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Conseil de Résolution

Circular CSSF-CODERES 22/14

Single Resolution Fund – Information on/announcement of raising 2022 ex-ante contributions according to Articles 69 and 70 of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014

Conseil de Résolution

Circular CSSF-CODERES 22/14

RE: Single Resolution Fund – Information on/announcement of raising 2022 ex-ante contributions according to Articles 69 and 70 of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014

Luxembourg, 25 April 2022

To all credit institutions subject to Regulation (EU) No 806/2014 of the European Parliament and of the Council

Ladies and Gentlemen,

Based on Title V, Chapter 2 of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (hereafter "SRMR"), the Single Resolution Board (hereafter "SRB") has determined the 2022 ex-ante contribution for all the institutions as defined in Article 2 of the SRMR[1] (see Annex 1).

The amounts are due by **7 June 2022.**

Pursuant to Article 2 of the law of 18 December 2015 implementing the agreement on the transfer and mutualisation of contributions to the Single Resolution Fund[2], the concerned credit institutions have to transfer upon instruction given by the CSSF, the requested amounts to **an account of the Fonds de résolution Luxembourg,** which in return will transfer the collected amounts to the Single Resolution Fund (hereafter "SRF").

The individual invoices (see Annex 2) will be distributed by the CSSF in the coming days.

The computation is based on:

- Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements (hereafter "DR")
- Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to *ex ante* contributions to the Single Resolution Fund (hereafter "CR")

[1] All credit institutions established in Luxembourg with the exception of the branches established in Luxembourg by a credit institution which has its head office outside the EU. Branches established in Luxembourg by a credit institution having its head office in another Member State, participating or not participating, are covered by their head office.

[2] Law of 18 December 2015 implementing the agreement on the transfer and mutualisation of contributions to the Single Resolution Fund signed in Brussels on 21 May 2015.

The amount to be paid has been calculated pursuant to the following provisions:2022 contribution – risk adjusted (Articles 5 to 9 DR) **or**

- 2022 contribution – lump-sum (Article 8(5) CR) **or**
- 2022 contribution – lump-sum (Article 10 DR)
- **minus** 1/5 of the remaining 2015 contribution (deduction according to Article 8(2) CR)
- (where applicable) **plus / minus** data adjustments concerning previous years (Article 17(3) and (4) DR)
- (where applicable) **plus** partial contribution of newly supervised institutions (Article 12(1) DR)

The 2022 ex-ante contribution has been determined by taking into account the data provided by the credit institutions according to Circular CSSF-CODERES 21/13.

In Annex 1 the SRB describes the details of the calculation. Compared to the 2021 ex-ante contribution (as described in Circular CSSF-CODERES 21/13) the 2022 ex-ante contribution differs mainly on the following points:

	2022 ex-ante contribution	**2021 ex-ante contribution**
Basis of calculation of contribution	6.67% according to Article 103 BRRD and 93.33% according to Articles 69 and 70 SRMR (Article 8 (1) (d) CR)	13.33% according to Article 103 BRRD and 86.67% according to Articles 69 and 70 SRMR (Article 8 (1) (d) CR)
Annual target amount	1.60%	1.35%
Increase of covered deposits average of 4 quarters in the Banking Union	6.5%[3]	6.5%[3]
Number of institutions contributing to the SRF	2,896	3,018

In addition, and although the absolute number of banks in Luxembourg contributing to the SRF decreased from 85 to 81, the Basic Annual Contribution (BAC) of the Luxembourg banks increased by 3.8%[4].

[3] This growth is deemed to be driven by the various restrictions imposed on economic activity as a reaction to the COVID-19 pandemic that were broadly enforced in most jurisdictions of the Banking Union across 2020/21 and that led to high household savings rates in both years.

[4] Compared to an average increase in the Banking Union of 9.3%.

Due to these reasons the concerned banks in Luxembourg will have to pay an aggregate amount of EUR 323.4 million in 2022 compared to EUR 245.8 million paid in 2022.

The SRB has decided to set the target amount 2022 to 1.60% (2021: 1.35%) of covered deposits divided by 8 (the initial period of 8 years - see Annex 1, point 59ff) in order to achieve the final 1% target of covered deposits in 2024 (Article 69(1) SRMR). The reason is that the SRB expects a continued firm growth in covered deposit levels in the Banking Union over the remaining year of the initial period. Finally, it has to be noted, that the continuing gradual shift in the calculation away from Article 103 BRRD to the method described in Articles 69 and 70 SRMR (see Article 8(1) CR) will lead again to further increasing contribution amounts for the concerned banks in Luxembourg in the coming year.

Irrevocable payment commitments (hereinafter "IPCs")

The conditions concerning IPCs compared to the 2021 contribution cycle remain unchanged: Article 8(3) of the CR provides that during the initial period, under normal circumstances, the SRB shall allow the use of IPCs upon request from a bank (details see Annex 3). For the 2022 contribution period, the SRB has again decided that banks are allowed to provide IPCs equal to an amount of **15% of the amount to be paid**. The SRB has, furthermore, decided that these IPCs must be fully backed by collateral exclusively in the form of **cash collateral in euro.**

Moreover, the Executive Session of the SRB Board has decided in the last years on the treatment of IPC termination requests for a number of institutions as follows:

„Having regard to Article 70(4) of Regulation (EU) No 806/2014, according to which duly received contributions shall not be reimbursed to entities and to Article 7(1) of the Council Implementing Regulation (EU) 2015/81, according to which recourse to Irrevocable Payment Commitments shall in no manner affect the financial capacity and the liquidity of the Fund, cancellation of the IPC Agreement and the subsequent return of collateral backing the commitments can only take place after payment to the SRB of an amount in cash equal to the amount of the Irrevocable Payment Commitment."

In practice, this means that if a bank requests the termination of its IPC Agreement, an amount equal to the IPC amount needs to be paid to the SRB as a contribution to the SRF. Upon receipt of the cash transfer, the SRB will return the remaining amount of cash collateral (IPC amount minus accrued negative interest) to the institution.

In case you want to apply for IPCs you should read the following annexes carefully and comply with the instructions thereto:

Annex 3: Cover letter of the SRB explaining IPC (pdf)

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Annex 4: IPC-package - Application Form (Excel)
Annex 5: IPC-package - IPC Agreement (pdf)

All annexes are accessible via the links figuring at the end of this circular or on the CSSF's website www.cssf.lu under Entity types > Credit institutions/Investment firm > Resolution > Circulars > Circular CSSF-CODERES 22/14 > Details and related documents (direct link: https://www.cssf.lu/en/document/circular-cssf-coderes-22-14/). Even if your bank has already applied in previous years to use IPC this application has to be renewed for 2022.

Only a fully completed and duly signed application package consisting of Annexes 4 and 5 can be considered as a valid request.

An Excel copy of the completed Application form (Annex 4) labelled "[CSSF No. (NOSIG)]2022_Application Form" has to be sent by COB by **12 May 2022** via e-mail to the CSSF at res@cssf.lu.

In addition,

a) the originally executed version of the Application form (Annex 4) and **two** duly signed IPC Agreements (Annex 5) have to be sent by COB on 20 May 2022 as physical package by registered mail to:

SRB [Unit E1 - IPC]
Treurenberg 22
B-1049 Brussels
Belgium

OR

b) the institution delivers the electronically signed Application Form (Annex 4) and the electronically signed IPC Agreements (Annex 5) to the SRB by e-mail to:

SRB-IPC@srb.europa.eu

Please clearly indicate your LEI or MFI code in the title of the e-mail. For more details please refer to Annex 3 pages 2 and 3.

Failure to comply with the requirements as set out above will preclude the bank to use IPCs for the 2022 contribution period.

By 24 June 2022 at the latest, the SRB will return the countersigned IPC Agreement to the bank at the address provided in the Application form. The process above applies only for this year. In case a bank wants to use IPCs next year the bank will have to apply again. For more details concerning the IPC process see Annex 3.

For any questions concerning this circular, please contact Mr. Klaus Söllner (e-mail: klaus.sollner@cssf.lu) or Mr. Bertrand Toulmonde (email: bertrand.toulmonde@cssf.lu).

In case clarifications are deemed necessary from the SRB, the corresponding form in Annex 6 has to be used. Legal remedies against decisions by the SRB are described in Annex 7.

Yours faithfully,

For the Resolution Board

Romain STROCK

Chairman of
the Resolution Board

Annexes:

Annex 1: Decision of the executive session of the SRB of 11 April 2022
(CSSF-CODERES_22_14_Annex_1_Decision_SRB_2022.pdf)

Annex 2: Example of invoice
(CSSF-CODERES_22_14_Annex_2_invoice_example.pdf)

Annex 3: Cover letter of the SRB explaining IPC
(CSSF-CODERES_22_14_Annex_3_IPC_Letter_to_institutions.pdf)

Annex 4: IPC-package - Application Form
(CSSF-CODERES_22_14_Annex_4_IPC_Application_Form_EN.xls)

Annex 5: IPC-package – IPC Agreement
(CSSF-CODERES_22_14_Annex_5_IPC_AGREEMENT_EN.pdf)

Annex 6: Clarification request for the 2022 contribution period
(CSSF-CODERES_22_14_Annex_6_Clarification_Form_EN.xls)

Annex 7: Legal remedies against decisions by the SRB
(CSSF-CODERES_22_14_Annex_7_Legal_Remedies.pdf)

All annexes are accessible via the links figuring at the end of this circular or on the CSSF's website www.cssf.lu under Entity types > Credit institutions/Investment firm > Resolution > Circulars > Circular CSSF-CODERES 22/14 > Details and related documents (direct link: https://www.cssf.lu/en/document/circular-cssf-coderes-22-14/).

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