Meeting with Global VP Nick Clegg and representatives of Facebook

17 March 16.30 - videoconference

Scene Setter

Bio

- Facebook has taken a strategic decision to move into finance by the creation of Facebook Financial (also called ‘F2’). Facebook announced their objective to reorganise and consolidate their payment services activities in a business line, “Facebook Financial”, plans which they also presented to Sean Berrigan in a call earlier this year. They still have plans to launch a wallet service for the EU and are currently in discussion with supervisors in a number of EU MS to get the necessary licenses (Facebook Payments already holds an e-money license in Ireland). Facebook confirmed to us that the wallet would only carry traditional e-money (authorised under the e-money directive), and only once MiCA is in place they would consider extending the services to crypto-asset covered by MiCA provisions on crypto-asset service providers, just as the US dollar-Diem would not be accessible to EU consumers through the Novi wallet before such approval.

Diem/Novi (more under background)

- Facebook has initiated and taken a leading position in the DIEM Association which strives to create a global ‘stablecoin’, called the “Diem” (formerly: “Libra”). The project states to aim at the 1.7 billion “unbanked” individuals in the world, providing financial inclusion and frictionless cross-border money remittance. Facebook has a worldwide customer base of 2.4 billion users, and would be a leading wallet provider for Diem with their “Novi” wallet.
The Commission and Council in December 2019 issued a Joint Statement on global ‘stablecoin’ arrangements. The Council and the Commission stated that “no global "stablecoin" arrangement should begin operation in the European Union until the legal, regulatory and oversight challenges and risks have been adequately identified and addressed”. On 24 September 2019\(^1\), the Commission adopted a legislative proposal on Markets in Crypto Assets (MiCA), which contains proposed legislation for stable coins such as Diem.

In recent meetings with the Commission, Facebook Financial/Facebook has confirmed that the dollar-Diem, and the Novi wallets offered by Facebook, would not allow EU consumers to hold dollar-Diem until the implementation of the current MiCA proposal and subsequent requirements are deemed to be met by them. This does not preclude the Novi wallet from offering other products to EU consumers, for example traditional e-money (e-money is an electronic store of monetary value on a technical device that may be widely used for making payments. The device acts as a prepaid bearer instrument which does not necessarily involve bank accounts in transactions).

After MiCA comes into place, the dollar-Diem, if deemed to be targeting European consumers, would appear to meet the definition of an e-money token and would need to establish a legal entity in the EU and thus follow the rules governing e-money tokens as they are laid out under MiCA, providing a 1:1 redemption right.

The treatment of so-called ‘stablecoins’ continue to be the most heavily discussed topic in the negotiations on MiCA, lead in part by France, Germany, Spain, Italy and the Netherlands who believe there should be tight regulations on these.

The EP rapporteur, Stefan Berger, is also promoting tight restrictions for issuers of so-called stablecoins, highlighting specifically the role of the ECB with regard to put forward binding opinions in case of concerns regarding monetary policy.

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First key messages

Crypto-assets

- I am very happy to have this catch-up with you and to get some insight on your views of our ongoing work on digital finance and hopefully get an update on your own work regarding financial services. I understand that Facebook Financial has many projects underway and would be keen on learning more.

- Our strategic objective is to ensure that the EU financial sector embraces all the opportunities offered by the digital technologies and digitalisation, while ensuring proper mitigation of the associated risks. These are the main pillars of our digital finance strategy, published in September.

- Being innovation friendly while mitigating the risks is also one of our Markets in crypto-assets proposal (MiCA) and the proposal for market infrastructures using the DLT (distributed ledger technologies).

- Negotiations on the legislative proposals on crypto-assets (MiCA and the pilot regime for market infrastructures using distributed ledger technologies) are off to a good start. We look forward to maintaining and upbeat legislative tempo in the year ahead.

- In Council, Member States have concluded several in-depth reviews of the MiCA proposal and from my exchanges with the Portuguese Presidency, I am confident that good and timely progress will continue.

- I was glad to learn of your decision to await the beginning of Diem operations and products in the EU until the appropriate framework (MiCA) is in place. We will continue to do our utmost to ensure MiCA arrives as quickly as possible.

- However, our political message remains the same: you should not start your operations until MiCA is in place. In the same way, if Diem is distributed in the EU, it will have to meet the requirements under MiCA.

- You know very well that some of our Member States are concerned about the potential significance of so-called ‘stablecoins’ and the possible risks to monetary policy transmission, monetary sovereignty and financial stability.
Our proposal tries to introduce the necessary safeguards in order to mitigate these risks, but ensure that we still promote responsible innovation, also taking into account work at international level.

**Digital Euro**

- As you also know, in the EU, we are advancing our thoughts on the potential of a ‘digital euro’, which could be a complement, not a replacement, to cash and private sector payment solutions. This is key to ensuring that the euro remains fit for the digital era.

- The ECB and the European Commission services are jointly reviewing a broad range of policy, legal and technical questions emerging from the possible introduction of a digital euro.

- We believe the digital euro could bring benefits for EU households and businesses. Pros and cons need to be carefully analysed before making any decision on issuance. This is a long-term project and may take a number of years.

**Commission Call for Advice (only if needed)**

- Now, the digital finance file of course goes further than just crypto-assets. Technology companies – large and small – are increasingly entering financial services.

- In February the Commission launched a call for advice to the European Supervisory Authorities. We want to better understand how new players and business models are changing risks in our financial system, and if regulators and supervisors have the necessary tools to cover these risks.

- Should the need arise, we stand ready to propose amendments to our legislation on that basis.
Background

Latest developments regarding Diem

Libra changed its name to Diem on 1 December 2020, to provide an autonomous and independent image. It announced its “focus on aspects of concern to regulators and western governments, including sanction controls and financial crime”, according to Reuters.\(^2\) We note that these specific concerns are actually most loudly voiced by the US Treasury Department. Concerns from European authorities relate much more to financial stability, investor and consumer protection and market integrity. The foundation and its wholly-owned subsidy are headquartered in Switzerland\(^3\) even if its principal agents appear to be based on the East Coast.

The latest stated plan is to focus on the dollar-Diem, which indicates a focus on countries using the dollar, including dollar denominated remittances and cross-border payments, but does not prohibit European consumers from accessing the dollar-Libra now or after the application of MiCA.

Under MiCA, stablecoins like Diem can be offered in the EU or admitted to trading on a trading platform for crypto-assets in the EU only if they are offered by an entity established in the EU. Currently, this is not the case because the Libra Association is established in Switzerland. Moreover, such entity would need to be authorised by a national financial supervisor. Authorisation can be refused where there is a serious threat to financial stability, monetary policy transmission or monetary sovereignty.

There is an obligation to ensure the prudent management of the reserve assets. Every issuance of asset-referenced tokens shall be matched by a corresponding increase of the reserve of assets. Lastly, MiCA also sets up a comprehensive framework for providers of wallets and other crypto asset services.

Late last year, Diem confirmed that they would initially only launch a USD-denominated coin. We understand that the decision not to launch a Euro-denominated coin initially was intended to address the joint statement, and await the outcome of the MiCA legislative process.

Facebook is following the legislative process on the Markets in Crypto Asset Regulation (MiCA) closely and has recently submitted a response to the public feedback period after our legislative proposal was published. They welcomed MiCA in principle, offered close cooperation with relevant authorities and encouraged quick implementation.

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