EUROPEAN CENTRAL BANK

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OPINION OF THE EUROPEAN CENTRAL BANK

of 19 December 2025

on an increase in a tax imposed on credit institutions

(CON/2025/45)

Introduction and legal basis

On 12 December 2025 the European Central Bank (ECB) received a request from the Belgian Deputy Prime Minister and Minister for Finance and Pensions, in charge of the National Lottery and the Federal Cultural Institutions, for an opinion on a draft law of 3 December 2025 (hereinafter the 'draft law') amending, inter alia, the Belgian Code of miscellaneous duties and taxes[1] as regards the tax imposed on credit institutions (hereinafter the 'bank tax').

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[2], as the draft law relates to (1) rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets, and (2) 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 By way of background, the ECB understands that the bank tax was introduced in its original form by the Law of 3 August 2016 introducing a new annual tax on credit institutions in replacement of existing annual taxes, corporate tax deduction limitation measures and financial stability contribution measures[3] (hereinafter the 'Law of 3 August 2016'), which has been amended several times. Various types of taxes on credit institutions were in existence prior to 2016[4]. The bank tax applies to all credit institutions incorporated in Belgium and branches located in Belgium of credit institutions incorporated outside Belgium.

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1 Code of miscellaneous duties and taxes (*Code des droits et taxes divers/Wetboek diverse rechten en taksen*), previously Code of taxes assimilated to stamp (*Code des taxes assimilées au timbre*, *Moniteur belge, 6 mars 1927/ Wetboek der met het zegel gelijkgestelde taksen, Belgisch Staatsblad, 6 maart 1927*).

2 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).

3 *Loi du 3 août 2016 instaurant une nouvelle taxe annuelle sur les établissements de crédit en remplacement des taxes annuelles existantes, des mesures de limitation de déductions à l'impôt des sociétés et de la contribution à la stabilité financière, Moniteur belge, 11 août 2019/Wet van 3 augustus 2016 tot invoering van een nieuwe jaarlijkse taks op de kredietinstellingen in de plaats van de bestaande jaarlijkse taksen, van de aftrekbeperkende maatregelen in de vennootschapsbelasting en van de bijdrage voor de financiële stabiliteit, Belgisch Staatsblad, 11 augustus 2016.*

4 The ECB understands that a bank tax with a more limited scope was introduced into Belgian law for the first time by a royal decree of 18 November 1996, and that it was supplemented by, inter alia, a further bank tax introduced by a program-law of 22 June 2012.

1.2 The bank tax was amended for the last time on 30 December 2023 by the program-law of 22 December 2023[5] (hereinafter the 'Program-Law'), which introduced a progressivity mechanism for the calculation of the bank tax. Before the amendment introduced by the Program-Law, there was only one rate of bank tax: 0,13231 %. After the amendment, the applicable rates are currently as follows: (1) 0,13231 % on the first EUR 50 billion of the taxable base amount and (2) 0,17581 % on the portion of the taxable base amount exceeding EUR 50 billion. The tax base is the average amount of the relevant credit institution or branch's debts to customers during the year preceding the tax period. For this purpose, 'customers' mean any persons other than credit institutions, central banks and assimilated institutions, postal cheque offices and national and international official banking-type institutions, and debts owed to customers include debts resulting from the institution's standard banking activity, excluding debts represented by a security[6]. The ECB understands that the bank tax is a non-deductible expense for corporate income tax purposes. It is prohibited for credit institutions (and their branches) to pass on the cost of the bank tax to their customers, and the Program-Law envisages a fine for breaches of this prohibition.

1.3 The draft law proposes to increase the two abovementioned bank tax rates to bring them to, respectively, (1) 0,15205 % on the first EUR 50 billion of the taxable base amount and (2) 0,20204 % on the portion of the taxable base amount exceeding EUR 50 billion[7]. The increase would enter into force on 30 December 2025[8].

1.4 According to the Minister for Finance, the draft law aims to sustain the efforts being made to reduce the Belgian public finance deficit.

2. General observations

2.1 The ECB was not consulted on the adoption of the Law of 3 August 2016, nor on any of the amendments made to it prior to the draft law. Therefore, this opinion considers the draft law in conjunction with the Law of 3 August 2016, as amended from time to time.

2.2 The ECB understands that the tax base is largely composed of credit institutions' customer deposits and excludes inter-bank deposits.

3. Monetary policy context

3.1 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 envisaged increase in tax pressure on Belgian credit institutions on the basis of deposits made by their customers (other than credit institutions) would affect those credit institutions differently depending on their business models, and also increase their overall tax burden, creating potential distortions and increased

5 Program-Law of 22 December 2023 (*Loi-programme du 22 décembre 2023, Moniteur belge, 29 décembre 2023/Programmawet van 22 december 2023, Belgisch Staatsblad, 29 december 2023*).

6 Article 201/11 of the Code of miscellaneous duties and taxes, which also provides that the average amount of debts owed to customers is to be understood to mean the arithmetic mean of the amounts which, in accordance with the rules of the Nationale Bank van België/Banque Nationale de Belgique in the context of territorial reporting, must be entered at the end of each month of the year in question in line 229 of table 00.20 'Debts owed to customers' (column 05, Total amount) of Schedule A.

7 Article 6 of the draft law.

8 Article 7 of the draft law.

heterogeneity in the transmission of monetary policy in Belgium and throughout the euro area. While Belgian credit institutions remain well capitalised and still make sound profits, the changing environment along the easing phase of monetary policy has necessarily led to downward pressure on their net interest margins. In this respect, the draft law might entail pro-cyclical effects, in a context where bank lending dynamics appear to be still recovering for households. The increased taxation on the basis of their customer deposit base would incentivise credit institutions to reduce the remuneration and attractiveness of deposits for households and firms, at their expense, and turn to other funding sources.

3.2 The costs from increased taxes could also lead credit institutions to tighten the conditions under which they finance the economy, either indirectly through the potential adverse effects on their capital positions resulting from dampened profitability, or directly as they would still pass on part of those costs to borrowers. Indeed, the imposition of a specific fine for breaches of the existing prohibition, under Article 201/19 of the Code of miscellaneous duties and taxes, on credit institutions (and their branches) passing on the cost of the bank tax to their customers cannot change the basic fact that the financial conditions under which credit institutions operate determine the conditions under which they finance the economy. The ability of individual credit institutions to maintain adequate capital positions, to continue to prudently build provisions for potentially increased future credit impairments, and to set conditions on deposits, lending and other banking services vis-à-vis their customers 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, coming at the expense of the provision of credit to the Belgian economy and adversely affecting real economic growth[9].

4. Financial stability context

4.1 The ECB has previously opined on draft legislation introducing taxes applicable to credit institutions in several Member States[10]. It has, in this respect, underscored that, in general, imposing taxes 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. As a result, such taxes could have negative economic effects by limiting credit institutions' ability to provide credit. It is essential that credit institutions have a sound capital base for them to fulfil their role as credit intermediaries within the economy. Higher costs and reduced credit supply, or higher costs of other banking services, can adversely affect real economic growth[11].

4.2 As noted in paragraph 3, while the Belgian banking sector remains profitable and well-capitalised, the costs from increased taxes could adversely affect credit institutions' capital positions by dampening their profitability. Furthermore, as the bank tax is calculated on certain parts of the

9 See paragraph 3.2.2 of Opinion CON/2010/62, paragraph 2.1 of Opinion CON/2011/29, paragraph 3.1 of Opinion CON/2022/36, paragraph 3.1 of Opinion CON/2023/9, paragraph 3.4 of Opinion CON/2023/45, and paragraphs 3.4 and 4.1 of Opinion CON/2025/41. All ECB opinions are published on EUR-Lex.

10 See Opinions CON/2016/1, CON/2019/18, CON/2019/40, CON/2019/44, CON/2020/28, CON/2023/26, CON/2023/45 and CON/2025/41.

11 See paragraph 3.2.2 of Opinion CON/2010/62, paragraph 2.1 of Opinion CON/2011/29, paragraph 3.1 of Opinion CON/2022/36, paragraph 3.1 of Opinion CON/2023/9, paragraph 4.1 of Opinion CON/2023/26, paragraph 4.1 of Opinion CON/2023/45 and paragraph 4.1 of Opinion CON/2025/41.

balance sheet total and not on net profits, it also applies to credit institutions that are recording net losses, further damaging their resilience[12]. In that regard, the bank tax may put additional pressure on credit institutions' capacity to maintain a solid capital position or to rebuild buffers in an environment in which profits are lower and (credit) losses occur. In addition, the imposition of a levy on customer deposits, which constitute a stable source of funding for credit institutions, may incentivise them to switch towards less stable funding sources, such as short-term wholesale funding. Relying on less stable funding sources may increase the likelihood that disruptions to a credit institution's regular sources of funding will erode its liquidity position. Moreover, relying on more expensive wholesale funding sources may further negatively affect a credit institution's profitability. These different factors should be properly evaluated in order to ensure that credit institutions remain well positioned to absorb potential future losses[13].

4.3 Furthermore, the bank tax may lead to fragmentation in the European financial system because of the heterogeneous nature of such taxes as between the banking sectors in different countries. The risk of double taxation for credit institutions in other jurisdictions where a special bank tax is also levied may be a further source of such fragmentation[14].

4.4 In the light of the above, the ECB recommends that, in order to assess whether its 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, the draft law should be accompanied by a thorough analysis of potential negative consequences for the banking sector[15]. This analysis should set out in detail the specific impact of the bank tax on credit institutions' longer-term profitability and capital base, access to funding and the provision of new lending and competition conditions in the market, and its potential impact on liquidity.

5. Considerations relating to the prudential supervision of credit institutions

5.1 The bank tax is narrowly focused on deposits of customers other than credit institutions. This disadvantages credit institutions that provide critical financial services to the public against other credit institutions that, for example, predominantly carry on trading activities without a large deposit base. It also ignores a credit institution's profitability or, more importantly, its lack of profitability. Consequently, the bank tax is a drag on credit institutions' profitability, viability and sustainability, and exacerbates the difficulties experienced by credit institutions that are already loss-making or barely profitable.

5.2 While the Belgian banking system is currently well capitalised, lower or no net profits result in lower or no potential to retain earnings, which are important to sustain 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 bank tax by reducing planned capital distributions, thereby maintaining their capital positions, or they may proceed with their original distribution plans, which,

12 See paragraph 3.3 of Opinion CON/2022/36 and paragraph 4.2 of CON/2023/45.

13 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.

14 See paragraph 4.3 of Opinion CON/2023/45 and paragraph 4.4 of Opinion CON/2025/41.

15 See paragraph 3.4 of Opinion CON/2022/36, paragraph 3.7 of Opinion CON/2023/9, paragraph 4.6 of Opinion CON/2023/26, paragraph 4.5 of Opinion CON/2023/45 and paragraph 4.6 of Opinion CON/2025/41.

as a result of the impact of the bank tax, would erode their capital positions. This in turn would reduce credit institutions' ability to provide loans and also reduce their capacity to absorb the potential downside risks of an economic downturn.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 19 December 2025.

[signed]

The President of the ECB

Christine LAGARDE