CCCTB - Comments on the 9th March paper on the Tax Treatment of Financial Institutions

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FBE Fiscal Committee

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Would members of the group agree that the CCCTB should consider the specialities of the institutions in the financial sector?

✓ YES – for the reasons set out in our letter of 13th February

- deal in financial assets as our stock in trade
- writing off of loans (bad debts) is a normal business expense
- widespread use of PE's and global trading within banking entities
- mirror recognition of special consideration given by OECD
- significant regulatory issues

Would members of the group find it appropriate that the financial institutions are subject to the same set of tax rules as the 'ordinary' entities, except where a special treatment is justified due to the specificity of the financial institutions?

- Yes, we would expect the same body of tax rules to apply to financial institutions rather than any separate code but in practice as acknowledged in the question these will need to recognise the differing nature of activities as appropriate e.g. bad debt deductions

Do members of the group agree with the list of entities that should be analysed? Do members consider that there is need to analyse any other entity? If so, which entities should be additionally analysed?

- We have no specific comment to make on the inclusion or not of the other entity groups listed and no others to suggest.
- Other bodies present will no doubt comment on this from their own perspective e.g. EFAMA on collective investment vehicles

Do members of the group consider that the financial assets owned by credit entities should be valued at fair value following the rules contained in the IFRS/IAS, and taxed accordingly (i.e. taxation of unrealised gains and losses)?

- A majority of our members would support this in relation to assets held in a ‘trading’ book but the position of certain countries with a strong tradition of not taxing unrealised profits needs to be acknowledged.
- A possible solution for this may be to set fair value as the default position but allow entities who wish to continue on a realisation basis to do so by election.

Should the bad debts provision of the credit entities be treated in a different way than the bad debt provision of 'ordinary' entities? If so, should a global approach be accepted? If yes, with which limits (if any)?

- Yes, to the extent that it is necessary to recognise the different nature in which these arise in a banking trade. We consider that the impairment approach adopted by IAS recognises the extent of the commercial losses incurred and so we agree should be followed for tax purposes.
- Where in addition there is a Basel II or local regulatory requirement for additional provisions to be made then these should be regarded as a cost of being in the banking business and hence be allowed for tax purposes.

Are some specific rules required for some credit entities with special characteristics?

- None that we have identified

Are there any further issues that MS wish to discuss in this respect?

- Internal credit risk transfers need to be recognised
- Formulary apportionment factors – we agree that these are likely to be different from an 'ordinary' corporate, in addition they need to consistent within and without the waters edge, and also recognise the issue of PE's and capital allocation
- Compliance costs – need to be minimised and this is reflected in our view that there should be as few divergences from IAS based accounts as possible
- Finally of course we consider that any CCCTB regime needs to be optional