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## Comments to initiative by the European Commission on restrictions on payments in cash

We refer to your email on March 23<sup>rd</sup> 2017 regarding the proposal for an EU initiative on restrictions on payments in cash.

In the following, the Norwegian Consumer Council (NCC) has chosen to give a broad answer to the issues put forward in the consultation from the European Commission. In addition to commenting on parts of the proposal, we will also submit some general comments on cash payments versus digital and electronic payment solutions.

Our comments:

Restrictions in the use of cash payments by introducing upper limits should not contribute in making life difficult for law-abiding ordinary citizens who need to carry out legal transactions.

There is no doubt that cash can be used by terrorists and various criminal networks in order to finance illicit activities and to facilitate money laundering, tax evasions, etc. However, there is no reason to believe that illegal activities will disappear if only the use of cash disappear. Economic crime can also be digital.

A comprehensive approach to combating threats from terrorists and criminal networks must also include measures that affect electronic money transfers, not only cash.



According to a background paper published by the World Bank in 2016, digital technology and electronic money-transmitting services may also be used to facilitate illegal capital flows.<sup>1</sup> New digital tools for money transfers provide a countless number of opportunities to distance money from illegal sources of profit or to illegally transfer money from legal sources. Examples of such tools are online and mobile banking, electronic payments, cryptocurrencies, e-commerce providers, and online gambling services, and especially if they are combined. New forms of doing business online, and the digital economy as a whole, facilitate the transfer of illegal profits and the aggregation of illicit funds in offshore accounts, and their placement in fake e-commerce companies and offshore online businesses.

In recent years, there have been several cases where major global financial institutions have been prosecuted as a result of their use of digital technology in connection with illegal cash flows and money-laundering operations. Two such examples from recent years are HSBC<sup>2</sup> and Liberty Reserve<sup>3</sup>. It should also be mentioned that in February 2016 a stunning \$81 million was stolen from the central bank in Bangladesh. This occurred because hackers first broke into the central bank's computer systems, then sending false payment instructions via the SWIFT system.

If access to cash payments are restricted, it is crucial, at a minimum, that electronic payment systems at the same time are made more secure and robust.

However, digital tools can be an important, necessary and vital contribution in order to reveal and reduce financial crime. However, technological means must also be combined with other measures like harmonization of legislation, intelligence gathering, mechanisms for international cooperation and mutual legal assistance, public-private cooperation and awareness-raising.

On a side-note, it is worth mentioning that many citizens, and especially in the aftermath of financial crises or in periods with low or even negative interest rates, use high denominations of cash as storage of value. Depositors that does not want their money to decrease in value (beyond inflation) due to negative

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<sup>1</sup> World Bank, 2016. Background paper: "Do Digital Technologies Facilitate Illicit Financial Flows?"

<sup>2</sup> United States Department of Justice, Office of Public Affairs: Press release December 11<sup>th</sup> 2012. <https://www.justice.gov/opa/pr/hsbc-holdings-plc-and-hsbc-bank-usa-na-admit-anti-money-laundering-and-sanctions-violations>

<sup>3</sup> The United States Department of Justice, Office of Public Affairs: Press release January 29<sup>th</sup>.2016. <https://www.justice.gov/opa/pr/founder-liberty-reserve-pleads-guilty-laundering-more-250-million-through-his-digital>



interest rates and fees in commercial banks, may instead choose to store cash. There is reason to be critical of measures that will deprive ordinary citizens of such opportunities.

There is a clear overall trend in the direction of less use of cash payments and increased use of digital payments. At the same time, however, there are no obvious reasons for regulatory authorities to push for measures that will accelerate this development. Restrictions on cash payments, as proposed by the EU Commission, could be viewed as an initiative in this direction.

General comments:

As a basic rule, all payment solutions should be reasonable, simple and user-friendly to consumers, and everyone should be able to make payments. It is not necessarily a principle in itself to maintain cash payment solutions in all contexts, but if access to cash payment is reduced, it is important that there are fully-fledged alternatives that are both simple, appropriate and secure, and which do not end up being more costly to consumers compared to traditional cash payments. Fees should reflect the actual costs that the use entails so that customers can choose the solution that safeguards their needs and budget in the best possible way.

Users must be able to decide on the payment solution. It is important that several different means of payment options exist, including cash payments, both because of different characteristics and because it contributes to competition.

In addition, it should be noted that not all citizens have access to electronic payment solutions. Payments must also be available to consumers who are either unbanked or underbanked.

In an overall perspective, cash, issued by central banks, represents an important alternative to account money. It would be unfortunate if commercial banks is given monopoly on means of payments in society. Without competition, banks would be free to be creative with regard to fee structures at the expense of their customers. If cash payments are limited, and digital payments for all practical purposes remain the only available alternative, there are concerns that electronic payment services will be priced far higher than today unless such practices are strictly regulated by the authorities.



The Norwegian Consumer Council will emphasize that there have been a continuous and rapid development in digital payment solutions over the last couple of years. The emergence of various fintech-solutions will probably also contribute to new and major improvements in the years to come. However, most digital payment solutions require well-functioning infrastructure such as power supply, telecommunications, and network access.

In an emergency situation where the electronic payment system fails completely or for various reasons does not work, the need for and access to cash as a means of payment may be crucial for performing completely necessary transactions. It is therefore important that financial institutions, and banks in particular, have established solutions that ensure that customers can allocate their own deposits in emergency situations. This implies, inter alia, that banks must be prepared for the distribution of cash in times of crisis.

Increased cash demand may be due to failure in the electronic payment and settlement system, but may also be due to a wide range of conditions outside the payment system itself. Examples may include instances involving breakdown in the electricity supply, breaches in mobile and telecommunications networks, natural disasters, terrorist attacks and other unwanted events affecting critical infrastructure, hacking and unauthorized access to electronic payment systems, pandemics and major disasters, etc.

Increased cash demand may also arise as a result of lack of trust in financial institutions and banks. Financial crises may also, in some cases, lead to so-called "bank runs", where depositors secure losses by clearing their bank accounts. Widespread strikes and/or bankruptcies in the banking and finance sector will probably also lead to an increased demand for cash. According to a working paper from the International Monetary Fund, IMF, there have been 147 banking crises over the period 1970-2011.<sup>4</sup> The IMF also count 218 currency crises and 66 sovereign crises over this period.

The Norwegian Consumer Council would also like to stress that privacy is an important prerequisite for free individuals in a free society. Privacy protection is also clearly stated in the European Convention on Human Rights, Article 8. Payment solutions must safeguard privacy in a good way and not gather more information about the consumers than is absolutely necessary.

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<sup>4</sup> International Monetary Fund. Working paper: "Systemic Banking Crises Database: An update". WP/12/163. June 2012.



*Oslo, April 25<sup>th</sup> 2017*

Best regards

**The Norwegian Consumer Council**

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