



**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 26 November 2019**  
**on increasing the special levy on selected financial institutions**  
**(CON/2019/40)**

**Introduction and legal basis**

On 5 November 2019 the European Central Bank (ECB) received a request from the Ministry of Finance of the Slovak Republic for an opinion on a draft law amending Law No 384/2011 Coll. on a special levy on selected financial institutions and on amendments to certain laws (hereinafter the 'draft law')<sup>1</sup>.

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 the sixth indent of Article 2(1) of Council Decision 98/415/EC<sup>2</sup>, as the draft law relates to rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets. In accordance with the first sentence of Article 17.5 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 Law No 384/2011 Coll. on a special levy on selected financial institutions and on amendments of certain laws (hereinafter the 'Law No 384/2011') imposes an obligation on banks and branches of foreign banks operating in Slovakia (hereinafter collectively referred to as 'banks') to pay a special levy. The proceeds of this special levy are state financial assets with the designated purpose of covering costs related to the resolution of financial crises in the banking sector and protecting the financial stability of the Slovak banking sector, including the replenishment of the Deposit Guarantee Fund necessary for expenses due to the payment of compensation for unavailable deposits. In accordance with Law No 384/2011, the rate of the levy during the period from 2017 to 2020 is 0.2 % of each bank's liabilities reported in its balance sheet<sup>3</sup> and 0 % as of 2021.
- 1.2 The draft law increases the rate of levy to 0.4 % of each bank's liabilities as reported in the balance sheet, and does not provide for temporal limitation for the applicability of the levy.

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<sup>1</sup> Návrh zákona ktorým sa mení a dopĺňa zákon č. 384/2011 Z. z. o osobitnom odvode vybraných finančných inštitúcií a o doplnení niektorých zákonov v znení neskorších predpisov.

<sup>2</sup> 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).

<sup>3</sup> The liabilities are subject to the following deductions: (i) the amount of the bank's own funds, provided that its value is positive; (ii) the value of financial resources provided to the branch of a foreign bank on a long term basis; and (iii) the value of subordinated debt.

## 2. Impact of the increased bank levy

- 2.1 The ECB has in the past opined on draft legislation introducing bank levies in Slovakia<sup>4</sup>. The ECB has stated in earlier opinions<sup>5</sup> that taxes on financial institutions should be considered in relation to the dual objective of: (a) ensuring a more equitable distribution of the costs arising from their potential failure between taxpayers and the financial sector; and (b) addressing the risks that they pose. Using the proceeds of any ad hoc taxes imposed on banks for general budgetary purposes would be undesirable, to the extent that such taxes would place undue burdens on banks, hampering the provision of credit, with a knock-on effect on growth in the real economy<sup>6</sup>. The proceeds from taxes on financial institutions should be ring-fenced to avoid their use for general fiscal consolidation purposes<sup>7</sup>. The ECB has recommended that it is necessary to introduce a clearer separation between the extraordinary account created out of the levy proceeds and the general budgetary resources of the Slovak Government<sup>8</sup>.
- 2.2 The ECB understands that the obligation of the banks to pay the bank levy is additional to their obligation to pay contributions to the resolution fund and the deposit guarantee fund. The ECB has in the past recommended making clear in which part of the resolution financing process the income from the bank levy is to be employed and how bank levy proceeds will interact with the resolution fund in order to avoid duplication of instruments<sup>9</sup>. In this regard, the ECB understands that the bank levy proceeds would serve as a funding backstop that is not covered by the resolution fund and for refinancing the deposit guarantee fund<sup>10</sup>.
- 2.3 While the draft law would maintain the designated primarily financial stability purpose of the proceeds of the bank levy, it could have unintended and material adverse consequences on financial stability. The levy proceeds already constitute a significant share of bank profits, in addition to the contributions to the Deposit Guarantee Fund and the Resolution Fund. The proposed increase in the levy could disproportionately impact the profitability of the banking system, with negative consequences for internal capital generation and lending. Moreover, removing the temporal limitation on the levy could have procyclical consequences as banks may be subject to the levy even in periods of adverse macroeconomic conditions.
- 2.4 Therefore, the ECB recommends the legislative proposal be accompanied by a robust impact assessment detailing the net benefits of the proposed changes. At a minimum, the draft law could

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<sup>4</sup> See Opinion CON/2011/66, Opinion CON/2012/53, Opinion CON/2015/3 and Opinion CON/2015/43. All ECB opinions are published on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu).

<sup>5</sup> See, for example, paragraph 2.1 of Opinion CON/2011/29 and paragraph 3.1.1 of Opinion CON/2015/43.

<sup>6</sup> See paragraph 3.1.1 of Opinion CON/2015/43.

<sup>7</sup> See paragraph 3.2.1 of Opinion CON/2010/62.

<sup>8</sup> See paragraph 3.2.1 of Opinion CON/2011/66, paragraph 2.1 of Opinion CON/2012/53 and paragraph 3.1.2 of Opinion CON/2015/43.

<sup>9</sup> See paragraph 4.1 of Opinion CON/2015/3.

<sup>10</sup> See also paragraph 3.2.1 of Opinion CON/2015/43.

maintain a proportionate temporal limitation for the applicability of the levy, in line with the impact assessment, to reduce ambiguity regarding the overall effects of the levy going forward.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 26 November 2019.

[signed]

*The President of the ECB*

Christine LAGARDE