



C/2024/5044

16.8.2024

RECOMMENDATION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 8 July 2024

amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures

(ESRB/2024/3)

(C/2024/5044)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, in particular Annex IX thereof,

Having regard to Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board ⁽²⁾, and in particular Articles 3 and 16 to 18 thereof,

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ⁽³⁾, and in particular Section I of Chapter 4 of Title VII thereof,

Having regard to Decision ESRB/2011/1 of the European Systemic Risk Board of 20 January 2011 adopting the Rules of Procedure of the European Systemic Risk Board ⁽⁴⁾, and in particular Articles 18 to 20 thereof,

Whereas:

- (1) In order to ensure effective and consistent national macroprudential policy measures, it is important to complement the recognition required under Union law with voluntary reciprocity.
- (2) The framework on voluntary reciprocity for macroprudential policy measures set out in Recommendation ESRB/2015/2 of the European Systemic Risk Board ⁽⁵⁾ aims to ensure that all exposure-based macroprudential policy measures activated in one Member State are reciprocated in other Member States.
- (3) On 7 June 2024, the Danish Ministry of Industry, Business and Financial Affairs, acting as the designated authority for the purpose of Article 133 of Directive 2013/36/EU, notified the ESRB of its intention to set a sectoral systemic risk buffer (sSyRB) rate, in accordance with Article 133(9) of that Directive. The notification entails an adjustment of a measure which was first notified to the ESRB by the Danish Ministry of Industry, Business and Financial Affairs on 10 October 2023 but has not yet been and will not be activated.

⁽¹⁾ OJ L 1, 3.1.1994, p. 3.

⁽²⁾ OJ L 331, 15.12.2010, p. 1.

⁽³⁾ OJ L 176, 27.6.2013, p. 338.

⁽⁴⁾ OJ C 58, 24.2.2011, p. 4.

⁽⁵⁾ Recommendation ESRB/2015/2 of the European Systemic Risk Board of 15 December 2015 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 97, 12.3.2016, p. 9).

- (4) The adjusted macroprudential policy measure differs from the measure first notified in October 2023, as the part of each exposure that lies within a loan-to-value ratio range of 0 % to 15 % is excluded from the exposures to which the adjusted sSyRB rate applies. Like the macroprudential policy measure notified on 10 October 2023, the adjusted macroprudential policy measure will apply to all domestic credit institutions on an individual and a consolidated basis. It will apply to all types of exposures located in Denmark to non-financial corporations operating in real estate activities and in the development of building projects identified in accordance with the statistical classification of economic activities in the Union (NACE) set out in Regulation (EC) No 1893/2006 of the European Parliament and of the Council ⁽⁶⁾. Since the adjustment was made to the measure in order to align the total impact of the sSyRB rate with the impact anticipated by the original measure and the overall reasoning has not changed, the adjustment is considered to constitute only a minor deviation from the measure that was notified on 10 October 2023.
- (5) The sSyRB rate applies from 30 June 2024. The measure will be reviewed by the designated authority for the purpose of Article 133 of Directive 2013/36/EU at the latest two years after the initial application.
- (6) On 7 June 2024, the Danish Ministry of Industry, Business and Financial Affairs also submitted a request to the ESRB to recommend the reciprocation of the aforementioned adjusted macroprudential policy measure pursuant to Article 134(5) of Directive 2013/36/EU.
- (7) Following the notification on 10 October 2023 referred to above, the ESRB adopted Recommendation ESRB/2023/13 of the European Systemic Risk Board ⁽⁷⁾, which amended Recommendation ESRB/2015/2 with immediate effect. The macroprudential policy measure notified on 10 October 2023 was added to the list of macroprudential policy measures that are recommended to be reciprocated under Recommendation ESRB/2015/2. In the case of the macroprudential policy measure notified on 10 October 2023, reciprocation on an individual and on a consolidated basis was recommended, as requested by the Danish Ministry of Industry, Business and Financial Affairs.
- (8) Recommendation ESRB/2015/2 of the ESRB, as amended by Recommendation ESRB/2017/4 ⁽⁸⁾, recommends that the relevant authority activating a macroprudential policy measure should, when submitting a request for reciprocation to the ESRB, propose a materiality threshold below which an individual financial service provider's exposure to the identified macroprudential risk in the jurisdiction where the macroprudential policy measure is applied by the activating authority can be considered non-material. The ESRB may recommend a different threshold if deemed necessary.
- (9) Following the Danish request received on 7 June 2024 for the reciprocation of the measure by other Member States and in order to: (i) ensure that the subsequent adjustment of the Danish macroprudential measure is included in such reciprocation and (ii) prevent the materialisation of negative cross-border effects in the form of leakages and regulatory arbitrage that could result from the implementation of the macroprudential policy measure that will become applicable in Denmark; the General Board of the ESRB has decided: (a) that the measure notified on 10 October 2023 should continue to be included in the list of macroprudential policy measures that it recommends to be reciprocated under Recommendation ESRB/2015/2; and (b) that the scope of the measure notified on 10 October 2023 should be adjusted to align it with the request for reciprocation received by the ESRB from the

⁽⁶⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

⁽⁷⁾ Recommendation ESRB/2023/13 of the European Systemic Risk Board of 8 December 2023 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C, C/2024/3114, 6.5.2024, ELI: <http://data.europa.eu/eli/C/2024/3114/oj>).

⁽⁸⁾ Recommendation ESRB/2017/4 of the European Systemic Risk Board of 20 October 2017 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 431, 15.12.2017, p. 1).

Danish Ministry of Industry, Business and Financial Affairs. The General Board of the ESRB has also decided to maintain its recommendation for a maximum institution-specific materiality threshold of EUR 200 million to steer the application of the de minimis principle by reciprocating Member States. The relevant authorities reciprocating the measure may exempt institutions from the systemic risk buffer requirement as long as their relevant exposures do not exceed EUR 200 million.

(10) Therefore, Recommendation ESRB/2015/2 should be amended accordingly,

HAS ADOPTED THIS RECOMMENDATION:

AMENDMENTS

Recommendation ESRB/2015/2 is amended as follows:

- (1) in Section 1, sub-recommendation C(1), the measure under Denmark is replaced by the following:
‘— a 7 % sectoral systemic risk buffer rate on all types of exposures located in Denmark to non-financial corporations operating in real estate activities and in the development of building projects identified in accordance with the statistical classification of economic activities in the Union (NACE), set out in Regulation (EC) No 1893/2006, with the exception that the part of each exposure that lies within a loan-to-value ratio range of 0 % to 15 % shall be excluded from the exposures to which the sectoral systemic risk buffer applies.’;
- (2) the Annex is amended in accordance with the Annex to this Recommendation.

Done at Frankfurt am Main, 8 July 2024.

*The Head of the ESRB Secretariat,
on behalf of the General Board of the ESRB*
Francesco MAZZAFERRO

ANNEX

The Annex to Recommendation ESRB/2015/2 is amended as follows:

- (1) the measure under Denmark is replaced by the following:

'A 7 % sectoral systemic risk buffer rate on all types of exposures located in Denmark to non-financial corporations operating in real estate activities and in the development of building projects identified in accordance with the statistical classification of economic activities in the Union, set out in Regulation (EC) No 1893/2006, with the exception that the part of each exposure that lies within a loan-to-value ratio range of 0 % to 15 % shall be excluded from the exposures to which the sectoral systemic risk buffer applies.'

- (2) under Denmark, the section headed 'I. Description of the measure' is replaced by the following:

I. Description of the measure

1. The sectoral systemic risk buffer rate of 7 % will apply to all domestic credit institutions.
2. It will apply to all types of exposures located in Denmark to non-financial corporations operating in real estate activities apart from social housing associations and housing cooperative associations and in development of building projects. The relevant economic activities of the debtor are specified by a reference to the statistical classification of economic activities in the Union, set out in Regulation (EC) No 1893/2006 (*).
3. The part of each exposure that lies within a loan-to-value ratio range of 0 % to 15 % is excluded from the exposures to which the sectoral systemic risk buffer applies. The loan-to-value ratio is calculated by dividing the exposure by the total current (estimated) market value of properties posted as collateral.
4. The measure will apply on an individual and consolidated basis.

(*) The determination of the specific subsets of sectoral exposures to which the sSyRB will be applied, is based on the EBA Guidelines on the appropriate subsets of sectoral exposures to which competent or designated authorities may apply a systemic risk buffer in accordance with Article 133(5)(f) of Directive 2013/36/EU, (EBA-GL-2020-13), available on the EBA website at: www.eba.europa.eu;

- (3) under Denmark, the section headed 'II. Reciprocation' is replaced by the following:

II. Reciprocation

5. Reciprocating relevant authorities are recommended to reciprocate the Danish measure by applying it to all types of exposures located in Denmark to non-financial corporations engaged in specific economic activities, which are determined as follows: "Real estate activities" according to NACE (*) code "L", apart from social housing associations and housing cooperative associations and "Development of building projects" (41.1) according to NACE code "F". From these exposures, the part of each exposure that lies within the loan-to-value ratio range of 0 % to 15 % should be subtracted.
6. Following the request by the Danish Ministry of Industry, Business and Financial Affairs, the relevant authorities are recommended to reciprocate the Danish measure by applying it on an individual and consolidated basis.

7. If the same macroprudential policy measure is not available in their jurisdiction, the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the measure recommended for reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU.
8. Member States are recommended to reciprocate this measure within three months from the publication of this Recommendation in the *Official Journal of the European Union*.

(*) NACE Rev.2, Statistical classification of economic activities in the European Community, Regulation (EC) No 1893/2006.;

(4) under Denmark, the section headed 'III. Materiality threshold' is replaced by the following:

'III. Materiality threshold

9. The measure is complemented by an institution-specific materiality threshold based on exposures located in Denmark to steer the potential application of the de minimis principle by the relevant authorities reciprocating the measure. Credit institutions may be exempted from the sectoral systemic risk buffer rate requirement as long as their relevant sectoral exposures do not exceed EUR 200 million, which corresponds to approximately 0,3 % of the total exposures to real estate companies in Denmark.
10. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality threshold of EUR 200 million is a recommended maximum threshold level. Relevant authorities may therefore instead of applying the recommended threshold set a lower threshold for their jurisdictions where appropriate or reciprocate the measure without any materiality threshold. When setting the materiality threshold relevant authorities should consider individual financial service provider's exposure to the identified macroprudential risk in Denmark and assess whether it can be considered non-material.
11. Where there are no credit institutions authorised in the Member States having material exposures in Denmark, relevant authorities of the Member States concerned may, pursuant to Section 2.2.1 of Recommendation ESRB/2015/2, decide not to reciprocate the Danish measures. In this case, the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate the Danish measures when a credit institution exceeds the respective materiality thresholds.'