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8th Meeting of the Advisory Expert Group on National Accounts, 29-31 May 2013, Luxembourg

Agenda item: 06
Topic: Stability fees

Introduction

In 2010 the OECD's Centre for Tax Policy launched a questionnaire asking countries to provide details of any deposit insurance and financial stability schemes that were operational in their country and to describe whether payments to these schemes were recorded as taxes or as payments for services. The questionnaire revealed that six broad groupings of schemes were being operated in OECD countries, three of which raised delineation issues for government taxes versus other revenues, and where countries appear to have differing views on where the line should be drawn. The latter related to the classic stability fee schemes and two types of deposit insurance/protection schemes.

This questionnaire was re-circulated to OECD countries in late 2012 concentrating on bank[1] levies and stability fees only and the responses are recorded in Annex 1 to this paper. This information thus reflects measures in place or planned at that time (e.g., the bank levy increase in the UK announced in Budget 2013 isn't reflected).

Guidance on documentation provided

A document on the occurrence and proposed treatment of stability schemes has been attached.

Main issues to be discussed

The AEG is expected to provide guidance on the recording of stability fees and schemes whereby government realises the assets of failed institutions in order to fund compensation payment to depositors. A summary of the proposals for the recording of the various schemes is included in section 4.

[1] Whenever the work "bank" is used in this note, it refers to deposit taking corporations of financial intermediaries.

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: Stability fees

1. Introduction

1. Several countries have operated deposit insurance schemes for many years, generally on deposits up to a certain monetary level (i.e. to protect 'retail deposits'). However, in the wake of the recent financial crisis a number of schemes, with levies (on banks), have been introduced in a number of countries as a form of payment for deposit insurance services provided by government and also as instruments to manage financial stability.

2. Since 2009, 14 countries have introduced compulsory bank levies (Belgium, Finland, France, Germany, Hungary, Iceland, Korea, the Netherlands, Portugal, the Slovak Republic, Slovenia and the United Kingdom) or stability fees (Austria, Belgium and Sweden). In addition, Greece has operated a bank levy since 1975 and Australia has had a supervisory levy dating back to 1998. With the exception of Finland and Slovenia, these are permanent measures.

3. The revenue base for these bank levies and stability fees is typically some definition of the bank's balance sheet, with the precise coverage and exemptions varying across countries. Furthermore, some countries apply a tax (typically at a lower rate) on the nominal value of derivatives (either on the trading volume or on the net stock). Some details on each of the schemes are set out in Annex 1, which reflects country responses to a questionnaire produced by the OECD's Centre for Tax Policy and Administration (CTPA). From this, it can be derived that the vast majority of OECD countries record the relevant bank levies and stability fees as tax revenues in the System of National Accounts.

4. In addition, there are other types of deposit insurance schemes in place in OECD countries and it is useful to review these under the following four headings, in which the first three represent compulsory schemes only:

- Schemes whereby governments realise the assets of failed institutions in order to fund compensation payments to depositors (see Annex 2);
- Smaller long-standing schemes for insuring 'retail' deposits where the payments are consistent with the cost of the insurance;
- A non-government institution is backed by the deposit takers or an insurance fund is operated outside the government sector;
- Voluntary schemes.

5. In the United Kingdom, the realisation of assets in the first category is treated as a capital tax in the System of National Accounts, but not in the Public Sector finances where it is treated as an other capital transfer that offsets the compensation transfers made to the deposit holders. In Australia the priority claim on assets is treated as a non-tax revenue, but any further general levy to overcome the shortfall would be treated as a tax. When it comes to the second category, the vast majority of OECD countries with long-standing schemes for insuring 'retail' deposits, for example Australia, Belgium, Germany and the United States, classify these payments as an insurance type of transaction. One exception is Canada which classifies them as tax revenues.

6. The advent of new schemes raises a number of questions, chiefly concerning the distinction between taxes and insurance type of transactions, where there is potential for significant differences to

arise in the treatment of similar schemes across countries in practice, and so a need for guidance. In the following section, the relevant definitions from the 2008 SNA and related guidance will be discussed. Section 3 will subsequently deal with the application of these criteria to the main types of bank levies and stability schemes, as included in Annexes 1 and 2. No specific attention will be paid to the schemes operated by non-government units and voluntary schemes, as mentioned above in paragraph 4. In section 4, concrete proposals for the treatment of the various schemes will be put forward.

2. International standards

7. The main issue regarding the treatment of bank levies and stability fees relates to whether or not they should be treated as taxes, the alternative being to treat them as payments for insurance type of transactions. In para. 7.71 of the 2008 SNA, taxes are defined as *"… compulsory, unrequited payments, in cash or in kind, made by institutional units to government units"*. Three important criteria can be derived from this definition:

- The payments should be compulsory, voluntary payments are to be treated as non-tax;
- The payments should be made to government; and, last but not least,
- The payments should be unrequited, in the sense that the payments should not reflect a payment for a service or likewise.

8. The latter criterion is the most difficult to apply in practice. In para. 7.80, the 2008 SNA states the following in relation to the distinction between taxes and fees:

> *"One of the regulatory functions of governments is to forbid the ownership or use of certain goods or the pursuit of certain activities, unless specific permission is granted by issuing a licence or other certificate for which a fee is demanded. If the issue of such licences involves little or no work on the part of government, the licences being granted automatically on payment of the amounts due, it is likely that they are simply a device to raise revenue, even though the government may provide some kind of certificate, or authorization, in return.* ***However, if the government uses the issue of licences to exercise some proper regulatory function, for example, checking the competence, or qualifications, of the person concerned, checking the efficient and safe functioning of the equipment in question, or carrying out some other form of control that it would otherwise not be obliged to do, the payments made should be treated as purchases of services from government rather than payments of taxes, unless the payments are clearly out of all proportion to the costs of providing the services"****.*

From this, an additional criterion for the distinction between a recording as taxes and a recording as payments for services can be derived: the payments should appropriately reflect the amount of services provided. If the payments are clearly out of all proportion to the costs of providing the services, the payments should be treated as taxes.

9. Also, the current draft of the revised Government Finance Statistics (GFS) Manual has attempted to provide some more guidance in para. 5.66. More specifically, the following types of fees are considered taxes:

a. fees where the payer of the levy is not the receiver of the benefit, such as a fee collected from slaughterhouses to finance a service provided to farmers;
b. fees where government is not providing a specific service in return for the levy even though a license may be issued to the payer, such as a hunting, fishing, or shooting license that is not accompanied by the right to use a specific area of government land;

c. fees where benefits are received only by those paying the fee but the benefits received by each individual are not necessarily in proportion to the payments, such as a milk marketing levy paid by dairy farmers and used to promote the consumption of milk; and
d. fees paid to government for deposit insurance and other guarantee schemes if they are compulsory, that is, if beneficiaries cannot opt out of the scheme and the payment is clearly out of proportion to the service provided.

10. From the above guidance from the GFS Manual, one can derive a number of other criteria for distinguishing taxes from services: a direct link between the payer and the receiver of the benefit/service (sub a), the provision of a specific (individual) service instead of a more general (collective) service (sub b), and proportionality of payments and benefits/services at the individual level (sub c). Point d directly refers to the treatment of deposit insurance and other related schemes, the topic under consideration. In the context of the GFS Manual, it has been agreed that the final guidance would take into account the considerations of the Advisory Expert Group (AEG) on National Accounts.

3. Short discussion on the treatment of different types of bank levies and stability fees

11. The first criterion for a payment to be classified as a tax (see paragraph 7) relates to the compulsory nature of the payment. All schemes presented in Annex 1 qualify for this criterion. The second criterion refers to whether or not payments are made to government units. This seems to be the case for all schemes in Annex 1, with the exception of Australia where the payments are collected by the Australian Prudential Regulation Authority. However, if government basically fully determines the pricing policy and also guarantees any shortfalls, one could argue that the relevant unit is to be classified as part of government[2].

12. The bank levies and stability fees levied by governments on financial institutions may or may not be hypothecated to a special fund that is administered to provide assistance only to institutions covered (and paying) into the scheme. In practice there appears to be some difference in how these payments are treated across countries. However, some agreement has become apparent in the case of payments made in the absence of a hypothecated fund. In these cases the consensus goes in the direction of treating the fees for the newly established schemes as taxes. Here, it is proposed not to make a distinction between schemes with or without a hypothecated special fund. Having a hypothecated special fund or not seems more a matter of organizing the scheme, without having a material impact on the economic substance of the transaction.

13. More important from an economic substance point of view than the (non-)existence of a hypothecated fund is the criterion whether or not the payments are proportional to the benefits provided. However, as stated before, this criterion may be quite difficult to apply in practice. In this respect, it should also be noted that the issue is not whether the services, in the sense of the costs of providing the services, are proportional to the payments. The relevant payments actually have some similarity to paying non-life insurance premiums, representing both a service component and a (risk) element of compensation for future claims. Consequently, the SNA criterion of proportionality of the fees and the costs of providing the services should be interpreted here as proportionality between on the one hand the payments of fees and on the other hand the costs of both the service element and the insurance or risk element. In this sense, the schemes have some similarity of standardized guarantees schemes.

[2] The relevant Supervisory Authority may actually be classified as part of government. This still needs to be confirmed.

14. Under normal circumstances, and in cases where some relationship with the risks involved is apparent, many of the fees concerned seem to qualify as payments for non-life insurance, irrespective of whether there is a hypothecated fund or not. This especially may be true for the long-standing schemes for insuring 'retail' deposits, where the fees have been established on the basis of some ex ante risk assessment (albeit, with hindsight, seen through rose-tinted specs). As the risk element usually will constitute the main part of the payments, for reasons of simplicity, it might be best to treat the whole payment as a risk premium payment and to set the service component equal to zero, unless unambiguous information is available on the costs related to the provision of the service.

15. However, in the wake of the recent major banking crisis, it has become virtually impossible to quantify the risk element ex ante, as one is confronted with exceptional events with a very uncertain quantitative outcome. One could argue that, in the case of the newly established schemes, there is perhaps some "excessive" element currently involved which clearly has some characteristics of a tax payment. In this respect, one could say that the fees are in excess of any reasonable insurance payments, particularly as they appear to have a retrospective dimension to them, that is, high fees charged now to pay for the free-ride banks were given in the past. All of this clearly points to a recording of an (undetermined) part of the relevant fees as taxes.

16. However, in a steady state situation, once, and if, the turmoil of recent years passes, the latter fees will perhaps become more in line with the notion of "requited", based on an ex ante risk assessment, certainly if they are there to stay. The underlying conceptual proposal could thus be formulated as follows:

- steady state schemes, relevant for the long-standing schemes where the fees are based on an ex ante risk assessment: recording as payments for insurance premiums, unless there is clear evidence of disproportionality between the fees paid and the risks involved, in which case they should be recorded as taxes;
- exceptional schemes, relevant for the newly established schemes in the aftermath of the financial crisis: recording as taxes, unless there is clear evidence of proportionality between the fees paid and the risks involved, in which case they should be recorded as payments for insurance premiums.

The question may arise what to do with steady state schemes, for which in the aftermath of the crisis the fees have been increased. A pragmatic solution may be to keep considering them as payments for insurance premiums, the line of reasoning being that the fees are set higher because of a re-assessment of the risks involved. However, if there is clear evidence of disproportionality of the newly set rates, recording as taxes could be considered.

17. An alternative position to the one above could be that all relevant compulsory payments to government are to be recorded as taxes, unless there is clear evidence of proportionality between the fees paid and the risks involved. However, given the uncertainty of the risks involved, especially taking into account a possible meltdown of the financial system, this means that most fees would simply qualify as taxes.

18. Schemes, whereby governments realise the assets of failed institutions in order to fund compensation of payments to depositors (see Annex 2), have some characteristics in common with stability fee/deposit insurance schemes, but the key issue of interest concerns the recording of the priority claim and acquisition of assets by government to redistribute proceeds to depositors as part of its deposit guarantee. In the United Kingdom, this acquisition is treated as a capital tax in the National Accounts and in Australia the acquisition is treated as non-tax revenue. But in general, three interrelated transactions need further consideration:

- the recording of the appropriation of the assets to fund the compensation of the depositors;
- the recording of levies for an eventual shortfall of the assets; and
- the recording of the compensation paid to the depositors.

19. As noted above, the first transaction could be recorded as either a capital tax or an other capital transfer. Given the fact that a certain value of assets is fully appropriated, the second option seems to be preferable. The appropriation of assets seems to be inconsistent with the definition of capital taxes in para. 10.207 of the 2008 SNA, which states that the base of these taxes relates to the value of assets (transferred), and as such it is not consistent with a full appropriation of the relevant assets:

> *"Capital taxes consist of taxes levied at irregular intervals* ***on the values of the assets or net worth or on the values of assets transferred between institutional units*** *as a result of legacies, gifts inter vivos or other transfers".*

If the assets are not sufficient to compensate the depositors, and the government decides to levy the banking industry for the shortfall, these levies would logically qualify for a recording as taxes.

20. The compensation paid by government to the depositors would be recorded as an other capital transfer. However, this will lead to an asymmetry with the accounting for the losses on the deposits as another change in the volume of assets, as a consequence of which the current and capital accounts of households on balance show a considerable surplus in the case of an event of government having to realize the assets of failed institutions. An alternative, preferable, option would be not to account for the appropriation of the bank's assets and the subsequent compensation of the depositors but rather have government playing the role of an "insolver" whereby it winds down the bank, selling its assets and paying out the depositors (closing their accounts). The transactions in this case would be the same as if the bank voluntarily wound itself up. Where the value of the assets is far in excess of the value of the deposits, the excess would be treated as a tax. Where the difference is marginal, it would be treated as an insolvency fee for services provided by government. In cases where depositors lost some of the value of their deposits this would be treated as an other change in volume of assets. Where other institutions are charged a one-off levy to compensate depositors this would be treated as a tax.

4. Proposals for the recording of bank levies and stability fees

21. The AEG is asked to comment on the following proposals to improve international comparability:

- In the case of steady state long-standing schemes, compulsory payments of stability fees, bank levies and deposit insurance should be treated as payments for insurance premiums, unless there is clear evidence of disproportionality between the fees paid and the risks involved, in which case they should be recorded as taxes.
- In the case of the newly established schemes in the aftermath of the financial crisis, compulsory payments of stability fees, bank levies and deposit insurance should be treated as tax revenues where the payments are made to general government, unless there is clear evidence of proportionality between the fees paid and the risks involved, in which case they should be recorded as payments for insurance premiums. This treatment is to be pursued irrespective of the payments being allocated or not to a hypothecated fund. Furthermore, it should apply regardless of whether the government has a contingency to guarantee the banks' customer deposits. *This may imply a difference compared to the draft guidance suggested in the new GFS which proposes to treat payments as taxes when they are clearly out of proportion. However, as noted before, it would simply be impossible to know ex ante whether or not the payments are actually proportional to the related benefits.*
- If the compulsory payments are made to a fund managed by a public corporation, the payments should be treated as payments for insurance services. However, if government fully determines the pricing policy and also guarantees any shortfalls, one could argue in thecase of the newly

established schemes that the relevant unit is to be classified as part of government, and the relevant payments are to be treated as taxes.

- Compulsory payments that are made to funds operated outside and without the direct involvement of the government sector and all payments to voluntary schemes should not be treated as tax revenues.
- Any payments which involve governments realising the assets of a failed institution or receiving a priority claim on its assets in liquidation in order to fund payments of compensation to customers for their lost deposits should not be accounted for, government playing the role of an "insolver" whereby it winds down the bank, selling its assets and paying out the depositors (closing their accounts). Where the value of the assets is far in excess of the value of the deposits, the excess would be treated as a tax. Where the difference is marginal, it would be treated as an insolvency fee for services provided by government. In cases where depositors lost some of the value of their deposits this would be treated as an other change in volume of assets. Where other institutions are charged a one-off levy to compensate depositors this would be treated as a tax.

22. The AEG is also asked to consider whether more detailed information concerning these schemes should be developed and included in the new GFS Manual, and not merely presented as a footnote within the current para. 5.66.

Annex 1

Bank levies and stability fee schemes

1. Australia

A supervisory levy has been in place since 1998.

The Australian Prudential Regulation Authority (APRA) collects levies from the financial sector to recover its operational costs and other specific costs incurred by certain Australian Commonwealth agencies and departments. The tax base is the asset value of entities regulated by APRA within the banking, general insurance, life insurance and superannuation industries.

APRA supervisory levies are broken into two components: one based on the cost of supervision (the restricted component) and the other on financial system impact (the unrestricted component). The rate of the levy varies between industries within the financial sector. For authorised deposit taking institutions, the restricted levy rate is calculated at 0.00414 per cent of assets held by the entity, subject to minimum of $490 and a maximum of $2.1 million. The unrestricted component of the levy is 0.000566 per cent of assets held by the entity.

Some participants of the financial system (such as specialist credit card institutions and providers of purchased payment facilities and foreign authorised deposit-taking institutions) have smaller restricted component levies. In the case of foreign deposit taking institutions, this reflects reduced supervisory effort relative to domestic deposit taking institutions.

2. Austria

A stability levy was introduced from 1 January 2011. It is paid by all entities classified as banks according to the Austrian Bank Act.

The levy is calculated as a percentage of a bank's balance sheet totals after subtracting secured deposits, equity and trust transactions. The trading volume of derivatives is subject to an additional levy. The trading volume and balance sheet totals of 2010 are used as the tax base for the levies paid between 2011 and 2013. From 2014 onwards the balance sheet of the foregoing year will be used. These revenues will be paid to the general budget and there is no earmarking or financing of special funds.

The stability levy is progressive, with no payments for the first bracket up to € 1,000 million, 0.055% for the bracket up to € 20,000 million and 0.085% for any amount exceeding this threshold. The additional levy on the trading volume of derivatives amounts to 0.013% of a bank's trading volume.

3. Belgium

A. A stability levy was introduced in January 2012.

The levy applies to all credit institutions. The tax base is the total amount of liabilities less equity and deposits subject to the guarantee scheme of the Belgian Special Protection Fund on 31 December of the preceding year. The tax rate is 0.035%.

B. An annual tax on the savings deposits of credit institutions was formally introduced in July 2012 but was retrospectively applicable from January 2012

Calculation of the tax base:
1) Starting point is the outstanding amount qualifying deposits (QD) ([3]) at the first of January
2) The amount of interest (I) attributed in the preceding year is subtracted
3) The ratio of qualifying interest to the amount of attributed interest is calculated(QI/I)
Tax base TB = (QD-I) * QI/I

The reference rate is 0.05% but the actual rate varies from 0.03% to 0.12% depending upon the ratio of loans granted to the "real economy" of the European Union. The more loans granted directly to the real economy (as opposed to other financial institutions), the lower the rate.

4. Finland

A temporary bank tax was introduced in 2013 to run up to the end of 2015 at a rate of 0.125%. The tax base is the combined risk-adjusted assets of deposit banks

5. France

A bank levy was introduced with effect from 1 January 2011.

This is a 'tax on systemic risks' specific to banks with capital requirement above € 500 million. It is levied on the amount of risk-weighted banks' assets, which are used for the determination of banks' capital requirement.

Permanent establishments of foreign banks resident in a European Economic Area country are exempt.

The rate increased from 0.25% to 0.5% from 2013. A temporary 0.25% additional contribution was added to the original rate of 0.25 % from July 2012 to the end of that year.

6. Germany

A bank levy was introduced in January 2011.

The levy is paid by all credit institutions with a permission under the German Banking Act to provide banking operations and aims to charge the size and connectedness of a bank/credit institution. The base of the main component of the levy is an institution's liabilities, with some exemptions. In addition to this is a smaller component which charges the nominal value of derivatives held by an institution (on- and off-balance-sheet).

The main exceptions are equity capital, subsidized loans, jouissance right capital with a holding period exceeding 2 years, fund for general banking risks and non-bank deposits (liabilities to clients). Subsidized loans ("Förderkreditgeschäft") ceased to be chargeable in 2012.

The main component is a levy with progressive rates:
- First €300 million are exempt

[3] The saving deposit of which the interest income is tax exempted for private persons (up to an interest income of 1830 euro per person in 2012)

- 0.02% up to €10 billion,
- 0.03% for amounts between €10 billion and €100 billion,
- 0.04% for amounts between €100 billion and €200 billion,
- 0.05% for amounts from €200 billion to €300 billion
- 0.06% for amounts above €300 billion.
- The addition component amounts to 0.0003% of the nominal amount of derivatives.
- The bank levy is limited to either a maximum of 20% of the annual profits (adjusted by certain other items) or to a maximum of 50% of the average annual profits (adjusted by certain other items) of the three most recent 3 yrs. The minor amount of both is the relevant maximum except that banks have to pay at least 5% of the calculated annual contribution (the minimum bank levy).

7. Greece

A bank levy was introduced in 1975

The tax base is the value of loans made and the annual tax rates are 0.6% for business and consumption loans and 0.12% for mortgage loans

8. Hungary

As from September 2010, financial corporations in Hungary are obliged to pay a surtax. The tax assessment rules vary between institutions engaged in different activities.

Banks and credit institutions pay the surtax on the basis of the adjusted total balance sheet total (ie less inter-bank lending and loan receivables, etc.), and the applicable tax rate in 2012 was 0.15 per cent up to HUF 50 billion and 0.53 per cent above that level. Banks are given the opportunity to reduce their tax liability in the following ways;

- Deduct 30% of their losses from the conversion scheme for foreign currency mortgages.
- Write off 30% of the loss arising from the early repayment of foreign currency loans on fixed HUF exchange rate.
- Those banks which increased their existing SME credit portfolio by 30 September 2012 could deduct the HUF value of their portfolio growth from the base of tax in 2012.

Insurance companies paid on the basis of the amount of insurance premiums received. In 2012, the surtax was levied at a rate of 1.5% up to HUF 1 billion, 3% between HUF 1 billion and HUF 8 billion and 6.4% on the excess. Insurance companies are not subject to the tax in 2013.

The tax is also applicable to other financial institutions for which different rates may apply.

9. Iceland

A bank levy was introduced in January 2011

The tax base is Depository institutions' year-end total liabilities and the tax rate 0.04%.

10. The Netherlands

A bank levy was introduced in October 2012.

The tax base is the total amount of the so called unsecured debts of banks defined as the total amount of equity and liabilities on the balance sheet minus:

- The amount of tier 1 capital,
- Deposits secured under a deposit insurance scheme,
- The liabilities connected with the assurance activities of the bank.

The levy has two rates. In principle, short term unsecured debts are taxed at a rate of 0.044% and long term unsecured debts at a rate of 0.022%. If, however, a director (bestuurder) or a taxable person receives a variable remuneration, (the part of a remuneration which depends on the achievement of targets or the occurrence of events) that is more than 100% (in 2012 and 2013) or 25% (in later years) of his/her fixed remuneration, both rates are multiplied by a factor of 1.1 (and will become 0.0484% and 0.0242% respectively).

11. Portugal

A bank levy was introduced in 2011.

The banking sector is subject to a levy on

- Base I: Total liabilities (with some exemptions) at a rate of 0.05%
- Base II: The notional amount of off-balance sheet financial derivatives, excluding hedging and back to back derivatives at a rate of 0.00015%.

The exemptions for base I are:

- Items that are accounted for as equity;
- Liabilities for defined benefit retirement plans;
- Provisions;
- Liabilities concerning revaluation of financial derivatives;
- Receipts related to deferred income: irrespective liabilities' operations;
- Liabilities related to assets which were not accounted for in securitization's operations - part of the bank deposit actually covered by the Deposits Guarantee Fund

12. Slovak Republic

A bank levy was introduced in January 2012.

[The tax is levied on liabilities net of equity. Retail protected deposits were exempt till September 2012.

- 0.4% - the starting rate
- 0.2% - if the total amount of levies collected is > 500 million EUR and ≤ 750 million EUR
- 0.1% - if the total amount of levies > 750 million EUR and < 1,45% of total amount of assets of the banking sector in the Slovak republic
- 0% - (1) if the total amount of levies > 750 million EUR and (2) ≥ 1,45% of total amount of assets of the banking sector in the Slovak republic
- 0.05% - if (2) was fulfilled but holds no longer] - to be confirmed

13. Slovenia

A Bank levy was introduced in August 2011. It is due to be abolished in January 2015.

The tax base is the balance sheet, calculated as an average value of the balances at the last day of each month in the calendar year and the tax rate is 0.1%

The tax can be reduced by 0.1 % (until 31 December 2012, by 0.167 %) of loan balances granted to non-financial corporations and sole traders. The tax is not applicable when:
- The loan balance granted to non-financial corporations and sole traders in the calendar year for which the tax shall be paid exceeds the balance of such loans in the previous calendar year by at least 5 %.
- The loan balance granted to non-financial corporations and sole traders amounts to less than 20 % of their balance sheet on 31 July 2011.

14. Sweden

The Swedish ‘Stability fee’ was introduced in December 2009.

It is paid by banks and other credit institutions and is levied on all of an institution’s liabilities, excluding equity capital and some junior securities at a rate of 0.036%.

15. United Kingdom

A Bank levy was introduced on 1 January 2011.

The tax base is as follows:
- the global (*i.e.* including foreign subsidiaries) consolidated balance sheet of UK banking groups and building societies;
- the aggregated UK-group and UK subsidiary balance sheets, together with a proportion of the balance sheets of foreign banks operating in the United Kingdom through permanent establishments (branches) which are members of foreign banking groups;
- the balance sheets of UK banks and banking sub-groups in non-banking groups; and
- the balance sheets of UK banks that are not members of groups.

Certain amounts are excluded from “chargeable equity and liabilities”, including:
- Tier 1 capital,
- certain “protected deposits” (*i.e.* deposits covered by depositor protection schemes),
- liabilities that arise from certain insurance business within banking groups,
- liabilities representing segregated client money, and
- repo liabilities secured against sovereign debt.

Liabilities with a maturity greater than one year at the balance sheet date are subject to a half rate. The levy is not charged on the first £20 billion of chargeable liabilities.

The levy was set at 0.05% from 1 January to 28 February 2011 and has steadily increased to 0.088% in 2012 and 0.13% in 2013.

Annex II

Schemes whereby governments realise the assets of failed institutions in order to fund compensation of payments to depositors.

1. Australia

The Financial Claims Scheme (FCS) is a post-funded deposit protection scheme applying to deposits held in Australian-incorporated authorised deposit-taking institutions (ADIs). If an ADI becomes insolvent, the Australian Prudential Regulation Authority (APRA, the administrator of the FCS) will pay depositors the value of their deposits, up to $1 million per depositor, per ADI. The FCS is intended to be a permanent part of Australia's deposit protection framework, [but the $1 million cap will be reviewed from 11 October 2011].

No up-front fee is charged for FCS protection. If an ADI becomes insolvent, APRA receives a priority claim on its assets in liquidation, for its payout and administrative costs. If there are insufficient assets, APRA may levy the ADI industry to make up the shortfall. The levy power is set out in an Act; to implement it, a regulation would be passed.

[While no fees have been received to date] , if the scheme were to be activated, it is likely that the revenues would be treated as follows:

- A priority claim on the ADI's assets in liquidation would be treated as a non-tax revenue.
- A levy to cover any shortfall would be treated as a tax.

2. United Kingdom

In the United Kingdom (UK), there is a deposit protection scheme operated by the Financial Services Compensation Scheme (FSCS) which is in the Central Government sector. It is responsible for compensating depositors with assets up to a certain threshold. Since the financial crisis, the Government has taken direct responsibility for any compensation of additional amounts above the threshold but there are no guarantees that it will do so in the future. During 2008, the UK government undertook a number of financial sector interventions via FSCS whereby depositors were compensated for the loss of their deposits caused by the failure of certain financial institutions.

The Scheme is not operated as a fund and therefore does not have a ready source of compensation to draw on when defaults occur. Its sources of income are as follows;

- An annual levy on banks and building societies to fund its operating costs (along with interest payments on debt).
- Realising the assets of failed institutions - when a financial institution is deemed to be in default, FSCS protection is triggered. In the short term, the compensation payments to depositors are financed by borrowing but in time this borrowing is repaid as the assets of the failed institutions are realised. If the realisation of assets proves to be insufficient, then the FSCS will levy the other banks and building societies to meet the shortfall.

The treatment of these transactions in the UK National Accounts is as follows:

- The levy covering the operating costs is recorded as a current tax on production on the banks and building societies and is included as a tax in the *Revenue Statistics*.

- The realisation of the assets of failed institutions to finance the compensation of depositors is recorded as a capital tax. Thus in National Accounting terms this income is recognised as a tax rather than a service as it is deemed to be providing services to depositors rather than the financial institutions that fund it.

In the UK public sector finances, the classification of the realisation of assets is different compared to that in National Accounts. In this environment, capital taxes have traditionally been recorded alongside current revenues, as from the perspective of government traditional capital taxes (such as Inheritance Tax) produce a regular income stream. This is not the case for the depositor compensation transactions and so these have been recorded in the capital account. The transactions are recorded as 'capital transfers' as opposed to tax revenues in order to offset the transfers to householders.

Other points that support the case for not treating this income stream as tax revenue in either the UK public sector finances or OECD *Revenue Statistics* are as follows:

- The transactions record situations where rights are transferred to government to cover payments paid to depositors of failing financial institutions. These are unusual transactions for a number of reasons. One is that taking into account that they offset the compensation payments that accrue at the same time; they have no positive net impact on government borrowing. In addition, they are only directed at specific institutions.

- Government will not receive a net profit from the taxes though in theory it could record a loss. The amounts from the realisation of assets that are recorded as tax revenues in National Accounts will not be greater than the corresponding amounts paid to depositors in compensation. The same is the case in respect of any additional compensation over and above the FSCS limits that is made directly by the government.