EUROPEAN CENTRAL BANK

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OPINION OF THE EUROPEAN CENTRAL BANK

of 12 December 2025

on the taxation of financial institutions

(CON/2025/41)

Introduction and legal basis

On 23 October 2025 the European Central Bank (ECB) received a request from the Italian Minister of Economy and Finance for an opinion on certain provisions of the draft Budget Law 2026 concerning the taxation of financial institutions (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and Article 2(1), sixth indent, of Council Decision 98/415/EC[1], as the draft law concerns, inter alia, rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets, and the ECB's tasks concerning the prudential supervision of credit institutions pursuant to Article 127(6) of the Treaty. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

1.1 The purpose of the draft law is, inter alia, to amend the taxation of financial institutions to increase government revenues. Some of the provisions of the draft law merely amend the timing of taxation payments, by bringing them forward in practice; while others increase the actual tax burden, albeit temporarily. The draft law provides, inter alia, for a specific release (hereinafter the 'release') of the reserves created by credit institutions as an alternative to the payment of the extraordinary contribution tax on credit institutions introduced in 2023[2]. In this respect, the draft law introduces a substitute tax of 27.5 % on the special reserves existing at the end of 2025 and 33 % on the special reserves existing at the end of 2026. If credit institutions do not exercise this release option, from the financial year that starts after 1 January 2028, any profit or reserve distributions would be presumed, for tax purposes, to derive first from those special reserves, triggering extraordinary tax treatment[3] and a payment at a tax rate of 40 %[4].

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42, ELI: http://data.europa.eu/eli/dec/1998/415/oj).

2 See Article 26 of Decree Law no. 104/2023 (Decreto-legge 10 Agosto 2023, n. 104, Disposizioni urgenti a tutela degli utenti, in materia di attività economiche e finanziarie e investimenti strategici, *pubblicato in Gazzetta Ufficiale n. 186 del 10-08-2023*) (hereinafter the 'Decree Law').

3 See Article 20 of the draft law.

4 Article 16 of the draft law also introduces an option to release tax-suspended reserves, applicable to all Italian companies. Those companies may opt to regularise revaluation surpluses, reserves or funds in suspension of tax that exist as at 31 December 2024 and remain as at 31 December 2025. The exercise of this option requires payment of a substitute tax at a rate of 10 %, payable in four equal instalments. Once paid, the reserves become fully distributable and are released from tax suspension. The ECB understands that this option is not expected to have a significant impact on financial institutions.

1.2 The draft law introduces further fiscal provisions affecting credit institutions, including: (a) the deductibility in five annual instalments, for corporate income tax (IRES) purposes, of write-downs for expected losses on first and second stage risk loans[5]; (b) a 2 % increase in the regional tax on productive activities (IRAP) for credit institutions and financial intermediaries from 2026, which is expected to increase the fiscal burden on financial sector entities significantly[6]; (c) deferred timing for the deduction of certain deferred-tax-asset items[7]; and (d) tightened limitations on the deductibility of interest expenses[8]. Moreover, the draft law introduces, for all companies, a minimum participation threshold of 10 % to benefit from the exclusion of dividends from taxable income (the current fiscal regime provides for no threshold).

1.3 The draft law is not accompanied by an explanatory memorandum explaining its rationale. Furthermore, the technical documentation submitted to the Italian Senate on the draft law contains a summary of the main legislative provisions but no explanation of the rationale underpinning the draft law.

1.4 Overall, the abovementioned measures are expected to raise the effective tax burden on the banking sector.

2. General observation

2.1 The ECB adopted an opinion on the Decree Law introducing an extraordinary tax on credit institutions[9]. Under the Decree Law an extraordinary tax was imposed on credit institutions subject to the Italian banking law equal to 40 % on the 2023 interest margin exceeding by 10 % the margin of 2021. In addition, in the Law on conversion of the Decree Law[10] a provision was included to the effect that, instead of making the payment, credit institutions had the option to allocate an amount not less than two-and-a-half times the tax due to a non-distributable reserve, established when approving the financial statements for the fiscal year preceding the one in progress as of 1 January 2024. The ECB understands that all credit institutions have chosen to exercise this option. As a result, the amount of tax revenues stemming from the extraordinary contribution was below expectations.

2.2 While it is for Member States to design their tax regimes and distribute the fiscal burden, the recurring introduction of ad hoc tax provisions unduly increases policy uncertainty regarding the tax framework, damaging investor confidence and potentially also affecting credit institutions' funding costs. In addition, perceptions that the taxation framework is uncertain may give rise to extensive litigation, creating problems of legal uncertainty.

3. Monetary policy context

3.1 At the time the Decree Law was issued in 2023, the ECB, guided by its primary objective of maintaining

5 See Article 19 of the draft law.

6 See Article 21 of the draft law.

7 See Article 22 of the draft law.

8 See Article 33 of the draft law.

9 See Opinion CON/2023/26. All ECB opinions are published on EUR-Lex.

10 Legge 9 ottobre 2023, n. 136, Conversione in legge, con modificazioni, del decreto-legge 10 agosto 2023, n. 104, recante disposizioni urgenti a tutela degli utenti, in materia di attività economiche e finanziarie e investimenti strategici, *pubblicata in Gazzetta Ufficiale della Repubblica Italiana n. 236 del 09-10-2023*.

price stability[11], had taken determined action to combat euro area inflation that had reached record levels. To ensure a timely return of inflation to the 2 % target over the medium term, the ECB had raised its key policy rates at an unprecedented pace and had also stopped reinvesting proceeds from its asset purchase programmes' portfolio, letting the Eurosystem balance sheet contract. In this context of rising policy and market interest rates and of still ample market liquidity, the euro area credit institutions saw a significant increase in their net interest income and profitability; this increase consisted essentially in a normalisation process after a long period of very low interest rates.

3.2 The context has changed since the issuance of the Decree Law, with implications for bank profitability, especially in Italy (see paragraph 3.3) and thus for the transmission of monetary policy to the wider economy (see paragraph 3.4). Inflation gradually declined and the ECB lowered its key policy rates between June 2024 and June 2025 before keeping them on hold as inflation and medium-term inflation expectations were stabilising at the 2 % target. While credit institutions remain well capitalised and still make sound profits, the changing environment alongside the easing phase of monetary policy necessarily led to a partial decline in their net interest income and profitability. Thus, the large positive effect of the preceding tightening phase of monetary policy on bank profitability, which had motivated the imposition of an extraordinary contribution on credit institutions under the Decree Law in 2023, was not to last. The net effect of tighter monetary policy on bank profitability when measured across the policy cycle was much less positive; the ECB's opinion on the Decree Law had already considered this possibility[12], which then materialised. In this light, some of the provisions envisaged under the draft law to raise the effective tax burden on banks, both through an anticipation of tax payments, including via new rules on the deductibility of loan loss provisions, and through the introduction of new taxes, appear pro-cyclical and not in sync with the evolution of bank profitability. Such provisions would amplify the moderation of bank profitability in the current context.

3.3 In Italy, in particular, the dampening effect on profitability from the easing phase of monetary policy was faster than in the euro area on average, given the greater weight of short-term or variable interest rate loans within the balance sheets of Italian credit institutions. In theory, the negative income effect would in part be offset by larger lending volumes, a lower cost of funding and gains in the securities portfolio. However, the recovery in bank lending in Italy, which had contracted significantly during most of 2023 and 2024, has been subdued since then, both relative to the euro area average and to historical standards. The decline in bank funding costs has also slowed down and shown signs of stabilisation. In addition, the realisation of downside risks in the current environment may significantly reduce the repayment capacity of borrowers at Italian credit institutions and translate into a further decline in bank profitability via increased provisioning needs.

3.4 From a monetary policy perspective, credit institutions play a special role in ensuring the smooth transmission of monetary policy measures to the wider economy. The provisions of the draft law would affect Italian credit institutions differently depending on their business models, and also increase their overall tax burden, creating potential distortions and increased heterogeneity in the transmission of monetary policy throughout the euro area. While credit institutions subject to Italian law are still in good

11 See Article 127(1) of the Treaty.

12 See paragraph 3.4 of Opinion CON/2023/26.

financial health and a first assessment of the impact of the draft law suggests that this would remain the case after its adoption, the envisaged increase in tax pressure could come at the expense of the provision of credit to the economy. This effect is aggravated by increased uncertainty in the taxation framework caused by the adoption of yet another new law on credit institutions, which undermines their ability to plan in an already uncertain current macroeconomic environment. The costs from increased taxes would thus lead credit institutions to tighten the conditions on which they finance the economy, either directly as they would pass on part of those costs to borrowers, or indirectly through the potential adverse effects on their capital positions resulting from a dampened profitability. The ability of individual credit institutions to maintain adequate capital positions, to continue to prudently build provisions for potentially increased future impairments, and to set conditions on lending and other banking services vis-à-vis their clients in adequation with the ECB's monetary policy, needs to be preserved. Curtailing this ability would undermine the smooth bank-based transmission of monetary policy measures to the wider economy and adversely affect real economic growth[13]. Caution must be taken in particular to ensure that increased tax pressure on credit institutions does not lead to abrupt adjustments to their lending to the real economy[14], especially given the already moderate levels of bank lending in Italy. The elements of procyclicality entailed in the draft law increase this risk of adverse lending adjustment.

4. Financial stability context

4.1 The ECB has previously opined on draft legislation introducing taxes applicable to credit institutions in several Member States[15]. It has, in this respect, underscored in general that imposing an extraordinary tax on the banking sector could make it more difficult for credit institutions to build up additional capital buffers, as their retained earnings will be reduced, making them less resilient to economic shocks. In effect, as underlined in paragraph 3, the additional tax on the release of the extraordinary contribution reserves, as well as the further fiscal provisions affecting credit institutions described in paragraph 1.2, would reduce their profitability directly and also indirectly, by reducing their ability to provide credit and thus engage in profitable business with customers. It is essential that credit institutions have a sound capital base in order for them to fulfil their role as credit intermediaries within the economy. A sound banking system is essential for sustainable real economic growth[16]. Notably, while extraordinary contribution reserves comply[17] with the conditions set out in Regulation (EU) No 575/2013 of the European Parliament and of the Council[18] for their inclusion among the elements of the Common Equity Tier 1 capital of credit institutions, their release would negatively affect or reduce the amount of Common Equity Tier 1 capital held by credit institutions.

4.2 The ECB has previously recommended, in respect of extraordinary taxes on credit institutions, that a

13 See paragraph 3.2.1 of Opinion CON/2010/62, paragraph 2.1 of Opinion CON/2011/29, paragraph 3.1 of Opinion CON/2022/36 and paragraph 3.1 of Opinion CON/2023/9.

14 See paragraph 2.2 of Opinion CON/2022/36 and paragraph 2.2 of Opinion CON/2023/9.

15 See Opinions CON/2016/1, CON/2019/18, CON/2019/40, CON/2019/44, CON/2020/28 and CON/2023/26.

16 See paragraph 3.2.1 of Opinion CON/2010/62, paragraph 2.1 of Opinion CON/2011/29, paragraph 3.1 of Opinion CON/2022/36 and paragraph 3.1 of Opinion CON/2023/9.

17 See Article 26 of the Law on conversion of the Decree Law.

18 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/575/oj).

clear separation is necessary between the extraordinary nature of the proceeds and the general budgetary resources of a government to avoid their use for general fiscal consolidation purposes[19].

4.3 As also noted in paragraph 3, higher net interest income of credit institutions can initially ensue as interest rates increase. But increasing interest rates can also contribute to a higher cost of funding and eventual losses on outstanding bank securities portfolios. Moreover, in a long-term perspective, higher interest rates may negatively impact borrowers' financial situations, thereby increasing credit risk and reducing bank profitability. In that regard, taxes applicable to credit institutions may put additional pressure on their capacity to maintain a solid capital position or to rebuild buffers in an environment in which profits are lower and (credit) losses may occur. These different factors should be properly evaluated in order to ensure that credit institutions remain well positioned to absorb potential future losses[20].

4.4 The special tax regime may lead to fragmentation in the European financial system because of the heterogeneous nature of such taxes for the banking sector across Member States. The risk of double taxation for credit institutions that also operate through branches in other jurisdictions where an extraordinary tax is also levied may be a further source of such fragmentation.

4.5 Moreover, some provisions of the draft law, such as those regarding the deductibility of loan loss provisions and interest expenses, may affect intermediaries differently, depending on their business models, and have procyclical impacts. On the one hand, the increased cost of funding stemming from the limits to the deductibility of interest expenses may result in an increased cost of credit and/(or) a restriction on the amount of loans granted to the real economy. On the other hand, the limits on the deductibility of loan loss provisions may amplify, during the negative phase of the economic cycle, the impact on banks' profits and losses, contributing to the weakening of their capital position and the tightening of credit restrictions.

4.6 In the light of the above, the ECB recommends, in order to assess whether the draft law's application poses risks to financial stability, and in particular whether it has the potential to impair the banking sector's resilience and cause market distortion, that the draft law should be accompanied by a thorough analysis of potential negative consequences for the banking sector[21]. This analysis should detail, in particular, the specific impact of the release on credit institutions' longer-term profitability and capital base, access to funding and the provision of new lending.

5. Considerations relating to the prudential supervision of credit institutions

5.1 The ECB understands that the release of the extraordinary reserves would apply to both significant credit institutions directly supervised by the ECB and less significant credit institutions directly supervised by national competent authorities under the oversight of the ECB within the framework of the Single Supervisory Mechanism. In this respect, the ECB stresses that the release will particularly affect less significant institutions, which tend to be more concentrated on lending activity, while

19 See paragraph 3.2.1 of Opinion CON/2010/62, paragraph 3.1 of Opinion CON/2022/36, paragraph 3.4 of Opinion CON/2023/9 and paragraph 4.2 of Opinion CON/2023/26.

20 See paragraph 3.2 of Opinion CON/2023/9, paragraph 4.3 of Opinion CON/2023/26 and paragraph 4.2 of Opinion CON/2023/45.

21 See paragraph 3.4 of Opinion CON/2022/36 and paragraph 3.7 of Opinion CON/2023/9.

significant institutions tend to have a larger proportion of fee-based income. However, some intermediaries may now be in a different financial position than they were in 2023, and this additional burden could pose challenges.

5.2 The basis on which the release would be established does not take into consideration the full business cycle. As a result, the amount of the release might not be commensurate with the longer-term profitability of a credit institution and its capital generation capacity. As a result of the general application of the release, credit institutions that have lower solvency positions or are more focused on lending activity (such as small banks) or have challenging capital projections could become less able to absorb the potential downside risks of an economic downturn. As noted in the ECB's press release of 28 July 2023 on the 2023 stress test[22], improved capital position was a key factor in helping banks stay resilient amidst highly adverse conditions.

5.3 Several provisions of the draft law – such as the IRAP and the reduced deductions or exclusions of certain items from taxable income – are expected to decrease the net profits of the Italian banking system in the short term. While the Italian banking system is currently well capitalised, lower net profits result in reduced retained earnings, which are sustaining capital positions. The overall impact on credit institutions' capital positions will depend on how they respond to the additional tax burden. Credit institutions may choose to offset the levy by reducing planned capital distributions, thereby maintaining their capital positions, or they may proceed with their original distribution plans, which would erode their capital positions as a result of the new taxes.

5.4 The draft law proposes the deductibility in five annual instalments, for IRES purposes, of write-downs for expected losses on first and second stage risk loans. This might incentivise credit institutions to postpone or lower the amount of write-offs recognised on stage 1 and stage 2 loans in years affected by the change in taxation as they become more costly compared to the current situation. This would increase the procyclicality of losses in the event of a downturn in the macroeconomic scenario.

5.5 The draft law proposes the reduction of the percentage of deductible interest from IRES to 96 % in 2026, 97 % in 2027, 98 % in 2028, and 99 % in 2029. This might have negative implications on credit institutions' liquidity as it might prompt credit institutions to reduce the interest paid on deposits to lower taxes and hence reduce liquidity buffers.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 12 December 2025.

[signed]

The President of the ECB

Christine LAGARDE

22 Available on the ECB's banking supervision website at www.bankingsupervision.europa.eu.