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KEY POINTS

- State-issued stablecoins may serve as additional, digitally native sovereign debt instruments of EU member states.
- Under EU primary law, the test of permissibility is functional: permissibility depends on objectives and effects, not on technological form.
- If structured as redeemable liabilities lacking legal tender status and designed to avoid interference with monetary policy, such instruments fall within member state fiscal autonomy.
- Instruments that materially influence banking liquidity, interest formation, or monetary transmission, risk encroaching upon the EU's exclusive competence in monetary policy under Art 3(1)(c) Treaty on the Functioning of the European Union.

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State-issued stablecoins in the EU: fiscal innovation or monetary encroachment?

This article examines whether EU member states may issue euro-referenced stablecoins without infringing the EU's exclusive competence for monetary policy. It argues that the legal assessment depends on objectives and effects rather than on technological form. Where a digital token is structured as a redeemable liability, lacks legal tender status, and avoids systemic monetary impact, it may well fall within national fiscal autonomy.

INTRODUCTION

It is fair to say that Europe's monetary landscape is currently undergoing significant change. At European Union (Union/EU) level, the European Central Bank (ECB) is advancing the digital euro project, a prospective central bank digital currency (CBDC) intended to complement cash and ensure monetary sovereignty in an increasingly digital economy. At the same time, many member states are operating under growing fiscal pressure, including tighter public budgets, elevated debt levels and ongoing refinancing needs in volatile capital markets. Against this backdrop of monetary innovation at EU level and fiscal constraint at national level, governments may look to explore new digital instruments for public funding and liquidity management, including the issuance of their own stablecoins.

A state-issued and euro-denominated digital token that is recorded on a distributed ledger and redeemable at par appears to be a natural extension of sovereign debt instruments into the digital sphere. From a public-finance perspective, such an instrument promises greater efficiency, programmability and potentially access to a broader market. At the same time, however, it gives rise to a fundamental question under EU primary law: can a member state introduce such a stablecoin without infringing the Union's exclusive competence in monetary policy?

The central premise of this article is that stablecoins cannot be used to circumvent the allocation of competences under EU law. The issuance of the euro as legal tender remains reserved to the ECB. The EU Treaties, in particular the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), do not, however, prohibit member states from issuing euro-denominated or euro-referenced liabilities in the exercise of their retained fiscal autonomy. As this article will show, if properly designed, a state-issued euro-referenced stablecoin is more appropriately classified as a fiscal instrument rather than as sovereign money.

EU MONETARY POLICY VS NATIONAL FISCAL AUTONOMY

The division of competences between the EU and its member states is governed by the principle of conferral. Under that principle, the Union may act only within the limits of the competences conferred on it by the Treaties. This includes the TEU, the TFEU, the Charter of Fundamental Rights of the European Union, as well as the protocols annexed to the Treaties, and accession treaties. Competences that have not been conferred on the Union remain with the member states, as set out in Art 5(1) and (2) TEU. This framework is complemented by the doctrine of implied powers, under which the Union may exercise ancillary powers where this is necessary to achieve objectives expressly assigned to it by the Treaties.

The Treaties distinguish between exclusive, shared and supporting competences. In areas of exclusive competence, only the Union may legislate and adopt legally binding acts, and member states are therefore precluded from exercising regulatory authority. Monetary policy for member states whose currency is the euro is an area of exclusive Union competence under Art 3(1)(c) TFEU. That competence is closely linked to the objective of price stability and covers both the regulatory measures needed to preserve the uniformity of the euro as the single currency and the operational conduct of monetary policy. By contrast, for member states whose currency is not the euro, monetary policy does not fall within the Union's exclusive competence and therefore remains, in principle, with the member state, subject to the general constraints of Union law.

At the same time, the Treaties preserve substantial areas of economic and fiscal autonomy for the member states. In particular, responsibility for national budgets, public expenditure and the issuance of government debt remain with the member states, albeit within a framework of Union co-ordination and fiscal-discipline rules. Article 125 TFEU further confirms this allocation of responsibility. Under that provision, neither the Union nor a member state is to be liable for, or assume, the

commitments of another member state. This so-called "no-bailout clause" underscores that fiscal responsibility – to determine their own sources of revenue, including responsibility for public debt, remains at national level.

The issuance of government debt instruments is a core element of this retained fiscal autonomy. Member states use a wide range of such instruments, differing for example in maturity, liquidity and remuneration, in order to finance public expenditure and manage cash flows. Despite these variations, they share a common core feature: they constitute claims against the issuing member state and are redeemable in fiat currency, usually in euro.

Against that background, the following analysis proceeds on the basis of member states whose currency is the euro, since only in that setting does the tension between retained national fiscal autonomy and the Union's exclusive competence in monetary policy arise in its full form.

STABLECOINS AS LEGAL TENDER?

The issuance of legal tender such as euro banknotes and coins (Art 128 TFEU) lies at the core of the Union's exclusive competence in monetary policy under Art 3(1)(c) TFEU. A state-issued euro-backed stablecoin must therefore remain clearly distinct from legal tender if it is not to encroach upon that competence.

EU primary law does not itself define the criteria of legal tender. Those criteria have instead been developed through secondary legislation and interpretation, in particular Regulation (EC) No 974/98, institutional practice reflected in Commission Recommendation 2010/191/EU, and the case law of the Court of Justice. Taken together, these sources identify: (i) mandatory acceptance at face value; and (ii) the debt-discharging effect as the core elements of legal tender, subject to proportionate limitations. The physical form of an instrument is not necessarily decisive for the legal-tender analysis, so purely digital currency can also qualify as legal tender.

Accordingly, the absence of mandatory acceptance at face value and of a debt-discharging effect forms the starting point of the analysis. Only if a euro-referenced stablecoin issued by a member state lacks those two defining features (such that it is not legal tender) can the further question arise whether, subject to the additional conditions discussed below, it falls within the sphere of retained fiscal competence.

If the instrument does not grant mandatory acceptance at face value and does not have a debt-discharging effect, it is more appropriately characterised not as sovereign money or central bank money, but as a redeemable claim against the issuing member state. The fact that such an instrument may bear no interest and may be of indeterminate duration does not alter its fundamental legal nature as a state liability, but merely distinguishes it from conventional debt instruments in terms of yield and maturity.

OBJECTIVES AND EFFECTS

Where national measures operate in areas adjacent to Union monetary competence, as might be the case when issuing stablecoins, their permissibility must be assessed by reference not only to their formal legal basis, but also to their substantive effects within the Union legal order. The CJEU has consistently held that member states may not avoid the application of Union competence rules through formal classification or legislative technique. In relation to the distinction of monetary policy from fiscal conduct, two CJEU cases seem of particular importance.

In *Gauweiler* (C-62/14), the court was asked to assess whether the ECB's Outright Monetary Transactions (OMT) programme was compatible with the Treaties. Under that programme, the ECB could, subject to specific conditions, purchase potentially unlimited amounts of short-term sovereign bonds of member states on the secondary market. The central issue was whether OMT fell within the Union's exclusive competence in monetary policy or whether it encroached on the member states' sphere of economic policy. The court held that this classification depends primarily on the measure's objectives and the instruments used to achieve them. Because OMT was intended to safeguard the proper transmission and singleness of monetary policy (that all forms of money maintain par value 1:1 at all times) and thereby support price stability (ie low inflation – ensuring money maintains its purchasing power over time), the court concluded that it fell within the scope of monetary policy, notwithstanding its indirect effects on member states' financing capabilities.

The court reaffirmed and further developed this approach in *Weiss* (C-493/17) which concerned the ECB's Public Sector Purchase Programme (PSPP). The PSPP was introduced in 2015 in response to persistently low inflation and deflation risks and provided for large-scale purchases, on the secondary market, of euro-denominated public-sector debt securities. Once again, the court adopted a functional approach, examining the programme's objectives and the instruments used to achieve them. It held that, because the PSPP was designed to support the maintenance of price stability within the euro area, it fell within the sphere of monetary policy. The fact that the programme could also have economic or fiscal effects did not alter that classification, so long as those effects were not such as to call into question its essentially monetary-policy character.

Taken together, *Gauweiler* and *Weiss* establish a coherent framework for delineating competences in the field of monetary policy. They show that Union monetary competence is determined primarily by the objective pursued by a measure and the instruments used to achieve it, in particular where the measure is directed at maintaining price stability and safeguarding the proper transmission of monetary policy throughout the euro area. They also make clear that neither the specific form of the measure nor the fact that it may have incidental effects in the economic or fiscal sphere is, in itself, decisive for its legal classification. This framework provides the analytical basis for assessing national measures that operate close to the field of monetary policy, including the issuance of euro-referenced stablecoins.

In view of the Court of Justice's functional approach in *Gauweiler* and *Weiss*, the legal assessment therefore also requires attention to an instrument's objective, design and

practical operation where it is capable of producing effects relevant to the conduct or transmission of monetary policy in the euro area (which are more than incidental).

From the perspective of *objectives*, the legal assessment of a state-issued euro-referenced stablecoin focuses on whether the instrument is designed to pursue fiscal or administrative aims that remain within member state competence, or whether it is intended to influence monetary conditions within the euro area. Permissible objectives (for fiscal aims) include, for example, the efficient management of public finances, or liquidity management for the state, the digitalisation of public payments, the targeted disbursement of public funds, or the facilitation of specific public programmes or policy measures (C-370/12 *Pringle* or C-210/03 *Swedish Match*, as well as Commission Recommendation 2010/191/EU).

By contrast, objectives that seek to affect the general level of interest rates, to improve or substitute the transmission of monetary policy, to provide a general alternative means of payment to euro cash or bank deposits, or to stabilise prices at a macroeconomic level, would fall within the domain of Union monetary policy (Art 3(1)(c) TFEU; Arts 127(1) to (2) TFEU; *Gauweiler* and *Weiss*). The decisive consideration is whether the stablecoin's stated purpose is confined to the management of state liabilities and public expenditure, or whether it is designed (expressly or implicitly) to perform functions reserved to the ECB.

From the perspective of *effects*, the relevant question under Union law is whether the issuance and circulation of a state-issued euro-referenced stablecoin is, in practice, capable of affecting the uniform conduct of monetary policy or the proper transmission of monetary conditions across the euro area. As *Gauweiler* and *Weiss* make clear, the focus is not on formal classification alone, but on whether an instrument, by its design and operation, bears on the channels through which monetary policy is transmitted. This may be the case where the instrument displaces commercial bank deposits or cash at scale and thereby weakens bank lending channels; where it becomes widely accepted and functions de facto as a parallel means of payment; where large-scale issuance or redemption affects banks' funding structures, reserve positions, or demand for central bank liquidity; where it influences borrowing conditions, spreads, term premia, or market expectations beyond the issuing member state; or where its use differs significantly across member states and thereby exacerbates monetary fragmentation within the euro area.

Summarising, effects confined to the state's own balance sheet, to the substitution of one form of public liability for another, or to the administration of public payments and programmes are, in principle, more compatible with member state fiscal competence. By contrast, effects that materially influence payment habits, bank liquidity, credit conditions, or the transmission of monetary policy raise concerns under Union monetary competence. The assessment is necessarily dynamic: even an instrument initially designed for limited fiscal purposes may require reassessment if its scale, acceptance, or practical use evolves in a way that produces systemic monetary effects.

DESIGN CONSTRAINTS AND SAFEGUARDS UNDER UNION LAW

Design choices play a decisive role in ensuring that state-issued euro-referenced stablecoins remain within the sphere of member state fiscal competence and do not produce effects that interfere with the uniform conduct of Union monetary policy. Given the Court of Justice's functional approach, the legal assessment cannot be confined to the formal classification of the instrument at the time of issuance, but must take into account whether its technical and institutional features are capable of generating monetary effects comparable to those of sovereign money.

First, acceptance and use are of fundamental importance. To avoid overreach into monetary policy territory, acceptance of the stablecoin must remain strictly voluntary and must not be embedded as a default or mandatory option in public or private payment infrastructures. In particular, the instrument must not be positioned as a general-purpose payment medium for everyday transactions, nor should its acceptance be incentivised in a manner that effectively displaces euro cash or commercial bank deposits. Purpose-bound acceptance – limited, for example, to specific public programmes, administrative payments, or contractual networks – can confine the instrument's circulation and prevent it from functioning as a universally accepted means of payment.

Closely related is the management of scale and circulation. Even an instrument that is fiscally motivated and properly designed at inception may acquire monetary relevance if issued or circulated at sufficient scale. Quantitative safeguards such as issuance caps, user-level holding limits, or programme-specific allocation ceilings can mitigate the risk that the stablecoin displaces bank deposits or alters liquidity conditions in the banking system.

A further key design dimension concerns redemption and liquidity characteristics. While a clear and enforceable right to redemption in euro is essential to characterise the stablecoin as a state liability rather than an autonomous unit of value, the modalities of redemption require careful calibration. Immediate, unlimited convertibility into euro may enhance usability, but may also increase the instrument's attractiveness as a near-money substitute. Redemption mechanisms that preserve legal certainty while avoiding excessive liquidity (such as procedural constraints, settlement cycles, or redemption windows) can help ensure that the stablecoin does not function as a "risk-free" alternative to bank deposits.

Institutional design also matters. Issuance and management of the euro-denominated stablecoin should ideally be embedded within existing public finance and debt-management frameworks, rather than delegated to commercially operating entities whose incentives may favour expansion or monetisation. Governance structures that subject issuance volumes, programme scope, and lifecycle management to public-law controls and budgetary oversight can add to the instrument's fiscal character.

Feature

Biog box
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Finally, design must account for dynamic evolution over time. Union law does not freeze the legal assessment of an instrument at the moment of its creation; rather, objectives and effects may change as adoption patterns evolve. Built-in review mechanisms, reporting obligations, and the possibility to adjust or terminate the instrument in response to changing effects are therefore essential components of a legally robust design. Such adaptive safeguards acknowledge that compliance with Union monetary competence is an ongoing obligation, not a one-off design choice.

Legal compliance in this area is not achieved through formal disclaimers, but through structural choices that constrain use, scale, liquidity, and governance. Properly designed, a state-issued euro-referenced stablecoin can serve legitimate fiscal and administrative purposes while remaining clearly distinguishable, both in law and practice, from instruments of Union monetary policy.

SUPERVISORY TREATMENT AND REGULATORY EXEMPTIONS FOR STATE-ISSUED STABLECOINS

Union financial regulation is primarily designed to govern private market actors whose activities may give rise to prudential, consumer protection, or systemic risks. Public authorities, when acting in the exercise of sovereign or fiscal functions, are therefore subject to separate treatment under Union secondary law.

Accordingly, several key legislative instruments in the fields of electronic money, payment services, and cryptoasset regulation provide explicit exemptions or carveouts for public authorities acting within their official capacity. Under the Electronic Money Directive 2009/110/EC (EMD) member states may exempt public authorities from licensing and prudential requirements when issuing electronic money in the exercise of public powers (Art 1(3) EMD). Similarly, the Payment Services Directive (EU) 2015/2366 (PSD2) recognises exclusions for limited-network and public-interest payment instruments, in particular where such instruments are issued at the request of a public authority and restricted to specific purposes or acceptance networks (Art 1(2) and 3 PSD2). The Markets in Crypto-Assets Regulation (EU) 2023/1114 (MiCA) also confirms this approach by excluding cryptoassets issued by public authorities, including central, regional, and local administrations, when acting in their capacity as public authorities (Art 2(2) MiCA). These exclusions reflect the legislator's intention to focus on private issuers and intermediaries, while leaving sovereign fiscal instruments unaffected by EU secondary law. Where a state-issued stablecoin is conceptualised as a form of public debt instrument, its relationship to financial instruments regulation must also be considered. While transferable debt securities generally fall within the scope of Markets in Financial Instruments Directive II (MiFID II), public bodies responsible for managing public debt, including the placing of government debt instruments, are expressly excluded (Art 2(1)(a) MiFID II).

These supervisory exemptions do not imply the absence of legal constraints. State-issued stablecoins remain subject to the overarching requirements of Union law, including compliance with primary-law competence limits and continued assessment of their functional effects. Where design or use results in encroachment upon Union monetary competence, the availability of regulatory exemptions under secondary law cannot preclude legal intervention.

CONCLUSION

State-issued euro-referenced stablecoins sit at the boundary between legitimate national fiscal innovation and impermissible interference with the Union's exclusive competence in monetary policy. Their legal treatment under EU law does not depend on the mere use of distributed ledger technology, tokenisation, or the terminology chosen by the issuer. Nor can their classification be determined by formal presentation alone. What matters is whether, viewed functionally, the instrument remains a redeemable public liability serving fiscal or administrative purposes, or whether it assumes characteristics, functions, or effects that place it within the sphere of monetary policy reserved to the Union under the Treaties.

EU primary law does not, in itself, prohibit member states from issuing euro-referenced claims in digital form. Where such an instrument lacks legal tender status, is not subject to mandatory acceptance, does not discharge debts by operation of law, and remains embedded within a framework of public-finance management, it can in principle be understood as a digitally native form of sovereign debt. In that sense, the stablecoin does not constitute a new currency, but rather a new technological format for expressing and circulating claims against the state. Its proximity is therefore not to sovereign money in the strict sense, but to other forms of public liabilities that member states are entitled to issue in the exercise of their retained fiscal autonomy.

The decisive issue, however, is whether the instrument's objective, design and practical operation preserve that fiscal character over time. If its circulation, acceptance, liquidity or scale expand to the point that it materially affects payment habits, banking liquidity, credit conditions or the transmission of monetary policy across the euro area, competence concerns arise. Properly designed and carefully constrained, however, such instruments may coexist with the euro and with the constitutional architecture of Economic and Monetary Union without encroaching upon Union monetary sovereignty. ■

Further Reading:

- Stablecoins: what could hinder their rise? (2026) 4 JIBFL 274.
- Multi-issuance schemes for payment stablecoins: an EU-UK comparison (2026) 2 JIBFL 119.
- Lexis+® UK: Journals: Journal of International Economic Law: Stablecoins and their regulation: a Hayekian approach.