

Supervisory Authority may levy certain companies and other undertakings

917. (1) For the purpose specified in section 915 (2) and in accordance with this section, the Supervisory Authority may impose in each financial year of the Supervisory Authority one or more levies on the following:

(a) each public limited company (whether listed or unlisted);

(b) each private company limited by shares or designated activity company that, in both the most recent financial year and the immediately preceding financial year of the company, meets the following criteria:

(i) its balance sheet total for the year exceeds—

(I) subject to clause (II), €25,000,000; or

(II) if an amount is prescribed under section 943 (1)(d), the prescribed amount;

(ii) the amount of its turnover for the year exceeds—

(I) subject to clause (II), €50,000,000; or

(II) if an amount is prescribed under section 943 (1)(d), the prescribed amount;

(c) each private company limited by shares or designated activity company that is a holding undertaking, if the holding undertaking and all of its subsidiary undertakings together, in both the most recent financial year and the immediately preceding financial year of the holding undertaking, meet the criteria in paragraph (b);

(d) each undertaking referred to in Regulation 6 of the 1993 Accounts Regulations that, in both the most recent financial year and the immediately preceding financial year of the undertaking, meets the criteria in paragraph (b);

(e) each undertaking referred to in Regulation 6 of the 1993 Accounts Regulations that is a holding undertaking, if the holding undertaking and all of its subsidiary undertakings together, in both the most recent financial year and the immediately preceding financial year of the holding undertaking, meet the criteria in paragraph (b).

(2) Subsection (1) shall not apply in respect of a company or an undertaking of a class exempted under section 943 (1)(g) from this section.

(3) For the purpose of determining whether a holding undertaking and all its subsidiary undertakings meet the criteria in paragraph (b), in the operation of taking, as appropriate—

(a) the amounts of their turnover as a whole, or

(b) their balance sheet totals as a whole,

there shall be eliminated inter-group sales or inter-group balances, as the case may be.

(4) The total amount levied in any financial year of the Supervisory Authority on all companies and undertakings shall not exceed the total amount paid into the reserve fund for that year under section 919 (4)(a).

(5) The Supervisory Authority shall not impose a levy on a company or undertaking under this section unless the Minister has—

(a) first approved—

(i) the total amount to be levied on all companies and undertakings in the relevant financial year; and

(ii) the criteria for apportioning the levy among the classes of companies and undertakings;

and

(b) consented to the levy.

(6) In determining whether to approve the total amount referred to in subsection (5)(a)(i), the Minister may—

(a) have regard to the Supervisory Authority's work programme, and

(b) give due consideration to the use to which its reserve fund was put in the previous financial year.

(7) The Supervisory Authority shall—

(a) establish criteria for apportioning a levy among the classes of companies and undertakings liable to pay the levy under subsection (1),

(b) submit the criteria to the Minister for approval before imposing the levy, and

(c) specify the date on which the levy is due to be paid by those companies and undertakings.

(8) As a consequence of the apportionment of a levy according to the criteria established by the Supervisory Authority, different classes of companies and undertakings may be required to pay different amounts of the levy.

(9) Before imposing a levy under this section, the Supervisory Authority may consult with any other persons who, in its opinion, are interested in the matter.

(10) The Supervisory Authority may recover a levy imposed under this section as a simple contract debt in any court of competent jurisdiction from the company or undertaking from which the levy is due.

(11) Where a holding undertaking and one or more of its subsidiary undertakings would each otherwise be liable to pay a levy imposed under this section, the holding undertaking only shall be liable to pay the levy.

(12) Subsection (11) applies whether the holding undertaking is a public limited company, a private company limited by shares or an undertaking referred to in Regulation 6 of the 1993 Accounts Regulations.