



Use of complementary currencies (CM), including a focus on the use of the legal figure of electronic money (EM), for co-production in public-private partnerships with agents of the social and solidarity economy, Spain

## MedTOWN Project

Co-production of social policies with social and solidarity economy actors to fight poverty, inequality and social exclusion



**QUESTIONNAIRE PHASES PROJECTS AND LOCAL PARTNERS. MEDTOWN PROJECT. LOT 3.**

**DEMONSTRATIVE ACTION. NAME: Complementary Public Local Currency for the Channelling of Social Benefits to low income population**

**MUNICIPALITY, REGION AND COUNTRY ACTION: Seville, Andalusia, Spain**

**BRIEF DESCRIPTION OF THE CONTEXT:**

There is no specific regulation on the use and circulation of social and/or complementary currencies, defined as such. The context is determined by

**MATRIX TO BE FILLED IN:**

| NO. ASPECT TO REPORT  | ACTIONS  | OTHER ACTIONS/CLARIFICATIONS   | OTHER CLARIFICATIONS |
|---|--|--|----------------------|
| 1 <sup>1</sup> <b>Existing applicable legislation regulating CTM and MS</b> | <a href="#">Royal Decree 778/2012 of 4 May 2012 on the legal regime for electronic money institutions ("RD 778/2012").</a><br><a href="#">Law 21/2011 of 26 July 2011 on electronic money ("Law 21/2011").</a> | <a href="#">Law 7/1985, of 2 April 1985, Regulating the Bases of the Local Regime ("LBRL").</a><br><a href="#">Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing ("Law 10/2010").</a> |                      |
| 2 <b>Objective of the regulation</b>  | The purpose of this Law is to regulate the issuance of electronic money, including the legal regime of electronic money institutions and the prudential supervision of these                                   |  |                      |

<sup>1</sup> Especially related to the Social Solidarity Economy (SSE).

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| 3 <sup>2</sup> | <b>Consideration-Theoretical definition CM and EM (according to the regulation)</b> | <p>institutions.</p> <p>Electronic money shall mean any monetary value stored by electronic or magnetic means representing a claim on the issuer, which is issued on receipt of funds for the purpose of making payment transactions as defined in Article 2.5 of Law 16/2009 of 13 November 2009 on payment services and which is accepted by a natural or legal person other than the issuer of electronic money.</p> | <p>This Act shall not apply to that monetary value:</p> <p>(a) stored in instruments which may be used for the purchase of goods or services only on the premises of the issuer or, under a commercial arrangement with the issuer, either in a limited network of service providers or for a limited range of goods or services, in accordance with conditions to be established by regulation;</p> <p>(b) used to carry out payment transactions exempted under Article 3(l) of Law 16/2009 of 13 November 2009 on payment services.</p> | <p>There is no definition in the Complementary Currencies standard.</p> |
| 4              | <b>Scope of CTM and EM legislation</b>  | <p>The following categories of electronic money issuers may issue electronic money:</p> <p>a) Credit institutions, as referred to in Article 1.2 of Royal Legislative Decree 1298/1986 of 28 June 1986 on the adaptation of current law on credit institutions to that of the European Communities, and any branch in Spain</p>   |  |   |

<sup>2</sup> Necessary for making comparative terms of equivalent concepts

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|     |                                     | <p>of a credit institution whose parent company is domiciled or authorised outside the European Union.</p> <p>(b) electronic money institutions authorised in accordance with Article 4 of this Law and any branch in Spain of an electronic money institution whose parent is domiciled or authorised outside the European Union.</p> <p>(c) Sociedad Estatal de Correos y Telégrafos, S.A., in respect of the electronic money issuance activities for which it is empowered under its specific regulations.</p> <p>(d) the Banco de España, when it is not acting in its capacity as monetary authority.</p> <p>e) The General State Administration, the Autonomous Communities and Local Entities, when acting in their capacity as public authorities.</p> |                              |   |
| 5   | <b>Actors involved in CM and EM</b> | <ul style="list-style-type: none"> <li>- Electronic Money Issuers (see above)</li> <li>- Authorisation and registration: The Minister for Economic Affairs and</li> </ul>   |                              | Any entity could issue a local currency if it could justify the exclusion |

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|     |  | Finance, following a report by the Banco de España and the executive service of the Commission for the Prevention of Money Laundering and Monetary Offences on matters within its remit, is responsible for authorising the creation of electronic money institutions, as well as the establishment in Spain of branches of such institutions authorised or domiciled in a non-EU Member State. |                              | requirements.        |
| 6   | <b>Administration - competent legislative body CM and MS</b>                 | <i>(a) the European Central Bank, the Banco de España and the other national central banks;<br/>b) the General State Administration, the Autonomous Communities and Local Entities".</i>  |                              |                      |
| 7   | <b>Administration - competent executive body CM and MS</b>                   | <i>The General State Administration, the Autonomous Communities and Local Authorities, when acting in their capacity as public authorities, may issue electronic money.</i>   | Accepted and registered DTSS |                      |
| 8   | <b>Measures promoting or encouraging CMM and MoM</b>                         | No promotional measures are in place  |                              |                      |
| 9   | <b>Other legislation related to information and communication management</b> |   |                              |                      |

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| 10  | <b>Possibility to create new CTM and EM legislation</b>                     | A specific legislation would be necessary to take into account the diversity of monetary creation, giving a specific role to the field of social and complementary currencies, offering a secure context for their development and scaling up at local level with a clear orientation towards social improvement and empowerment. |  |                      |
| 11  | <b>Possibility to amend existing CTM and EM legislation</b>                 | Given the large number of monetary tools and innovations in this field, it is necessary to update and, above all, decentralise the management of this type of instruments.  | In some countries and contexts they are developing specific standards for monetary tools.<br>In Spain there is no regulation in this respect, although the need is beginning to be seen, driven by the presence of cryptocurrencies and other various financial assets under decentralised management. |                      |
| 12  | <b>Problems with Identification/Implementation of CM and EM regulations</b> | There is no explicit regulation on Complementary Currencies. Moreover, for this type of currencies, the strict regulation that exists for Electronic Money should not be taken into account, as the purpose, use and actors are specific to the objective pursued with this tool.   | Identify these problems, gaps and other regulatory conflicts.  |                      |

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|     |  | There is talk of limited networks  |   |   |
| 13  | <b>CTM and MoE regulations and other regulations applicable to the demonstration action (concrete project)</b> | All relevant legislation related to electronic money   |   |   |
| 14  | <b>Are there other forms of currency that are not legal tender or are they prohibited?</b>                     | No non-legal tender or e-money currencies are included in the legislation, although there are a large number of complementary economies: time banks, mutual credit systems, economic backing currencies, etc., which are not legal tender.   | There is no public legal framework to support the use of these currencies. The basis for the legitimacy of these currencies are private agreements between parties based on trust. They are networks of people and entities that are governed by other values and rules.              | They are not accepted by public authorities, although as they are preferably located at the local level, they can be supported and accepted by local economic actors. |
| 15  | <b>Are there financial services other than legal tender provided by financial institutions?</b>                | Financial institutions have their own loyalty tools through complementary types of currencies, although they cannot be considered as e-money but as loyalty mechanisms.<br>Large companies also work with this type of discount vouchers.<br>There are now payment systems such as Bizum which are payment intermediaries. | There are now payment systems such as Bizum which are payment intermediaries. Nickel offers cash withdrawal at any point on a purchase.<br>Cryptocurrencies are a new asset that allows exchanges to be made in a currency other than the legal currency, but backed by legal tender. | The public sector does not accept payments from intermediate platforms, only from accredited banks or registered DTSS.  |
| 16  | <b>Apart from the State/Government and associated banks (Central Banks), are there other</b>                   | Not legal tender.<br>E-money any entity registered as an E-money institution   |   |   |

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|     | <b>institutions that can issue legal tender and e-money?</b>   |   |  |   |
| 17  | <b>Are services paid for with these local currencies (Complementary Currency Systems, CMS) subject to VAT, social security or other similar taxes and charges?</b> | Any transaction conducted through an E-money DTS is subject to the same rules, rights and obligations as legal tender in terms of taxation, taxation and similar charges.   | If we talk about complementary commentary services on complementary currencies (not e-money) the case is different, as it is regulated by private/community agreements based on trust. At the commercial level, these exchanges in complementary currencies are often legally accounted for as discounts or advances on purchases.   |   |
| 18  | <b>Is there any kind of legal security (insurance) coverage backing local currency and e-money related to the SSE?</b>   | <i>Electronic money institutions shall safeguard funds received in exchange for electronic money issued or for the provision of payment services not linked to such issuance, subject to the procedure laid down in Article 21.1.a) of Royal Decree-Law 19/2018 which prescribes the deposit of such funds in a separate account or investment in safe, low-risk assets, unless the Banco de España authorises, in accordance with Article 9.3 of Law 21/2011 the use of the safeguard method provided for in article 21.1.b) of the aforementioned Royal Decree-Law.</i> | <i>The procedure adopted by each electronic money institution must be included in the Banco de España's Special Register of electronic money institutions, as well as in the framework contracts that the institutions sign with users or in the conditions of use of the services. The change of the safeguarding system, but not of the guarantor, shall be subject to the regime laid down in article 33.1 of Royal Decree-Law 19/2018, of 23 November on the modification of the conditions of the framework contract. The electronic money institution shall also disclose the chosen safeguarding system in clear and easily accessible terms on its</i> | <i>Where electronic money institutions follow the procedure set out in Article 21(1)(b) of Article 21(1)(b) of Royal Decree-Law 19/2018 of 23 November 2018 the insurance policy or comparable guarantee from an insurance company or credit institution must in any case comply with a number of conditions:</i> |



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|     |   |  | <i>website, where it has one, and in any advertising.</i>   |                      |
| 19  | <b>Is there an inventory, ledger or similar document that records and preserves transactions based on local currency?</b> | It depends on the platform used for registration, recording and tracking. Normally all digital platforms archive the registration history. | Depending on the system, a double entry is usually made in the debit or credit side of each part. |                      |
| 20  | <b>Other issues to highlight</b>  | Issues considered relevant to the regulation of CTMs and EMs   |   |                      |

**CHALLENGES AND RECOMMENDATIONS:**

Inclusion of the typologies of complementary and social currencies at the level of basic regulation.

**MEASURES TO BE IMPLEMENTED:**

To be completed by the local partner

**OTHER INTERESTING SUGGESTIONS/NOTES:**

To be completed by the local partner

**CONFLICTING ASPECTS DETECTED (if any):**

Legal vacuum of complementary and social currencies and lack of social legitimacy for their use

**EXAMPLES OF ACTIONS DEVELOPED IN THE COUNTRY IN THIS AREA OF SSE, REFERENCES AND HOW THEY HAVE BEEN DEVELOPED (if any)**

<https://mapomc.glideapp.io/dl/6471c6?full=t>

Mapping, classification and statistics of social and complementary currencies in Spain