026/22.

These differences would justify establishing rules on the legal tender of euro cash in a regulation adopted under Article 133 of the Treaty.

2.3 *Specific observations*

2.3.1 The ECB notes that Article 3 of the draft law establishes the general obligation to accept cash (from which the exceptions discussed in paragraph 2.1 derogate). The Court of Justice has held that one must assess the objective and content of a national law measure that provides for an obligation to accept euro cash to determine whether the measure has been adopted within the framework of the Member States' competences[40], or whether it establishes legal rules governing the status of legal tender of euro banknotes and coins, which is an area of exclusive competence of the Union under Article 133 of the Treaty.

2.3.2 As regards the objective of Article 3 of the draft law, the explanatory memorandum states that the general obligation to accept cash aims to translate the pre-existing concept of the legal tender status of euro cash into an enforceable obligation to accept cash payments at the point of sale. The draft law seems to be conceived as implementing the constitutional right to cash laid down in Article 74a of the Slovenian Constitution. In this regard, the explanatory memorandum states that, with respect to the right to cash, since the adoption of the new Article 74a of the Constitution does not in itself guarantee the direct and full realisation of this right in practice, and since the constitutional provision expressly provides that the right is to be exercised in accordance with the law, a proposal for an implementing act laying down rules on the use of cash, i.e. its acceptance and accessibility, has been drawn up. It therefore appears that the objective of Article 3 of the draft law is to ensure the acceptance of euro cash as a right of general application. In this respect, the ECB notes that the explanatory memorandum does not comprehensively articulate the Member State's public interest objective in this regard. Furthermore, the ECB understands that Article 3 of the draft law, once adopted, would be part of a new and separate piece of legislation in the Slovenian legal order, rather than amending existing national legal rules[41], for example relating to consumer protection.

2.3.3 As for the content of the measure, the definition of a point of sale set out in the draft law[42] refers to a place where a consumer is able to pay for goods or services, indicating that the right to pay in cash applies to business-to-consumer transactions. However, in the absence of a clearly specified Member State public interest objective, the explanatory memorandum also does not elaborate on how the rule on acceptance of payment in cash set out in Article 3 of the draft law is proportionate to the national public interest objective, for example by regulating only business-to-consumer transactions up to a certain amount[43] or concluded in specific establishments[44]. The ECB thus understands that, in the light of its content and objective, Article 3 of the draft law does not regulate the procedures for settling pecuniary obligations in the exercise of national powers; rather, it appears to regulate the status of euro cash as legal tender.

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40 See the judgment in *Hessischer Rundfunk*, paragraphs 56 to 58. See also paragraph 3.2.2 of Opinion CON/2024/26 and paragraph 3.2.2 of Opinion CON/2025/26.

41 See lines 11 to 18 of paragraph 3.4 of Opinion CON/2024/39.

42 See Article 2, point (24), of the draft law.

43 See paragraphs 2.3 and 3.4 of Opinion CON/2024/39.

44 See paragraphs 1.3.1 and 4.3.2 of Opinion CON/2026/14.

2.3.4 Furthermore, if Article 3 of the draft law is to be understood as regulating the status of euro cash as legal tender, it must also be considered whether it can be said to reproduce provisions of Union law. In this context, the ECB notes that, although the reproduction of directly applicable Union law in national legislation should in principle be avoided, where such reproduction is warranted in exceptional circumstances, it should be made explicitly and by reference to Union law[45]. The ECB therefore welcomes the fact that this provision of the draft law expressly provides that the obligation to accept cash applies in accordance with Article 128(1) of the Treaty and Article 11 of Regulation (EC) No 974/98. However, this provision of the draft law does not only include a mere reference to existing Union law but also contains wording which does not appear in the legal sources in Union law ('At the point of sale, a supplier of goods or services must accept a payment in cash'). Article 3 of the draft law thereby potentially creates regulatory content of its own, which, if understood as regulating the status of euro cash as legal tender, would not be in line with the Union's exclusive competence in matters of monetary policy for Member States whose currency is the euro.

2.3.5 In the light of the above, the ECB recommends the deletion of Article 3 of the draft law. Alternatively, if the intention of Article 3 of the draft law is to reproduce Union law, the provision should either be deleted or amended to merely refer to the relevant provisions of Union law.

2.4 *Exceptions to the obligation to accept cash payments that relate to the specific nature of activities*

2.4.1 Article 4 of the draft law sets out the exceptions to the general obligation to accept cash. It must again be considered whether the measures set out in Article 4 of the draft law, in the light of their objective and content, establish legal rules governing the status of legal tender of euro banknotes and coins, which is an area of exclusive competence of the Union under Article 133 of the Treaty, or are measures taken in the exercise of a competence of the Member States (as discussed in paragraph 2.3.1). The exceptions to the obligation to accept cash set out in Article 4(1), points (1), (2), (3) and (5), of the draft law correspond to several of the provisions set out in the proposed regulation on the legal tender of euro cash[46]. The inclusion of these provisions in the proposed regulation on the legal tender of euro cash indicates that the Union legislative institutions consider this to be a monetary law matter, which is an area of exclusive competence of the Union under Article 133 of the Treaty. The ECB, therefore, recommends that Article 4(1), points (1), (2), (3) and (5), of the draft law should be deleted.

2.4.2 The explanatory memorandum justifies the exception permitting suppliers of public passenger transport services not to accept cash on board vehicles, provided that cash payment remains available before the service is used at the supplier's ticket office or another point of sale located within one kilometre of the public transport stop[47], by reference to the practical need to facilitate

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45 See, for example, paragraph 12 of Opinion CON/2005/21 with reference to the judgment of the Court of Justice of 28 March 1985, *Commission* v *Italian Republic*, C-272/83, ECLI:EU:C:1985:147, paragraph 2.2 (footnote 6) of Opinion CON/2007/43, paragraph 2.4 of Opinion CON/2022/15, paragraph 2.2.6 of Opinion CON/2023/33, paragraph 3.3.2 of Opinion CON/2024/1, paragraph 3.1.3 of Opinion CON/2024/26 and paragraph 3.2.7 of Opinion CON/2025/26.

46 Article 2(2), Article 5(1), point (b), and Article 5(2), points (i) and (ii), of the proposed regulation on the legal tender of euro cash; Article 2(2), Article 4a, Article 5(1), point (b), and Article 5(2), points (i) and (ii), of the Council Mandate for negotiations with the European Parliament 16697/25; Article 2(2), Article 5(1), point (b), Article 5(2), points (i) and (ii), and Article 5a of the Amendments by the European Parliament to the Commission proposal in the Draft European Parliament Legislative Resolution on the proposal for a regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins, available on the European Parliament's website at www.europarl.europa.eu.

47 Article 4(1), point (4), of the draft law.

passenger boarding. This exception thus appears to pursue an objective relating to the organisation and efficient provision of public passenger transport services, rather than one related to the regulation of the legal tender status of euro cash as such. The exception differs from a blanket restriction on cash payments in public transport[48] by being conditional upon the continued availability of cash payments at the supplier's ticket office or another point of sale located within one kilometre of the public transport stop before the service is used. The ECB has previously acknowledged that, in the area of public transport, alternatives to cashless payment may be offered to a sufficient standard where passengers have nearby alternative options for purchasing tickets[49]. In this respect, the ECB considers that the requirement that an alternative point of sale must be located no more than one kilometre from the public transport stop may merit further consideration. Public passenger transport constitutes an essential service that should remain accessible to all users, including vulnerable groups such as older persons and persons without access to electronic means of payment[50]. The ECB therefore invites the Slovenian legislator to assess whether the proposed distance ensures that all passengers are able, in practice, to continue using public transport seamlessly while retaining the possibility of paying in cash, or whether alternative arrangements, such as ticket vending machines or ticket purchasing options at kiosks or other types of shops located at, or close to, the public transportation stops, could provide more effective access to cash payments while still accommodating the operational needs of public passenger transport operators.

2.4.3 Article 5 of the draft law stipulates that a provider of goods or services may not charge a fee when accepting a cash payment. The explanatory memorandum notes that the purpose of this provision is to avoid discouraging consumers from using cash as a means of payment and putting cash at a disadvantage compared to electronic means of payment. Since the scope of the provision is not limited to a specific social group or type of transaction, its objective seems to be to safeguard the acceptance of cash for the entire population and for all kinds of legal transactions.

2.4.4 The ECB notes that in interpreting the concept of legal tender, the Court of Justice referred to Recommendation 2010/191/EU[51], Point 4 of which provides that 'no surcharges should be imposed on payments with euro banknotes and coins'. The ECB thus understands that, in the light of its objective and content, Article 5 of the draft law appears to regulate the status of euro cash as legal tender which is an area of exclusive competence of the Union under Article 133 of the Treaty. The ECB, therefore, recommends that Article 5 of the draft law should be deleted.

3. Accessibility of basic payment services

3.1 *Purpose of the relevant provisions of the draft law*

3.1.1 The explanatory memorandum notes that the third chapter of the draft law concerns the accessibility of basic payment services, which credit institutions are to ensure through a network of cash access points for consumers and suppliers of goods or services. A 'cash access point for

48 See, for example, paragraph 3.4.4 of Opinion CON/2026/3.
49 See, for example, paragraph 2.5 of Opinion CON/2021/18.
50 See, for example, paragraph 3.4.4 of Opinion CON/2026/3.
51 See the judgment in *Hessischer Rundfunk*, paragraphs 46 to 49.

consumers' is defined as an ATM, a credit institution branch or postal branch providing basic payment services and personal assistance, or an alternative cash access point[52]. A 'credit institution' is defined as an institution having its registered office in the Republic of Slovenia, whereby, for the purposes of the draft law a branch of a credit institution having its registered office in another Member State or a third country and providing banking and financial services in the Republic of Slovenia is also considered a credit institution, insofar as its activities in the territory of the Republic of Slovenia are concerned[53].

3.1.2 The draft law provides that a network of cash access points for consumers is to be provided by credit institutions and Pošta Slovenije in order to ensure sufficient and effective access to basic payment services throughout Slovenia. It further provides that at least 95 % of the population must have access to cash within a maximum road distance of five kilometres from the centre of populated one-square-kilometre grid cells[54]. Exceptionally, until 31 December 2029, the network of cash access points for consumers is required to provide access to cash to at least 90 % of the population of Slovenia[55]. Alternative cash access points may be taken into account as part of the network under the conditions laid down in the draft law. Credit institutions operating exclusively through distance channels without ATMs or physical branches are exempted from this obligation. Banka Slovenije is empowered to specify, with the consent of the ministry responsible for finance, the methodology for determining the geographical coverage of cash access points by secondary legislation[56], which is to be adopted within three months of the entry into force of the draft law[57].

3.1.3 The draft law provides that a network of cash access points for suppliers of goods or services is to be provided by credit institutions and Pošta Slovenije in order to ensure sufficient and effective access to cash. The criteria for ensuring sufficient and effective access are to be specified by Banka Slovenije, with the consent of the ministry responsible for finance, by secondary legislation[58].

3.1.4 The draft law establishes requirements concerning geographical coverage, density and operational availability of ATMs for consumers. It requires settlements with more than 1000 inhabitants to have at least one ATM within five kilometres of the settlement centre and provides for a minimum nationwide density of 60 credit institution ATMs per 100 000 inhabitants. It further requires credit institution ATMs to operate continuously and to achieve an average annual operational availability of at least 95 % across the credit institution's entire ATM network. The continuous operation obligation does not apply (a) outside the opening hours of branches or other enclosed premises in which the ATM is located, (b) between 23:00 and 06:00 where necessary due to security risks, or (c) in cases of force majeure or criminal offences. A maximum of 3 % of the required ATM density may be provided through alternative cash access points. With the consent of the ministry responsible for finance, Banka Slovenije is empowered to adopt, within three months of the entry into force of the draft law, secondary legislation setting out more detailed rules concerning the

52 Article 2, point (10), of the draft law.
53 Article 2, point (11), of the draft law.
54 Article 6 of the draft law.
55 Article 33(4) of the draft law.
56 Article 6 of the draft law.
57 Article 31(1) of the draft law.
58 Article 7 of the draft law.

operational availability of ATMs, security risks and the use of alternative cash access points[59].

3.1.5 The draft law further establishes requirements concerning the geographical coverage and density of branches providing basic payment services to consumers. It requires settlements with more than 3 000 inhabitants to have at least one credit institution branch or postal branch within five kilometres of the settlement centre and provides for a nationwide branch density of between 30 and 40 branches per 100 000 inhabitants. The exact density of the network of branches is to be determined by Banka Slovenije, on the basis of information concerning cash usage in Slovenia[60], and set out in secondary legislation to be adopted within three months of the entry into force of the draft law[61]. Branches included in the network are required to provide all basic payment services throughout their opening hours, except in cases of force majeure[62], and to adapt their operations to comply with this requirement within six months of the entry into force of the draft law[63].

3.1.6 The draft law introduces the concept of alternative cash access points. Retail outlets providing both 'cash in shop' and 'cashback' services throughout their opening hours, for at least eight hours per day and five days per week, may qualify as alternative cash access points, provided that the availability of those services is clearly indicated and the outlet is registered with Banka Slovenije in accordance with the conditions laid down in the draft law. The draft law further establishes a public register of alternative cash access points maintained by Banka Slovenije and empowers Banka Slovenije to stipulate, with the consent of the ministry responsible for finance, the content of the registration application and the registration procedure[64], by secondary legislation that is to be adopted within three months of the entry into force of the draft law[65].

3.1.7 The draft law limits the fees that may be charged for certain cash services. It requires withdrawals and deposits of euro banknotes at the ATMs and branches of the credit institution where the consumer holds a payment account or basic payment account to be provided free of charge. It further requires credit institutions where the consumer does not hold a payment account or basic payment account to provide at least five free withdrawals of euro banknotes from ATMs per calendar month from ATMs and at least five free withdrawals and five free deposits of euro banknotes per calendar month at branches. The same requirement also applies to independent ATM operators providing ATM services in Slovenia, when providing services to holders of payment cards issued by Slovenian issuers. Credit institutions may impose a daily withdrawal limit of not less than EUR 500 for ATM withdrawals, irrespective of whether the consumer holds a payment account or basic payment account with the credit institution. In addition, the draft law requires at least two free withdrawals and two free deposits of euro coins per calendar month at branches, provided that each transaction does not exceed 50 euro coins. Fees for other cash services must be appropriate and must not restrict consumers' access to cash. In the event that individual fees would hinder access to cash, Banka Slovenije may, with the consent of the ministry responsible for

59 Article 8 and Article 31(1) of the draft law.
60 Article 9 of the draft law.
61 Article 31(1) of the draft law.
62 Article 9(3) of the draft law.
63 Article 33(1) of the draft law.
64 Article 10 of the draft law.
65 Article 31(1) of the draft law.

finance, determine the level of such fees by secondary legislation. These restrictions apply *mutatis mutandis* to cash services provided by Pošta Slovenije[66]. Pošta Slovenije is required to apply to Banka Slovenije for authorisation to provide payment services within three months of the entry into force of the draft law and to commence providing services under the draft law no later than three months after obtaining that authorisation[67].

3.1.8 Finally, the draft law introduces operational risk management and business continuity requirements for credit institutions and holders of licences for the transport and protection of cash and other valuables. Credit institutions are required to implement policies and procedures for assessing and managing operational risk and to prepare contingency and business continuity plans. Holders of licences for the transport and protection of cash and other valuables are additionally required to ensure appropriate staffing, technical and organisational arrangements enabling the provision of cash transport and cash supply services under both normal and exceptional circumstances; ensure the implementation of policies and procedures for assessing and managing operational risk exposures; prepare contingency and business continuity plans; and conduct annual business continuity exercises[68]. The ministry responsible for internal affairs is empowered to lay down, by means of secondary legislation to be adopted within three months of the entry into force of the draft law[69], more detailed requirements concerning operational risk assessments, business continuity plans and annual exercises[70].

3.2 *General observations*

3.2.1 The ECB welcomes the objectives of the draft law aimed at ensuring sufficient and effective access to basic payment services and cash throughout Slovenia[71].

3.2.2 By introducing new obligations for credit institutions and holders of licences for the transport and protection of cash and other valuables, and by conferring a number of regulatory powers on Banka Slovenije for the implementation of the access-to-cash framework, the draft law will contribute to ensuring that cash remains not only available in principle, but accessible in practice to consumers and suppliers of goods or services. Effective access requires an adequate geographical distribution of cash access points, sufficient capacity and reliable functioning of cash services, taking into account the needs of different population groups and local market conditions.

3.2.3 While the ECB holds a positive view of further innovation and development in the field of electronic payment instruments, it also highlights the importance of ensuring sufficient and effective access to cash. The availability and accessibility of cash and its fallback function in case of disruptions also contributes to trust in the financial system, which is important for the smooth functioning of monetary policy[72].

66 Article 11 of the draft law.

67 Article 32 of the draft law.

68 Article 12 of the draft law.

69 Article 31(2) of the draft law.

70 Article 12 of the draft law.

71 The ECB has consistently welcomed legislative proposals aimed at ensuring access to cash in euro area Member States. See, for example, paragraph 3.3 of Opinion CON/2022/40 and paragraph 2.2 of Opinion CON/2023/25.

72 See paragraph 2.2 of Opinion CON/2024/8, paragraph 2.2 of Opinion CON/2024/19 and paragraph 2.2 of Opinion CON/2024/22.

3.2.4 The ECB considers it important that all Member States take appropriate measures to ensure that credit institutions and branches, as well as other ATM operators, operating within their territories provide adequate access to cash services, in order to facilitate the continued use of cash[73].

3.2.5 From a monetary policy perspective, the ECB welcomes the measures in the draft law aimed at requiring credit institutions in Slovenia to ensure the accessibility of basic payment services through a network of cash access points. In the context of its objective of maintaining price stability, the ECB must be able to rely on an appropriate transmission of its monetary policy towards the wider economy. Given the key role of credit institutions in the transmission of monetary policy, they should ideally offer access to currency in the form of cash throughout the territory in order to make it accessible to all economic actors, including those who do not use digital banking services[74]. At the same time, the costs of implementation of the new obligations for credit institutions would need to be adequately accounted for in the draft law.

3.2.6 Sufficient and effective access to cash is necessary to preserve the effectiveness of the legal tender status of cash. If citizens do not have easy access to cash, they will not be able to use it as a means of payment[75]. Despite the growth of the digital economy in the Union and the increasing use of electronic payment methods, and as noted in paragraphs 1.2.3 and 1.2.4, cash continues to play an important role in society. The ECB considers it important to ensure that cash remains available and accessible to all citizens and small businesses and, where necessary, that assistance is offered to facilitate the use of the cash infrastructure[76].

3.2.7 In this regard, the ECB notes that the proposed regulation on the legal tender of euro cash likewise includes an obligation for Member States to ensure sufficient and effective access to cash throughout their territories. The proposed regulation provides that, following its adoption, the Commission will adopt implementing acts on a set of common indicators of general application in the euro area, which would allow Member States to effectively monitor and assess the acceptance of payments in cash and access to cash throughout their territories, in all their different regions, including urban and non-urban areas. It is envisaged that the ECB will be consulted by the Commission on the preparation of such implementing acts[77]. Following adoption by the Commission of these implementing acts, Member States would need to monitor the level of access to cash throughout their territories based on the common indicators and to take remedial measures if their assessment indicates an insufficient and/or ineffective level of access to cash. In this context, national legislation concerning access to cash would need to be reviewed and, if necessary, adjusted accordingly[78].

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73 See paragraph 2.2 of Opinion CON/2020/21, paragraph 3.3 of Opinion CON/2022/40, paragraph 2.3 of Opinion CON/2024/3, paragraph 2.2 of Opinion CON/2025/22, paragraph 2.3 of Opinion CON/2026/16 and paragraph 3.2 of Opinion CON/2026/17.

74 See paragraph 2.7 of Opinion CON/2023/25 and paragraph 3.4 of Opinion CON/2025/17.

75 See paragraph 2.2 of Opinion CON/2023/25, paragraph 1.2 of Opinion CON/2023/31, paragraph 2.2 of Opinion CON/2024/3, paragraphs 2.3 and 2.7 of Opinion CON/2024/19, paragraph 3.2 of Opinion CON/2025/8, paragraph 2.6 of Opinion CON/2025/14, paragraph 2.2 of Opinion CON/2025/22 and paragraph 2.3 of Opinion CON/2026/16. See also Principle 6 of the final report of ELTEG of 6 July 2022, available on the Commission's website at www.ec.europa.eu.

76 See, for example, paragraph 2.3 of Opinion CON/2026/16.

77 Recitals 8, 9 and 12, and Article 9(2) and (5) of the proposed regulation on the legal tender of euro cash.

78 See, for example, paragraph 2.5 of Opinion CON/2026/16.

3.2.8 The ECB notes that the draft law confers on Banka Slovenije a number of regulatory powers to specify by secondary legislation the detailed methodology and criteria governing access to cash. In exercising those powers, Banka Slovenije should ensure that the national framework remains consistent with the common indicators adopted at Union level and adapt the applicable methodology and criteria, where appropriate. The ECB understands that it will be consulted on the future secondary legislation of Banka Slovenije.

3.3 *Specific observations*

3.3.1 The ECB has previously welcomed the establishment of criteria aimed at ensuring a minimum availability of ATMs and cash service points[79], which is crucial to facilitate the continued use of cash[80]. In particular, ATM access and network coverage should be assessed using quantitative indicators, taking into account, for example, distance and population density, as well as additional cash service points at bank or post office branches[81]. The ECB therefore welcomes the establishment of well-defined and measurable criteria in the draft law for ensuring sufficient and effective access to cash for consumers. In particular, the ECB welcomes that the draft law establishes a 95 % population coverage requirement for the consumer cash access point network and lays down measurable requirements concerning the geographical coverage, density and operational availability of ATMs and the geographical coverage and density of branches.

3.3.2 The draft law takes into account alternative cash access points, such as 'cash in shop' and 'cashback' services, as a means of complementing ATMs and bank branches when assessing whether sufficient and effective access to cash is ensured. The ECB considers that such alternative cash access points can be a useful complement to the core cash infrastructure, in particular by improving the geographical availability and convenience of cash services. However, given that their continued availability depends on the voluntary participation and commercial decisions of individual retailers, and that they generally offer more limited services and lower transaction volumes and do not provide cash deposit facilities, they should not be regarded as equivalent to ATMs and bank branches when assessing whether credit institution branches and post offices fulfil the access-to-cash requirements set out in the draft law. Moreover, retailers bear additional fees charged by credit institutions for the related payments. Against this background, the ECB welcomes the fact that, under the draft law, alternative cash access points may account for only up to 3 % of cash points for the purposes of the population criteria and may not substitute for ATMs for the purposes of the geographical criteria[82].

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79 See, for example, paragraphs 1.3, 1.4 and 2.1 of Opinion CON/2024/34, paragraphs 1.2, 1.3 and 2.2 of Opinion CON/2025/22 and paragraph 3.3 of Opinion CON/2026/17.

80 See paragraph 2.2 of Opinion CON/2020/21, paragraph 3.3 of Opinion CON/2022/40, paragraph 2.2 of Opinion CON/2023/25, paragraph 1.2 of Opinion CON/2023/31, paragraph 2.3 of Opinion CON/2024/3, paragraph 2.3 of Opinion CON/2024/8, paragraph 2.3 of Opinion CON/2024/19, paragraph 2.2 of Opinion CON/2024/26, paragraph 2.1 of Opinion CON/2024/34, paragraph 3.2 of Opinion CON/2025/8, paragraph 2.5 of Opinion CON/2025/14, paragraph 3.1 of Opinion CON/2025/17 and paragraph 3.2 of Opinion CON/2026/17. See also Principle 6 of the final report of ELTEG of 6 July 2022, available on the Commission's website at www.ec.europa.eu.

81 See paragraph 3.3 of Opinion CON/2026/17. See also Principle 8 of the final report of ELTEG of 6 July 2022, available on the Commission's website at www.ec.europa.eu.

82 Article 8(5) of the draft law.

3.3.3 The ECB also welcomes that the draft law provides for an annual assessment of access to cash by Banka Slovenije and for an annual review of the appropriateness of the applicable criteria[83] (see paragraph 6). In carrying out this assessment and review, due account should be taken of the future Union implementing acts on a set of common indicators of general application in the euro area, once adopted.

3.3.4 The ECB has previously noted that a minimum level of over-the-counter, in-person cash withdrawal services at branches may be needed, in particular for groups in society that do not have access to electronic means of payment. Such services can also ensure access to cash where ATM networks are temporarily unavailable[84]. The ECB therefore welcomes that, in order to qualify as cash access points for consumers under the draft law, credit institution branches and post office branches must enable the provision of all basic payment services throughout operating hours and provide personal assistance[85]. This contributes to ensuring the availability of in-person services within the cash access point network.

3.3.5 The draft law also requires that sufficient and effective access to cash must be ensured for suppliers of goods or services and, in that regard, leaves the criteria for assessing such access to be specified by Banka Slovenije through secondary legislation. It is particularly important to ensure that small and medium-sized enterprises (SMEs) have sufficient and effective access to cash service points where banknotes and coins can be deposited and withdrawn, thereby ensuring that retailers will not be disincentivised from accepting payments in cash. Sufficient and effective access to cash service points is particularly relevant for those SMEs that only accept cash[86]. In specifying the criteria for ensuring sufficient and effective access to cash for suppliers of goods or services, Banka Slovenije should therefore take due account of these considerations.

3.3.6 Furthermore, for cash to function effectively as a means of payment, access should be ensured not only in terms of cash withdrawals but also in terms of cash deposit services. Access to cash deposit facilities is an important prerequisite for the circulation of euro banknotes and coins between different actors in society[87], as also set out in the proposal for a regulation on the legal tender of euro cash. In this respect, the ECB welcomes the provisions of the draft law ensuring access to deposit services.

3.3.7 The ECB welcomes the comprehensive framework established by the draft law governing fees for cash services. In particular, the ECB welcomes the obligation to provide, free of charge, for withdrawals and deposits of euro banknotes at the ATMs and branches of the credit institution where the consumer holds a payment account or basic payment account, as well as a minimum number of free withdrawals and deposits of euro banknotes and euro coins for consumers who do not hold such an account with the relevant credit institution. The ECB understands that, under the draft law, consumers who do not hold an account with the relevant credit institution may only effect free withdrawals and deposits from credit institutions that have a physical presence in Slovenia[88],

83 Article 21 and Article 24(4) of the draft law.
84 See paragraph 3.2 of Opinion CON/2026/14.
85 Article 2, point (10), of the draft law.
86 See, for example, paragraph 2.3 of Opinion CON/2024/34.
87 See, for example, paragraph 2.5 of Opinion CON/2024/22.
88 See Article 2, point (11), of the draft law.

and that the related reporting requirements (e.g. for anti-money laundering and countering the financing of terrorism purposes) applicable to the credit institutions would only arise in respect of the credit institutions' own customers. The extension of the prohibition on charging fees for specified ATM withdrawals of banknotes to independent ATM operators and the application of the same principles to cash services provided by Pošta Slovenije further contribute to ensuring sufficient and effective access to cash throughout Slovenia. The ECB also welcomes the requirement that fees for other cash services must remain appropriate and must not restrict access to cash. In relation to fees charged for cash withdrawals, the ECB has previously noted that they can hinder citizens from accessing their money and SMEs, for instance, from withdrawing coins and smaller banknote denominations which are necessary to maintain sufficient stocks of change[89]. Against this background, the ECB welcomes the power conferred on Banka Slovenije to determine, by secondary legislation, the level of such fees where necessary to ensure that access to cash is not unduly restricted. In this respect, as the draft law is silent on interbank charges, the ECB understands that the draft law applies only to fees in relation to consumers and does not regulate interbank charges, which are instead regulated in the relevant contractual relationships between payment service providers. For the sake of legal certainty, the ECB invites the Slovenian legislator to assess whether an explicit provision clarifying the effect of the draft law on interbank charges would be helpful.

3.3.8 Credit institutions offering their services exclusively through online or other distance channels are exempted from the obligation to provide access to cash. However, such credit institutions may offer payment accounts and payment cards, including debit or credit cards that enable their customers to withdraw cash through the wider ATM network. The ECB considers that this framework could result in an uneven distribution of the costs of maintaining the cash access infrastructure, whereby online-only credit institutions benefit from an infrastructure maintained by other credit institutions without sufficiently contributing to its provision. The ECB therefore recommends that the Slovenian authorities consider requiring credit institutions operating exclusively through distance channels and without their own ATMs or branches to contribute appropriately to the access-to-cash infrastructure. Such a requirement could, for example, take into account the number of customers served, payment accounts established and payment cards issued and, where appropriate, indicators of the resulting demand for cash services, thereby ensuring that the obligation to provide sufficient and effective access to cash is shared appropriately across credit institutions.

3.3.9 The ECB welcomes the introduction of operational risk management, contingency planning and business continuity requirements for credit institutions and holders of licences for the transport and protection of cash and other valuables. The ECB also considers that these arrangements should ensure that the cash infrastructure has sufficient capacity, or the ability to scale up its capacity, to distribute euro banknotes to the public in situations of increased demand[90].

89 See paragraph 2.7 of Opinion CON/2024/22.

90 See, for example, paragraph 2.9 of Opinion CON/2026/16.

4. Acceptance of electronic means of payment

4.1 *Purpose of the relevant provisions of the draft law*

4.1.1 The draft law provides that, where payment is made in euro, providers of goods or services are required to enable consumers to pay using at least one electronic means of payment[91], within six months of the entry into force of the draft law[92]. The draft law defines an 'electronic means of payment' as a means of payment provided to a provider of goods or services by a payment service provider which enables cashless payment, excluding crypto-assets[93].

4.1.2 Providers of goods or services are also required to inform consumers of the type of electronic means of payment accepted, by displaying a notice at the entrance to the sales location and at the checkout or, in the case of distance sales, on their website or by other appropriate means[94]. For the purposes of the relevant chapter of the draft law, providers of digital content are also deemed to be providers of goods or services[95]. The obligation to accept at least one electronic means of payment also applies where payment in euro is made by an entity that is not a consumer[96].

4.1.3 The draft law provides for five exceptions to the obligation to accept electronic means of payment[97].

4.1.4 The first exception provides that the obligation does not apply during the first year of operation of a provider of goods or services[98].

4.1.5 The second exception excludes from the obligation providers of goods or services whose net sales revenue in the previous financial year did not exceed EUR 10 000[99]. This exception does not apply to direct or indirect users as defined in the law governing public finances[100].

4.1.6 The third exception applies to the sale of goods or services where the proceeds are intended for charitable, non-commercial or non-profit purposes[101].

4.1.7 The fourth exception applies where the acceptance of electronic means of payment is objectively impossible due to technical infeasibility, or is temporarily prevented by a demonstrable security, cybersecurity or network incident, and only for the duration of such an incident[102]. The burden of proof lies with the provider of goods or services[103].

4.1.8 The fifth exception applies to the sale of goods or services through vending machines that were already in use on the date of entry into force of the draft law[104].

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91 Article 13(1) of the draft law.
92 Article 33(2) of the draft law.
93 Article 2, point (7), of the draft law.
94 Article 13(2) of the draft law.
95 Article 13(3) of the draft law.
96 Article 13(4) of the draft law.
97 Article 14 of the draft law.
98 Article 14(1), point (1), of the draft law.
99 Article 14(1), point (2), of the draft law.
100 Article 14(2) of the draft law.
101 Article 14(1), point (3), of the draft law.
102 Article 14(1), point (4), of the draft law.
103 Article 14(3) of the draft law.
104 Article 14(1), point (5), of the draft law.

4.2 *General observations*

The ECB views further innovation and development in the field of electronic payment instruments and their further spread in society positively[105]. Against this background, the ECB welcomes the requirement under the draft law for providers of goods or services to enable payment using at least one electronic means of payment and notes that this requirement contributes to ensuring that consumers have a choice between cash and electronic means of payment.

4.3 *Specific observations*

4.3.1 The ECB acknowledges that the practical implementation of the obligation to enable payments using at least one electronic means of payment entails costs for providers of goods or services. Such costs may include fees in relation to individual payment transactions consisting of a fixed fee and/or ad valorem percentage per transaction, fees for the purchase or rental of payment terminals, as well as periodic fees for payment service providers, and may have a more substantial impact on smaller providers[106]. In this context, the ECB welcomes that the obligation does not apply during the first year of operation of a provider of goods or services[107] and excludes from the obligation providers whose net sales revenue in the previous financial year did not exceed EUR 10 000[108].

4.3.2 The draft law provides for an exception to the obligation to enable payment using at least one electronic means of payment where acceptance is objectively impossible due to technical infeasibility or is temporarily prevented by a demonstrable security, cybersecurity or network incident. This exception appropriately recognises that the acceptance of electronic means of payment depends on the availability and proper functioning of the necessary technical infrastructure. At the same time, the limited scope of the exception is important to ensure that technical or operational difficulties do not undermine the effectiveness of the general obligation to enable electronic payments. The ECB therefore welcomes that, where acceptance is temporarily prevented by a security, cybersecurity or network incident, the exception applies only for the duration of that incident, and that the burden of proof rests with the provider of goods or services[109].

4.3.3 The ECB recalls that pursuant to the Commission proposal for a regulation of the European Parliament and of the Council on the establishment of the digital euro[110] the digital euro would provide a legal tender means of payment in digital form. With its legal tender status, which includes a mandatory acceptance requirement, the digital euro could support the draft law's objective of ensuring that providers of goods and services offer an electronic means of payment, while protecting merchants from excessive fees at the same time[111].

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105 See paragraph 2.2 of Opinion CON/2020/21, paragraph 2.3 of Opinion CON/2021/18, paragraph 2.1 of Opinion CON/2021/38 and paragraph 2.1 of Opinion CON/2025/30.

106 See paragraph 2.9 of Opinion CON/2021/38.

107 Article 14(1), point (1), of the draft law.

108 Article 14(1), point (2), of the draft law.

109 Article 14(1), point (4), and Article 14(3) of the draft law.

110 COM(2023) 369 final.

111 See also the Council mandate for negotiations with the European Parliament, document 16695/25, available on the Council's website at www.consilium.europa.eu; and the European Parliament report on the proposal for a regulation of the European Parliament and of the Council on the establishment of the digital euro, A10-0185/2026, available on the European Parliament's website at www.europarl.europa.eu.

5. Free payment services package

5.1 *Purpose of the relevant provisions of the draft law*

5.1.1 The draft law introduces a free payment services package for consumers who receive, or will receive, regular income into a payment account or basic payment account[112].

5.1.2 The free payment services package comprises (a) the opening, maintenance and closing of a payment account or basic payment account; (b) the issuance and use of a debit card; (c) the use of online and mobile banking; (d) an unlimited number of national and cross-border incoming payments in euro; (e) cash deposits and withdrawals at branches or from ATMs of the credit institution with which the relevant account is held; (f) at least five free cash withdrawals per month from other ATMs of credit institutions in Slovenia; and (g) the execution of payment transactions by debit card at points of sale. The credit institution may not charge a fee for the provision of these services[113]. In this context, the definition of 'credit institution' also includes a credit institution providing banking and financial services on the basis of its entitlement to provide services directly in the Republic of Slovenia exclusively at a distance and which has no physical branches in the Republic of Slovenia, insofar as its activities in the territory of the Republic of Slovenia are concerned[114].

5.1.3 The draft law provides for additional free payment services for holders of the free package who belong to a vulnerable group or are pensioners. In addition to the services included in the free package, such consumers are entitled to execute at least ten credit transfers, standing orders or direct debits within the Union free of charge per calendar month[115].

5.1.4 The draft law provides that credit institutions may charge additional fees for services that are not included in the free payment services package. Such fees may not, however, exceed the fees charged by the credit institution for the relevant services under its applicable pricing policy[116].

5.1.5 Credit institutions are required to bring their general terms and conditions and price lists into compliance with the provisions governing the free payment services package within three months of the entry into force of the draft law[117].

5.1.6 The draft law further regulates the termination of the free payment services package. Where the holder of the free package does not receive regular income into the relevant payment account or basic payment account for three consecutive months, the credit institution may cease providing the free package and charge a fee not exceeding the reasonable fee determined in accordance with the legislation governing payment services, electronic money issuance services and payment systems and the laws adopted thereunder[118].

112 Article 15(1) of the draft law.
113 Article 16(1) and (2) of the draft law.
114 Article 2, point (11), of the draft law.
115 Article 16(3) of the draft law.
116 Article 16(4) of the draft law.
117 Article 33(3) of the draft law.
118 Article 17 of the draft law.

5.2 *Observations*

5.2.1 The ECB's observations on the free payment services package are limited to its impact on free of charge access to cash and aspects of monetary policy transmission and do not address issues that fall outside the ECB's fields of competence, including, in particular, consumer protection and competition issues.

5.2.2 From a legal tender perspective, the ECB welcomes the inclusion in the free payment services package of cash deposits and withdrawals at branches and from ATMs of the credit institution with which the relevant account is held, as well as at least five banknote withdrawals per month from ATMs of other credit institutions in Slovenia[119]. The provision of banknote withdrawal services free of charge helps to preserve the effectiveness of the legal tender status of euro banknotes[120].

5.2.3 At the same time, the cost of implementation of the new obligations for credit institutions to offer the free payment services package should be adequately taken into account in the draft law.

5.2.4 Article 16(1), point (2), of the draft law stipulates that issuing and using a debit card is part of the free package, whereas Article 16(1), point (7), of the draft law stipulates that the free package also consists of execution of debit card transactions at the point of sale. As the latter could be understood as falling under the 'use of a debit card', as stipulated in Article 16(1), point (2), of the draft law the ECB recommends clarifying how the term 'use of a debit card' is understood.

6. Reporting, supervision, and enforcement

6.1 *Purpose of the relevant provisions of the draft law*

6.1.1 The draft law provides for reporting and transparency requirements concerning cash access points. Credit institutions are required to publish up-to-date information concerning the location, number and opening hours of their cash access points. Furthermore, credit institutions, Pošta Slovenije, independent ATM operators and providers of alternative cash access points are required to report information on their cash access points to Banka Slovenije at least annually[121]. Banka Slovenije must set out in secondary legislation that is to be adopted within three months of the entry into force of the draft law[122] the detailed content of such reporting, the reporting deadlines and the reporting method, and is required to report annually to the Government on the appropriateness of the criteria for ensuring sufficient and effective access to basic payment services and, where appropriate, to propose amendments to those criteria[123]. Credit institutions are also required to notify Banka Slovenije in advance of a planned temporary closure or discontinuation of a cash access point and, in cases of temporary closure or discontinuation due to force majeure, immediately or within the period specified in the draft law[124].

6.1.2 The draft law establishes a supervisory and enforcement framework for the obligations laid down therein. Banka Slovenije is responsible for supervising compliance with the provisions concerning

119 Article 16(1) and (2) of the draft law.
120 See, for example, paragraph 3.2 of Opinion CON/2025/8 and paragraph 3.1 of Opinion CON/2025/17.
121 Article 24 of the draft law.
122 Article 31(1) of the draft law.
123 Article 24(3) and (4) of the draft law.
124 Article 25 of the draft law.

access to basic payment services and the free payment services package, with the exception of the preparedness requirements applicable to holders of licences for the transport and protection of cash and other valuables[125]. The Market Inspectorate is responsible for supervising compliance with the provisions concerning the acceptance of cash and electronic means of payment[126], while the Internal Affairs Inspectorate is responsible for supervising compliance with the preparedness requirements applicable to holders of licences for the transport and protection of cash and other valuables[127].

6.1.3 In relation to its responsibilities, the draft law provides that the Market Inspectorate has the task of requiring non-compliant providers of goods or services to fulfil their statutory obligations concerning the acceptance of cash and electronic means of payment, including the obligation to provide information on the electronic means of payment accepted at the point of sale[128].

6.1.4 The draft law further provides that Banka Slovenije is to exercise its supervisory powers in accordance with the powers conferred on it by the draft law and other legislation, and that the provisions of the Law on banking[129] apply *mutatis mutandis* to its supervisory measures, periodic penalty payments, administrative sanctions and decision-making procedures[130].

6.1.5 The draft law further provides for the imposition by Banka Slovenije of periodic penalty payments and administrative sanctions on credit institutions for infringements of obligations concerning, inter alia, access to basic payment services, cash services, operational risk management and business continuity, the free payment services package, and reporting and notification requirements[131]. An administrative sanction may amount to up to 1 % of the credit institution's total annual turnover or up to twice the amount of the profit gained or loss avoided as a result of the infringement, where this can be determined[132]. For each day during which an infringement continues, Banka Slovenije may impose a periodic penalty payment of up to 1 % of the credit institution's average daily net turnover[133].

6.1.6 The draft law requires Banka Slovenije to assess annually the state of access to cash and the accessibility of basic payment services in Slovenia, taking into account the geographical coverage and density of cash access points, and to identify geographical areas that are insufficiently covered by such points[134]. The first such analysis is to be carried out within three months of the entry into force of the draft law, and Banka Slovenije is required to inform credit institutions of its findings. Within six months of the confirmation of the findings of the analysis, Banka Slovenije is required to carry out the necessary follow-up activities provided for in the draft law[135].

6.1.7 Where Banka Slovenije determines that the requirements concerning access to basic payment

125 Article 18(1) of the draft law.
126 Article 18(2) of the draft law.
127 Article 18(3) of the draft law.
128 Article 20 of the draft law.
129 Zakon o bančništvu (ZBan-4), Uradni list RS, št. 15/26.
130 Article 19 of the draft law.
131 Article 23(1) of the draft law.
132 Article 23(2) of the draft law.
133 Article 23(3) of the draft law.
134 Article 21 of the draft law.
135 Article 30 of the draft law.

services have been infringed or are likely to be infringed within the following 12 months, the draft law establishes a procedure for remedial measures. Banka Slovenije is first required to invite all credit institutions to express an interest in implementing remedial measures and to propose measures and time limits for remedying the identified deficiencies. Where no adequate measures are proposed or implemented within the applicable time limits, Banka Slovenije may designate a credit institution that is required to establish a cash access point and determine whether that cash access point is to take the form of an ATM or a branch. In designating a credit institution, Banka Slovenije is required to take into account, inter alia, its market share of household deposits, its share of the relevant type of cash access points, its regional coverage, and its past establishment or withdrawal of cash access points. The draft law further requires Banka Slovenije to publish information on supervisory measures and sanctions imposed for infringements of the draft law once the relevant proceedings have become final, with the relevant provisions of the legislation governing banking concerning the publication of such information applying *mutatis mutandis*. Banka Slovenije is also empowered, with the consent of the ministry responsible for finance, to lay down more detailed criteria for determining the credit institution required to establish a cash access point by secondary legislation[136], which is to be adopted within three months of the entry into force of the draft law[137].

6.1.8 Finally, the draft law further establishes a system of fines for infringements by the following: providers of goods or services[138]; responsible persons of credit institutions[139]; Pošta Slovenije; independent ATM operators; providers of alternative cash access points[140]; and holders of licences for the transport of cash and other valuables, as well as, where applicable, their responsible persons[141]. In particular, a responsible person of a credit institution may be fined where, intentionally or through conscious negligence, that person causes the credit institution to commit any of the infringements referred to in Article 23 of the draft law[142].

6.2 *Observations*

6.2.1 The ECB welcomes the supervisory and enforcement framework established by the draft law. In particular, the conferral on Banka Slovenije of monitoring and enforcement powers in relation to the requirements concerning access to basic payment services, including the power to adopt remedial measures and to impose administrative sanctions and periodic penalty payments, should facilitate the effective enforcement of the obligations laid down in the draft law.

6.2.2 The ECB also welcomes the public enforcement mechanism established in respect of the obligation to accept cash. In particular, the powers conferred on the Market Inspectorate to order providers of goods or services to comply with that obligation, as well as the system of fines established for infringements of that obligation, should facilitate the effective enforcement of this Union law obligation. Effective public supervision and enforcement are important to safeguard the functionality

136 Article 22 of the draft law.
137 Article 31(1) of the draft law.
138 Article 26 of the draft law.
139 Article 27 of the draft law.
140 Article 28 of the draft law.
141 Article 29 of the draft law.
142 Article 27 of the draft law.

of cash as a means of payment and to prevent the mandatory acceptance of cash from being undermined in practice[143].

6.2.3 The introduction of financial penalties for infringements of the obligation to accept cash is also consistent with the proposed regulation on the legal tender of euro cash, which envisages that Member States will lay down the rules on penalties, including financial penalties and non-criminal fines, applicable to infringements of the proposed regulation[144]. This would ensure that the proposed regulation's provisions are enforced, while allowing Member States a degree of flexibility on the nature of the applicable penalties[145].

6.2.4 The ECB further welcomes the provisions requiring Banka Slovenije to assess annually the state of access to cash and the accessibility of basic payment services throughout Slovenia, to identify geographical areas that are insufficiently covered by cash access points and, where necessary, to take remedial measures. This monitoring and remedial framework should contribute to ensuring that sufficient and effective access to cash is maintained over time. In this respect, the ECB notes that the proposed regulation on the legal tender of euro cash envisages the designation of national competent authorities responsible for monitoring and assessing whether both access to cash and the remedial measures taken to ensure such access are sufficient or whether effective access to cash is not ensured[146].

6.2.5 Finally, the ECB understands that the new requirements do not relate to the prudential supervision of credit institutions. Based on Article 127(6) of the Treaty, Council Regulation (EU) No 1024/2013[147] (hereinafter the 'SSM Regulation') confers tasks on the ECB concerning the prudential supervision of credit institutions. In this respect, the SSM Regulation clarifies that supervisory tasks not conferred on the ECB should remain with the national authorities[148]. Therefore, the draft law cannot include any role for the ECB in its prudential supervisory function[149].

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 8 October 2026.

[signed]

The President of the ECB

Christine LAGARDE

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143 See, for example, paragraph 3.5.8 of Opinion CON/2026/3 and paragraph 4.3.6 of Opinion CON/2026/14.

144 See Article 12 of the proposed regulation on the legal tender of euro cash.

145 See the explanatory memorandum accompanying the proposed regulation on the legal tender of euro cash, p. 9, under 'Penalties (Article 12)'.

146 See Articles 8 and 9 of the proposed regulation on the legal tender of euro cash.

147 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63, ELI: http://data.europa.eu/eli/reg/2013/1024/oj).

148 See recital 28 of the SSM Regulation.

149 See, for example, paragraph 3.2 of Opinion CON/2023/25 and paragraph 2.9 of Opinion CON/2024/19.