

CMFB Opinion

on the nature of the banking levies collected under the Banking Recovery and Resolution Directive in 2015 and transferred to the Single Resolution Board/Single Resolution Fund in 2016

1. At Eurostat's request (9 February 2017) and in line with article 8(2) of Council Regulation (EC) No 479/2009, I as the CMFB Chair, with the assistance of the CMFB Executive Body, asked the CMFB Members on 7 March 2017 to express their opinion on the nature of the banking levies collected under the Banking Recovery and Resolution Directive (BRRD) in 2015 and transferred to the Single Resolution Board/Single Resolution Fund (SRB/SRF) in 2016. The deadline for reply was 21 March 2017.
2. A total of 48 institutions provided their opinions. 24 national statistical institutes, 23 national central banks and the ECB returned the questionnaire within the specified time.
3. The CMFB Members were invited to reply to three questions concerning: (1) the identification of the nature (national or EU) of the 2015 levies (taxes) paid by banks, (2) the time of recording and (3) the recording of resolution operations carried out in 2015.
4. A majority of Members expressed the opinion that the SRB/SRF is to be considered as the counterpart to the banks and therefore the banking levies should be considered as EU taxes. They argued that the levies are to be interpreted as (nationally defined) prepayments of an (EU defined) tax under the BRRD. A minority of Members were of the opinion that the levies should be recorded as national taxes as the BRRD is not automatically applicable in Member States (MS). In addition, the MS could use the 2015 contributions for national resolution measures if carried out before 2016.
5. Concerning the timing of recording, a majority of Members were of the opinion that if the levies are considered as EU taxes in 2015, they should be recorded as an EU tax leading to deductions as a tax refund in the period 2016 to 2023 from the EU taxes to be paid. A limited number of Members preferred the two other proposed options i.e.: (1) the levies are to be considered as a prepayment of an EU tax, accruing over 8 years **or** (2) the levies are to be considered as a prepayment of an EU tax accruing in 2016 (financial advance for 1 year), which then leads to deductions as a tax refund in the period 2016 to 2023.
6. A majority of Members were of the opinion that in case of resolution operations in 2015, the levies should be considered as an EU tax for the full amount (according to the modalities agreed in question 2), and the resolution measures are deemed to be carried out on behalf of the EU (capital transfer (D9) from SRB/SRF to deposit taking corporations except the central bank). A limited number of Members preferred the two other proposed options i.e.: (1) the levies are to be considered as a national tax for the full amount, and the unused amount corresponding to the cash passed to the SRF in 2016 is recorded as a capital transfer (D9) in 2015 (from general government to SRB/SRF) **or** (2) levies should be partitioned between a part to be considered as an EU tax (the amount transferred to the SRF) and a part to be considered as a national tax for the amount retained by the Member State (matched by

a capital transfer (D9) representing the resolution from general government to deposit taking corporations except the central bank).

7. The CMFB therefore advises to record the transactions in accordance with the opinions of the majority of its members, that is: **a)** The 2015 contributions raised by the national Resolution authority/National Resolution Fund to be transferred to SRF in 2016 shall be recorded as an EU tax in 2015 leading to deductions as tax refunds from the EU taxes to be paid in the period 2016 to 2023. **b)** If a Member State has used all or part of the contributions for national resolution measures in 2015, the 2015 contributions are still to be considered as an EU tax for the full amount and the resolution measures are deemed to be carried out on behalf of the EU.
8. In addition to this Opinion, all the anonymised answers from CMFB Members have been transmitted to Eurostat and will be kept in the records of the CMFB secretariat.

(Signed)

Kirsten Wismer
CMFB Chair

Copenhagen, 6 April 2017