



DRAFT AGREEMENT

The following agreement is concluded between:

1. The Banque de France,

an institution governed by Articles L.141-1 *et seq.* of the Monetary and Financial Code, with share capital of one billion euros, registered in the Paris Trade and Companies Register under number 572 104 891, with registered offices at 1 rue de la Vrillière, BP 71928, 75001 Paris, France,

represented by Valérie Fasquelle, acting in her capacity as Director of Infrastructure, Innovation and Payments (DIIP) and duly authorised for this purpose,

And

2. [corporate name],

a [legal form], with registered offices at [.]

represented by [First name][Surname], acting in his/her capacity as [position] and duly authorised for this purpose,

Referred to hereinafter individually as the “Party” or collectively as the “Parties”.

Preamble

- (A) The Banque de France has organised a call for experiments on the topic of central bank digital currency, which was published on 27/03/2020 on the bank's website.
- (B) The proposed experiment put forward by the company [specify] (hereinafter the Contracting Party) was chosen following the selection procedure.
- (C) The Parties wish to conclude the following agreement in order to establish the terms of their collaboration (hereinafter the Experiment).

Article 1. Purpose of the agreement

This agreement describes the terms under which the Experiment described in the Contracting Party’s proposal is to be executed.

The scope of the Experiment covers the following use cases: [specify].

The technical description of the Experiment, as well as the associated deliverables and the provisional timetable, are appended to this agreement.

Article 2. Entry into force, term of the agreement

This agreement shall enter into force upon being signed by both Parties. It shall be concluded for a term of [specify] starting on the date of its entry into force.

Article 3. Joint contracting arrangements

If the Contracting Party is established in the form of a temporary business grouping, it may have several liability or joint and several liability. If it is a several-liability grouping, the representative of the grouping shall be jointly and severally liable, as the regards execution of the Experiment, for each member of the grouping in respect of its contractual obligations towards the Banque de France.

The representative of the grouping is the company [specify].

Article 4. Notifications

Notification of Banque de France decisions or information to the other Party imposing a time limit shall be made:

- by registered letter with acknowledgement of receipt;
- or by hand delivery against receipt;
- or by means of digital exchanges or on electronic media enabling a definite date to be assigned to receipt of the decision or information and bearing the electronic signature of the person authorised to sign for the Banque de France.

Where a grouping has been formed, notification is made to the representative for the whole grouping.

Article 5. Place of performance of the Experiment

Services shall be performed:

- on the premises of the company [specify] located at [specify];
- on the premises of the Banque de France located at [specify].

Article 6. Conduct/Phases of the Experiment

The Experiment comprises the following phases:

[to be filled out based on the proposal of each applicant]

The Parties undertake to make their best efforts and to cooperate in good faith to implement the phases of the Experiment according to the following timetable:

[please complete]

The timeframes mentioned may be amended by joint agreement or at the request of one of the Parties, which shall notify the other Party of the duly substantiated reasons for this.

In the event that an outside event prevents execution (unforeseeable circumstances or force majeure), any extension may not exceed a maximum of 12 months, after which the termination shall occur.

Article 7. Experiment Committee

To promote cooperation by the Parties and ensure that the Experiment is properly conducted, the Parties shall set up a committee to steer the Experiment, referred to as the Experiment Committee (hereinafter “the Committee”) and comprising an Experiment Leader and an Alternate appointed by each Party to:

- monitor execution and make sure that the phases are observed;
- manage, and analyse ways of resolving, any execution difficulties encountered by the Parties and issue recommendations to the Parties; and
- act as a preferred forum for communication between the Parties of any technical, scientific, industrial, commercial or other information linked to the Experiment. In this regard, the Committee shall prepare a summary report at the end of each phase.

For the Banque de France:

For the Contracting Party:

Experiment Leader:

Experiment Leader:

Alternate:

Alternate:

Each Alternate may also take part in Committee meetings.

Each Party may change its representatives within the working group depending on the matters under discussion, but undertakes to inform the other Party by any means as soon as such changes are made, while guaranteeing the confidentiality of the tests and confidential information.

The Committee shall meet on an *ad hoc* basis and as necessary to ensure the orderly conduct, preparation and operational oversight of the Experiment.

Working group summaries, proposals and meeting minutes must be approved by both Parties.

If approval cannot be obtained, the disagreement shall be brought before the signatories of this agreement.

Article 8. Terms of access to sites

8.1 General terms

When accessing Banque de France sites, the Contracting Party shall comply with the rules governing access, security, discipline and health in force at Banque de France sites, and, more generally, with all instructions issued to the Contracting Party by Banque de France managers.

The Contracting Party shall display exemplary behaviour towards Banque de France personnel and third parties at all times.

If the Banque de France finds that the Contracting Party is causing a disturbance on Banque de France premises or is breaching the rules set out in this agreement, the Banque de France may refuse the Contracting Party access to its premises.

Any serious and/or repeated breaches of the rules governing access, security, discipline and health in force at Banque de France sites may cause this agreement to be terminated on the grounds of misconduct.

8.2 Regular access authorisations

All access to Banque de France premises requires each participant to receive prior authorisation from the Banque de France site manager. The list of participants must be provided to the Banque de France three days before execution of the services is due to begin. The list shall provide the names of members of personnel taking part in any capacity in carrying out the Experiment and be updated whenever there is a change.

8.3 Badges

The Contracting Party shall provide the Banque de France with the information and colour ID photographs required to prepare badges authorising site access. Badges are prepared for the period covered by the Experiment's execution up to a maximum of six months. The documentation required to renew badges must be provided to the Banque de France representative 15 days before access authorisation expires.

These individual badges, which include a photograph and an expiry date, are provided to participants on the first day of the mission.

In order to circulate within the Banque de France's premises, each participant must carry the badge in an openly visible manner after passing through the access check point at the entrance. The badge must be kept safe and returned to the Banque de France at the end of the mission or upon expiry. If the badge is not returned, and if there is no response following a warning, the Contracting Party shall be charged for the badge. As an illustration, the amount was fifty euros (€50) in 2017 and is revised annually.

Use of the badge is strictly personal, and the holder is therefore strictly prohibited from enabling another person to enter any premises of the Banque de France whatsoever.

Any participant not carrying his or her badge in accordance with the terms stipulated above may be refused access to all Banque de France premises.

Badges must not be worn in a visible manner outside the premises of the Banque de France.

8.4 Change to the terms of access

The terms of access detailed above are directly linked to the management of building security and may accordingly be changed temporarily or permanently by the site manager, who will inform the Contracting Party of this.

Article 9. Remote access

If the Experiment is executed outside the premises of the Contracting Party and requires remote access to the Banque de France information system to be set up, this work will be done under the sole responsibility of the Contracting Party, which undertakes to comply with Banque de France requirements concerning remote access.

The Banque de France may check the conditions of use of the tools made available to the Contracting Party (messaging system, virtual machines, workstation) in order to work remotely. More generally, it may check compliance with all requirements concerning remote access.

The cost of electronic communications linked to remote access shall be borne entirely by the Contracting Party.

Article 10. Confidentiality

Information of any kind, as well as any method, know-how, code, document, knowledge or objects of any kind to which the parties may have access within the framework of the Experiment shall be considered to be confidential information. The Parties shall refrain from sharing any and all of this information with anyone either directly or indirectly and in any way whatsoever.

Each Party shall guarantee, within the meaning of Article 1204 of the Civil Code, the compliance of its representatives and agents with the confidentiality undertaking detailed above.

The Contracting Party undertakes that it and its agents will not use knowledge of hardware, software and services covered by this agreement in order, without the consent of the Banque de France, to access Banque de France information that it is not entitled to know and to inform the Banque de France if it does access such information accidentally.

The US Cloud Act does not apply to the Banque de France. As a public agency acting within the framework of the tasks assigned to it, the Banque de France has immunity in relation to US judicial authorities under the Foreign Sovereign Immunity Act, and its data may not be shared with third parties for any reason. Furthermore, the Contracting Party undertakes that it and its agents will, in the event that US court proceedings are initiated, apply one of the objection proceedings provided for by the Cloud Act under the conditions set out under that legislation.

The Contracting Party recognises that any disclosure would harm the Banque de France's interests and incur its liability. Accordingly, the Contracting Party declares that it will take all measures and implement all procedures likely to maintain the total confidentiality of Banque de France data.

The confidentiality obligation shall remain in force for three (3) years after the agreement expires or is terminated.

Confidential information shall lapse only if it enters the public domain or if its disclosure is made necessary by a legal or regulatory provision or an administrative or court injunction.

Any breach of these obligations by the Contracting Party or one of its agents shall constitute grounds for termination without notice or compensation by the Banque de France.

Article 11. Protection of personal data

Within the framework of the Experiment, the Parties undertake to abide by the current rules applicable to the processing of personal data, and particularly Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 applicable from 25 May 2018 (hereinafter, "the European Data Protection Regulation") and French Data Protection and Privacy Act No. 78-17 of 6 January 1978 (amended).

In particular, personal data include surnames, first names, business email addresses and information that identifies the company and representatives or participants of each Party. Each Party is authorised to process the above data solely for the purposes of executing the Experiment. Under this agreement, each Party undertakes to destroy all personal data.

The personal data of the Contracting Party's participants are needed to access Banque de France sites. They shall be used and retained only to ensure the security of access to Banque de France sites and enable the Experiment to be executed. They shall be retained for one year after access ends.

Article 12. Intellectual property

12.1 Intellectual and industrial property rights regime

The Contracting Party guarantees that it owns the intellectual and industrial property rights allowing it to execute its contractual obligations fully and completely without infringing on third-party rights.

The Banque de France's contributions to the design of the Experiment may not be used for services that are not intended for the Banque de France.

The Banque de France retains ownership of all data, codes, information and elements of any kind transmitted to the Contracting Party and of any data processed by the Contracting Party. The Experiment shall not result in any transfer to the Contracting Party of intellectual property rights to the abovementioned data, files, documents and media.

When contractual relations end, irrespective of the reason for this, the Contracting Party undertakes to return to the Banque de France, without further formality or charge, in particular all documents and files that are considered to be the Banque de France's intellectual and industrial property, as well as data and information sent to the Contracting Party or collected by it for the Experiment.

12.2 Assignment of rights

12.2.1 Right to use software package(s)

This article concerns the software package(s) required for the Experiment and indicated in the Contracting Party's proposal.

As holder of the property rights to the software package(s) mentioned, the Contracting Party shall retain ownership of the software package(s) and all privileges pertaining thereto.

The Contracting Party shall grant to the Banque de France a non-exclusive, non-transferable and non-assignable right to use the abovementioned software package(s) and associated documentation. This assignment of rights shall be granted to the Banque de France for the entire duration of the Experiment across the territory of the European Economic Area.

12.2.2 Ownership of work, studies and other documents carried out or created as part of the Experiment

The Contracting Party shall grant to the Banque de France a non-exclusive, non-transferable and non-assignable right of use for the duration of [complete] across the territory of the European Economic Area.

The Contracting Party may carry out other work and studies and create similar documents for other persons, insofar as it already has technical knowledge of the subject.

12.2.3 Ownership of specific developments

Each Party shall retain all property rights to specific developments that it has carried out over the course of the Experiment and to all preparatory and other documents relating to said specific developments.

The Contracting Party shall grant to the Banque de France a non-exclusive, non-transferable and non-assignable right of use for a duration of [complete] across the territory of the European Economic Area.

Each Party may carry out other similar developments for other clients, insofar as it already has technical knowledge of the subject.

Article 13. General obligations of the Banque de France

The Banque de France shall appoint someone to be the sole contact person for the Contracting Party.

The Banque de France undertakes to provide the Contracting Party with all the information and documents in its possession and required to execute the Experiment.

The Banque de France shall make available to the Contracting Party the work environment, office, IT and telephony equipment and consumables needed for the Experiment when services take place on its premises.

The Banque de France shall make the following resources available to the Contracting Party:

- Issuance of the token (or any other dematerialisation process) representing central bank money;
- Finality of payment transactions will take place, as applicable, in the French component of Target 2, T2-BF, by debiting and crediting the affected cash account(s). The Banque de France shall transfer funds in and out of the affected cash accounts in T2-BF on behalf of the Contracting Party;
- An interface with Target2-Securities, the technical platform that allows central securities depositories to manage their business of delivery-versus-payment of securities in central bank money, in accordance with Guideline ECB/2012/13 (recast) on Target2-Securities.
- Delivery-versus-payment process, making it possible to perform the services currently offered in Target2-Securities, especially clearing, optimisation mechanisms and auto-collateralisation for credit purposes,
- Payment-versus-payment process.

Article 14. General obligations of the Contracting Party

The Contracting Party shall inform the Banque de France promptly of any difficulty that it meets within the framework of the Experiment and shall take or recommend any appropriate measure to resolve such difficulty as soon as possible.

The Contracting Party undertakes that its personnel will comply with labour law requirements. The Contracting Party shall continue to perform administrative and accounting management (payroll, social security, etc.) of personnel assigned to the Experiment. Accordingly, it shall redeploy its personnel when so required by labour laws (leave, training, information, etc.); these circumstances may not cause the Experiment to be suspended.

The Contracting Party shall oversee and manage agents of the Contracting Party who are assigned to the Experiment while also monitoring the execution and quality of the services that they provide.

The Contracting Party's personnel shall at all times display exemplary behaviour towards Banque de France personnel and third parties.

Where the Banque de France makes office, IT and telephony equipment available to personnel of the Contracting Party, the Contracting Party shall guarantee their proper use by its personnel.

The Contracting Party shall satisfy the following non-functional requirements:

- Data integrity, meaning the capacity to safeguard data during processing, transmission and retention over the course of the Experiment;
- Sufficient data availability to ensure that the Experiment goes smoothly;

- Indivisibility, meaning the ability to ensure that a set of transactions is executed on an “all or nothing” basis, i.e. if one transaction in the set cannot be executed, then none of the transactions shall be;
- Confidentiality, meaning anonymity;
- Data segregation by class of activity;
- Traceability, meaning the creation of an audit trail.

Article 15. Collaboration between the Parties

Each Party undertakes to collaborate actively to ensure the proper execution of the Experiment.

Each Party undertakes to report any difficulties about which it becomes aware as and when they arise, to enable the other Party to take the necessary measures.

The Parties acknowledge that the proper execution of the Experiment depends on this necessary active collaboration.

Article 16. Costs and expenses

Each Party shall bear its own costs and expenses arising from execution of the Experiment.

Article 17. Liability

Neither Party shall bear liability for any failure to execute, or delay in executing, any obligation resulting from this agreement where such failure or delay is the result of unforeseeable circumstances or force majeure according to the definition given in Article 1218 of the Civil Code and usually adopted by case law.

A Party may be held liable only for the consequences of direct property damage and personal injury. Compensation shall not be paid for consequential damages.

Neither Party may be held liable for any loss that results from a malfunction or failure in the technical infrastructure (including but not limited to the computer infrastructure, programs, data, applications or networks of the Party in question), if such malfunction or failure occurs whereas the Party has adopted reasonably necessary measures to protect this infrastructure against malfunction or failure and to resolve the resulting problems.

Article 18. Insurance

The Contracting Party has business liability, professional liability and fire insurance against all property damage and financial losses that could be caused to the Banque de France and third parties from accidents or injuries suffered during the Experiment, within the limits of the clauses and terms of its policies.

The Contracting Party must produce evidence, within 15 days of the conclusion of this agreement and before execution of the Experiment begins, that it has appropriate insurance contracts, by means of a certificate demonstrating the scope of coverage.

Article 19. Termination

This agreement shall be terminated without any further action being required if the Parties jointly agree to terminate it by signing a document or written agreement to this effect.

The Banque de France may terminate this agreement on public interest grounds, particularly where these arise from legislative or regulatory amendments or any other decision by a competent public authority.

The Banque de France may terminate this agreement without advance notice owing to misconduct by the Contracting Party in the following cases:

- in the event of serious and persistent breaches of its contractual obligations,
- in the event of fraudulent acts, particularly relating to the prevention of money laundering and terrorist financing,
- if the information provided during the call for experiments is inaccurate.

Termination of the agreement in the cases mentioned in the previous paragraph shall not prevent the initiation of civil or criminal actions that may be brought against the Contracting Party.

In the event of termination, the clauses pertaining to confidentiality and intellectual property shall continue to have binding force.

Article 20. Exclusivity

The provisions of this agreement shall not prevent either Party from participating directly or indirectly in the study, development and execution of projects similar to the Experiment.

Article 21. Non-publicity

The Contracting Party may not, without express authorisation from the Banque de France, use the name or logo of the Banque de France as a business reference or for any advertising whatsoever.

Article 22. Nature of the agreement

No stipulation of this agreement may be construed as establishing a legal entity of any kind between the Parties nor of implying any kind of joint and several liability between the Parties; each Party shall be liable towards third parties for its own actions only.

The Contracting Party does not have the right to assign this agreement and related rights to a third party without the express, prior written agreement of the Banque de France.

Neither Party has the power to represent or bind the other Party or to create obligations for the other Party.

Article 23. Applicable law and language

This agreement is governed by French law.

Contractual documents and associated documentation may be written in French or English but only the French-language version shall be authoritative.

Article 24. Jurisdiction

The Parties shall endeavour to reach an amicable settlement in any dispute over the interpretation of this agreement or its execution. If they are unable to do so, the Paris courts shall have sole jurisdiction, notwithstanding multiple defendants or third party proceedings.

Article 25. Full intent of the Parties

The provisions of this agreement express the entire agreement concluded by the Parties.

If any one of the provisions is declared to be unlawful or otherwise impossible to enforce, this provision shall be declared null and void without voiding the entire agreement. The Parties shall make their best efforts to negotiate and implement a provision of equivalent effect.

Any amendment to the provisions of this agreement shall be effective only after the signature of a rider duly signed by both Parties.

Any failure, delay, moderation or leniency on the part of the Banque de France in the exercise of any right conferred upon it pursuant to this agreement shall under no circumstances be considered a waiver of this right.

Failure by the one of the Parties to enforce the performance by the other Party of one of the obligations under this agreement shall not be interpreted as a total or partial waiver of the said obligation.

Done in Paris, DD MM 2020,
In two (2) original copies.

For the Banque de France:

[•] (full name)

[•] (position/title)

[•] (signature)

For the Contracting Party:

[•] (full name)

[•] (position/title)

[•] (signature)