Twitter Thread by Simon Lelieveldt



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The Dutch regulator and DNB as financial supervisor are a tough cookie to deal with. In essence they hyperregulate EU-rules into goldplated Dutch rules which go beyond what is prescribed in Europe.

All NL-customers at British banks may thus be kicked out on brexit.

Thread

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If we start with the capital requirements directive, it says attracting deposits is forbidden. In article 9.

https://t.co/RYl7SXligC

Now the translation of that rule into Dutch law is slightly expanded to not only prohibit attracting deposits, but to also prohibit, having those deposits under custody ('ter beschikking hebben').

That's not in EU law, but it is in our Dutch law.

https://t.co/PsbWfNY3PA

So if you wonder how this would work out for UK banks and Payment institutions servicing Dutch customers. Have a read at the technical explanation of DNB, the financial supervisor and their summarising table.

https://t.co/LL0fAnYkRJ

Passive servicing of Dutch is not allowed!

Any bank or PSP in the UK that continues to serve Dutch customers (as in retail customers, professional players are excepted) can thus be subject to fines and policing under Dutch law.

Meaning we not only have Accidental American issues in payments, but also Accidental Dutchies

The problem does not exist for other countries, as is apparent from this ECB-explanation. Passive servicing would be allowed, but customers should note that their deposit guarantuee rules may change.

https://t.co/zNyzPPE2vl

Two things change. Some payment technicalities when doing payments from/to UK. And the rules for deposit guarantuee. As EBA (not ECB, my misstake) outlines here..

So we can see that the result of our Ministry of Finance blindly upgrading and goldplating Dutch rules no request of DNB comes with a price. The price is that it limits freedom of services and constrain the local business environment and consumers.

But they seem to like that.

In the area of digital money, the central bank/financial supervisor DNB incorrectly interprets that PSP's and e-money operators cannot hold e-money (which does not qualify as e-money), while a statement in the WFT and EU-directives states otherwise.

https://t.co/WzYvLdCz3o

To make the circle round: 'Deposits' is the equivalent of 'opvorderbare gelden' in the Dutch law on financial supervision. So if UK entities were offering e-money instead of deposits, the whole accidental Dutchies problem can be solved.

What about deposit guarantuee?

Well, the UK leaving means that the deposit guarantuee is gone anyway, so the fact that it doesn't apply to e-money products doesn't mean anything for the consumer.

Bottom line is that UK entities may want to relabel their payment accounts for Dutch citizens into e-money.

Which brings us back to square 1; Goldplating Dutch regulator/supervisor bring about extra costs for private sector, without the merit of its position being sufficiently overseen/challenged or audited.

As is clear from the way in which crypto is treated

https://t.co/Ur1l72AgXo

We now even have a Christmas song, last last Christmas, dedicated to this Dutch overregulation of crypto ...

Enjoy !

‘LASTLASTXMAS2020.WAV’ on #SoundCloud

#np https://t.co/7jmBKkOe6c