

Luxembourg, 24 April 2019

To all credit institutions subject to Regulation (EU) No 806/2014 of the European Parliament and of the Council ¹

CIRCULAR CSSF-CODERES 19/08

Re: Single Resolution Fund – Information on/announcement of raising 2019 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

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 2019 ex-ante contribution for all the institutions as defined in Article 2 of the SRMR (see Annex 1).

The amounts are due by **6 June 2019**.

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 Fund², 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”).

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 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”)

The amount to be paid has been calculated pursuant to the following provisions:

- 2019 contribution – risk adjusted (Articles 5 to 9 DR) **or**
- 2019 contribution – lump-sum (Article 8(5) CR) **or**
- 2019 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 2019 ex-ante contribution has been determined by taking into account the data provided by the credit institutions according to Circular CSSF-CODERES 18/07.

In Annex 1 the SRB describes the details of the calculation. Compared to the 2018 ex-ante contribution (as described in Circular CSSF-CODERES 18/06) the 2019 ex-ante contribution differs mainly in the following points:

	2019 ex-ante contribution	2018 ex-ante contribution
Basis of calculation of contribution	26.67% according to Article 103 BRRD and 73.33% according to Articles 69 and 70 SRMR (Article 8 (1) (d) CR)	33.33% according to Article 103 BRRD and 66.66% according to Articles 69 and 70 SRMR (Article 8 (1) (c) CR)
New risk indicator	Share of interbank loans and deposits in the European Union, capturing the importance of the institution to the economy of the Member State of establishment	LCR

These differences have mainly led to a substantial increase of the contribution in most of the cases as already announced in previous CSSF-CODERES circulars. Altogether, the concerned banks will have to pay an aggregate amount of EUR 138.4 million in 2019 compared to EUR 128.9 million paid in 2018. In addition, the number of banks in Luxembourg contributing to the SRF has decreased by 5 to 89³. Because the volume of covered deposits in Luxembourg and the Banking Union increased by 4.6% respectively 2.6%, the remaining banks have to compensate this gap. This is in particular the case for banks where the Basic Annual Contribution (BAC) increased compared to the 2018 exercise. Compared to the other Member States, however, the charge per BAC is in general still the lowest.

Unchanged to 2018, the SRB has decided to set the target amount 2019 to 1.15% of covered deposits/8 (see Annex 1 point 16) because it expects that the yearly increase of the covered deposits in the Member States of 2-3% p.a. in the last years will continue. The SRB has already announced, that in the next years it might be even necessary to increase this ratio further in order to achieve the final 1% target in 2024 (Article 69(1) SRMR). This together with the shift in the calculation away from Article 103 BRRD to the method described in Articles 69 and 70 SRMR (see Article 8(1) CR) is expected to lead to further increasing contribution amounts for the concerned banks in Luxembourg in the coming years.

Irrevocable payment commitments (hereinafter “IPCs”)

The conditions concerning IPCs compared to the 2018 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 2019 contribution period the SRB has 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.”

³at Banking Union level by 129 to 3,186 institutions.

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)

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 under EU/International > Banking Union > Single Resolution Mechanism (SRM) > Calculation of contributions (direct link: <http://www.cssf.lu/en/eu-international/banking-union/srm/calculation-of-contributions/>). Even if your bank has already applied in previous years to use IPC this application has to be renewed for 2019.

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)]_2019_Application Form" has to be sent by COB on **23 May 2019** by e-mail to the CSSF at res@cssf.lu.

In addition 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 **23 May 2019** as **physical package by registered mail** to:

SRB [Unit E2 - IPC]
Treurenberg 22
B-1049 Brussels
Belgium

Failure to comply with the requirements as set out above will preclude the institution to use IPCs for the 2019 contribution period.

By 26 June 2019 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), Mr. François Basso (e-mail: francois.basso@cssf.lu) or Mr. Bertrand Toulmonde (e-mail: 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,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

For the Resolution Board



Romain STROCK

Chairman of
the Resolution Board

Annexes:

Annex 1: Decision of the executive session of the SRB of 16 April 2019
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_1_Decision_SRB_2019.pdf)

Annex 2: Example of invoice
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_2_invoice_example.pdf)

Annex 3: Cover letter of the SRB explaining IPC
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_3_IPC_Letter_to_institutions.pdf)

Annex 4: IPC-package - Application Form
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_4_IPC_Application_Form_EN.XLSX)

Annex 5: IPC-package – IPC Agreement
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_5_IPC_AGREEMENT_EN.pdf)

Annex 6: Clarification request for the 2019 contribution period
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_6_Clarification_Form_EN.xlsx)

Annex 7: Legal remedies against decisions by the SRB
(http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/CSSF_CODE_RES/CSSF-CODERES_19_08_Annex_7_Legal_Remedies.pdf)

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