

GBIC priorities for trilogue negotiations: Legal Tender - protect cash without disproportionate infrastructure obligations or costs

The German Banking Industry Committee supports the objective of preserving cash as legal tender and ensuring effective access to cash for citizens throughout the euro area. However, the legal framework must remain proportionate and respect economic realities. The trilogue negotiations should therefore focus on a balanced compromise that combines the Council's proportionate architecture with targeted safeguards from the European Parliament while avoiding regulatory measures that effectively impose branch, ATM or cash infrastructure mandates on private market participants. Such an outcome should be based on four success factors:

1. Demand-based and proportionate access to cash
2. Technology-neutral and market-oriented solutions
3. Protection against disproportionate and uncompensated infrastructure costs
4. Clear allocation of responsibilities between public authorities and market participants

1. Focus on outcomes, not infrastructure

The Legal Tender Regulation should ensure that citizens can continue to access and use cash. It should not prescribe how private market participants organise branch networks, ATM infrastructure or cash distribution models. Sufficient and effective access to cash should be assessed in line with citizens' demand and on a functional basis, taking account of the different channels through which cash can be accessed.

2. Build on market-based cash access solutions

Citizens need access to cash. Regulators should not determine how private institutions organise branches, ATMs or cash networks. Measures should not impose excessive financial or operational burdens on market participants. Cash access should be supported through a broad range of market-based solutions, including shared infrastructure, ATM pooling, cashback, cash-in services and other cooperative arrangements, on a voluntary basis.

3. Protect market participants from disproportionate infrastructure costs

Remedial measures should not impose excessive financial or operational costs on market participants. The European Parliament safeguard in Article 9(4) should therefore be maintained and strengthened. Where public authorities require additional infrastructure or services beyond what is economically sustainable in light of prevailing market demand, the resulting additional costs should be appropriately compensated or otherwise allocated so as not to place an excessive burden on individual market participants.

4. Avoid infrastructure benchmarks in cash access regulation

Access to cash should not be measured by mandatory ATM density, branch numbers or distance requirements. The Regulation should remain outcome-based and technology-neutral. Any monitoring and reporting requirements should rely on existing data sources and avoid unnecessary administrative burdens.

5. Support dialogue-based solutions instead of regulatory intervention

Monitoring and remedial measures should support Member States in achieving cash access objectives without creating unnecessary regulatory intervention or detailed infrastructure planning. The Council approach ensures that responsibility for assessing cash access remains primarily at national level and prevents unnecessary centralisation of decisions on cash infrastructure.

6. Prepare for disruptions through sustainable resilience measures

Cash resilience is an important public-policy objective. Resilience planning should therefore be based on clear responsibilities, effective coordination and proportionate measures that reflect the respective roles of public authorities, central banks and market participants. Any additional obligations for market participants should be operationally feasible and accompanied by a clear and proportionate allocation of responsibilities and costs.

Conclusion:

The German Banking Industry Committee remains committed to supporting the objective of safeguarding cash as legal tender and ensuring demand-oriented, effective access to cash across the euro area. The positions of the co-legislators already provide valuable elements for a balanced compromise. In particular, the Council's approach offers an appropriate framework by focusing on structural rather than isolated market developments, preserving national flexibility and avoiding disproportionate intervention in cash infrastructure. At the same time, selected safeguards proposed by the European Parliament, notably with regard to technology-neutral access solutions, operational efficiency and protection against excessive financial and operational costs, could further strengthen the final framework.

The trilogue negotiations should therefore focus on maintaining a proportionate and outcome-based Legal Tender Regulation that protects citizens' ability to access and use cash without introducing de facto ATM or branch quotas, excessive reporting requirements or disproportionate infrastructure obligations or costs. Remedial measures should remain proportionate, technology-neutral and cost-efficient and should not impose excessive burdens on market participants. Access to cash should be assessed on a functional basis and in line with citizens' demand, taking into account the diversity of delivery channels. Monitoring indicators should support policy assessment and must not become quantitative infrastructure benchmarks. Public authorities, central banks and market participants each have an important role to play, but responsibilities and costs must remain clearly allocated and proportionate.

DETAILED PRIORITIES FOR THE TRILOGUE:

For the detailed trilogue positions below, the German Banking Industry Committee recommends using the Council's proportionate and flexible architecture as the structural basis, complemented by targeted safeguards from the European Parliament on operational efficiency, technology-neutral access and protection against excessive financial and operational costs. The final framework should safeguard cash while avoiding disproportionate regulatory intervention or distortions to established market structures.

Overview:

Topic	Preferred Basis for the Trilogue
Intervene only where there is a genuine structural problem (Art. 7)	Council
Focus on access outcomes, not infrastructure (Art. 8)	Council, complemented by targeted safeguards
Preserve market-based cash access solutions (Art. 8(3a))	European Parliament
Prepare for disruptions through sustainable resilience measures (Art. 8a)	Council, complemented by targeted safeguards
Keep monitoring indicators as assessment tools, not infrastructure targets (Art. 9(2))	European Parliament guideline approach; alternatively Council with explicit safeguards
Protect market participants from disproportionate infrastructure costs (Art. 9(4))	European Parliament, to be strengthened
Support dialogue-based solutions instead of regulatory intervention (Art. 9(5))	Council
Avoid infrastructure benchmarks in cash access regulation (Recital 7)	Council

Further Details:

Intervene only where there is a genuine structural problem

Preferred basis for the trilogue: Council (Article 7)

The Council's approach appropriately limits intervention measures to situations involving widespread and structural refusals of cash. Monitoring and potential remedies should remain focused on systemic developments rather than isolated cases or individual business decisions. This ensures a proportionate approach while preserving cash as legal tender.

Focus on outcomes, not infrastructure

Preferred basis for the trilogue: Council, complemented by targeted safeguards (Article 8)

The Regulation should ensure effective access to cash without prescribing how access must be delivered. Cash access can be provided through a variety of channels and business models. Sufficient and effective access should be assessed in line with citizens' demand and on a functional basis. Regulatory measures should therefore focus on outcomes rather than on preserving specific ATM, branch or cash infrastructure.

Build on market-based cash access solutions

Preferred basis for the trilogue: European Parliament Article 8 (3a)

Sustainable access to cash requires flexibility and recognition of existing market solutions. Shared infrastructure, ATM pooling, cashback, cash-in services and other cooperative arrangements should be treated on a voluntary basis as valid means of ensuring access to cash. Such approaches can improve efficiency while supporting the overall objective of maintaining access to cash across the euro area.

Prepare for disruptions through sustainable resilience measures

Preferred basis for the trilogue: Council, complemented by targeted safeguards (Article 8a)

Cash plays an important role in crisis situations and periods of disruption affecting digital payments. Resilience planning should therefore be supported as a public-policy objective. At the same time, responsibilities should remain clearly allocated between public authorities, central banks and market participants. Any additional obligations for market participants should remain proportionate and operationally feasible, with a clear and proportionate allocation of responsibilities and costs.

Keep monitoring indicators as assessment tools, not infrastructure targets

Preferred basis for the trilogue: European Parliament guideline approach; alternatively, Council with explicit safeguards (Article 9(2))

Monitoring indicators under Article 9(2) should support policy assessment only. They must not establish, directly or indirectly, quantitative minimum requirements concerning ATM density, branch numbers, maximum distances or pricing of cash services. If binding common indicators are retained, the Regulation should include an explicit safeguard against their use as infrastructure benchmarks. Monitoring and reporting should rely to the greatest extent possible on existing data sources and avoid duplicative reporting obligations.

Protect market participants from disproportionate infrastructure costs

Preferred basis for the trilogue: European Parliament Article 9(4), to be strengthened

The European Parliament safeguard that remedial measures must not impose excessive financial or operational costs on market participants should be maintained. Where public authorities require additional infrastructure or services beyond what is economically sustainable in light of prevailing market demand, the resulting additional costs should be appropriately compensated or otherwise allocated so as not to place an excessive burden on individual market participants.

Support dialogue-based solutions instead of regulatory intervention

Preferred basis for the trilogue: Council (Article 9(5))

The Council's approach provides an appropriate balance between European coordination and national responsibility. Dialogue between the Commission, the ECB and Member States should remain the preferred mechanism for addressing potential shortcomings in cash access or acceptance, rather than binding intervention measures that could disregard national market structures and circumstances.

Avoid infrastructure benchmarks in cash access regulation

Preferred basis for the trilogue: Council, with amendments to Recital 7

References to a "sufficient number of branch offices" or a "sufficient density of ATMs" risk creating de facto infrastructure benchmarks. The Regulation should remain technology-neutral and avoid quantitative requirements regarding ATM density, branch numbers or geographical coverage. Any monitoring framework should support policy assessment rather than become a mechanism for infrastructure planning.