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Targeted consultation on improving the EU's macroprudential framework for the banking sector

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Introduction

Background of this targeted consultation

With this targeted consultation, the European Commission wishes to consult on the EU's macroprudential framework for the banking sector in view of the legislative review mandated by Article 513 of Regulation (EU) No 575/2013, as amended by Regulation (EU) 2019/876 (hereinafter 'CRR'). The information obtained will feed into the impact assessment for a possible legislative proposal.

The Commission is interested in evidence and substantiated views from a wide range of stakeholders. Contributions are particularly sought from non-governmental organisations representing notably users of financial services, think tanks and academics, national regulators and supervisors, banks and other financial institutions, and EU institutions.

Context and scope of the targeted consultation

The Commission is launching this targeted consultation to gather evidence in the form of relevant stakeholders' views and experience with the current macroprudential rules for banks in line with the better regulation principles and in view of the forthcoming legislative review mandated by Article 513 CRR.

Article 513 CRR requires the Commission to complete a review of the macroprudential provisions in CRR and in Directive 2013/36/EU (hereinafter 'CRD') by June 2022 and, if appropriate, to submit a legislative proposal to the European Parliament and to the Council by December 2022.

Macroprudential policy is the use of primarily prudential tools to limit systemic risk and safeguard financial stability. Systemic risk refers to the risk of a widespread disruption to the provision of financial services caused by an impairment of the financial system or parts of it, and which can have serious negative consequences for the real economy. Macroprudential policy complements microprudential policy, which focuses on the soundness of individual financial institutions. By providing a systemic perspective, it aims to correct externalities that are not tackled by microprudential supervisors who address risks at the level of a single institution. It has clearly defined financial stability objectives, specific instruments and dedicated institutions. Macroprudential policy has been established in the wake of the 2008 Global Financial Crisis.

The macroprudential toolkit for credit institutions (referred to as 'banks' in the remainder of this document), introduced in the Capital Requirements Regulation and Directive (CRR/CRD), is applicable since 2014. The macroprudential framework implements and expands international standards agreed by the Basel Committee on Banking Supervision (BCBS). The main tools are capital buffers, i.e. Common equity Tier 1 (CET1) capital requirements on top of minimum (Pillar 1) and additional (Pillar 2) capital requirements. Capital buffers hence reduce the risk that unexpected losses will result in banks breaching their minimum and additional capital requirements.

The mandate in Article 513 CRR offers the opportunity to review and improve the EU macroprudential provisions applicable to banks. Article 513 CRR envisages a broad scope for the review, requiring the Commission to assess the effectiveness, efficiency and transparency of the macroprudential framework, and listing a number of specific issues to be considered in view of a possible legislative proposal. These issues must be analysed taking into account ongoing discussions at the international level. It is also necessary to take into account the Covid-19 crisis experience, the first time many macroprudential instruments were utilised during a crisis. The Covid-19 shock affected banks' balance sheets far less than typical stress test scenarios, thanks (in part) to the swift and determined fiscal and monetary policy responses to the pandemic, the progress made over the past decade in strengthening the (micro and macro) prudential requirements for banks and the progress made in setting up the Banking Union. However, the crisis did highlight some important macroprudential issues that have been subject to international debate, such as the releasability of buffers and banks' willingness to use them during a crisis. While, the full lessons and consequences of the Covid-19 crisis are still uncertain, the macroprudential review provides a good opportunity to start addressing any gaps or weaknesses in the current framework and reflect on ways to make macroprudential policy more effective in the post-pandemic period and beyond.

The review of the macroprudential provisions in CRR and CRD pursues goals that are distinct from those of the banking package proposed by the Commission on 27 October 2021 to finalise the implementation of the Basel III agreement in the EU. This consultation is being launched after the publication of the banking package proposal, allowing respondents to take into account the likely implications of the package for the macroprudential framework in banking, and in particular the Output Floor, which sets a lower limit ("floor") on the capital requirements ("output") that banks calculate when using their internal models.

Responding to this consultation and follow-up

The Commission has decided to launch a targeted consultation designed to gather evidence on improving on the EU macroprudential framework for the banking sector.

The targeted consultation is divided into four sections:

- Section 1: Overall design and functioning of the buffer framework (Questions 1-4)
- Section 2: Missing or obsolete instruments, reducing complexity (Questions 5-8)
- Section 3: Internal market considerations (Questions 9-13)
- Section 4: Global and emerging risks (Questions 14-16)

Each question focuses on a particular aspect of the macroprudential framework. Respondents are invited to indicate the extent to which they consider that change is necessary regarding this particular aspect and to present their reasoning, as far as possible supported by evidence. If the space for responding is not sufficient, respondents may use links or upload background documents with the required evidence. Respondents are also invited to raise any general or specific observations they have on improving the EU macroprudential framework for banks which were not covered in other sections (Question 17).

The targeted consultation is available in English only and will be open until 18 March 2022.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-macropru@ec.europa.eu.

More information on

- this consultation
- the consultation document
- prudential requirements
- the protection of personal data regime for this consultation

About you

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* Language of my contribution

- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ● English
- ○ Estonian
- ○ Finnish
- ○ French
- ○ German
- ○ Greek
- ○ Hungarian
- ○ Irish
- ○ Italian
- ○ Latvian
- ○ Lithuanian
- ○ Maltese
- ○ Polish

- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- (selected) Public authority
- Trade union
- Other

* First name

* Surname

* Email (this won't be published)

* Scope

- International
- Local
- (selected) National
- Regional

* Level of governance

- Parliament
- (selected) Authority
- Agency

* Organisation name

255 character(s) maximum

Ministerie van Financiën

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- (selected) Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

Afghanistan	Djibouti	Libya	Saint Martin
Åland Islands	Dominica	Liechtenstein	Saint Pierre and Miquelon
Albania	Dominican Republic	Lithuania	Saint Vincent and the Grenadines
Algeria	Ecuador	Luxembourg	Samoa
American Samoa	Egypt	Macau	San Marino
Andorra	El Salvador	Madagascar	São Tomé and Príncipe
Angola	Equatorial Guinea	Malawi	Saudi Arabia
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Antarctica	Estonia	Maldives	Serbia

- ○ Antigua and Barbuda
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- ○ Australia
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- ○ Bahamas
- ○ Bahrain
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- ○ Bermuda
- ○ Bhutan
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- ○ Bosnia and Herzegovina
- ○ Botswana
- ○ Bouvet Island
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- ○ British Virgin Islands
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- ○ Ethiopia
- ○ Falkland Islands
- ○ Faroe Islands
- ○ Fiji
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- ○ France
- ○ French Guiana
- ○ French Polynesia
- ○ French Southern and Antarctic Lands
- ○ Gabon
- ○ Georgia
- ○ Germany
- ○ Ghana
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- ○ Grenada
- ○ Guadeloupe
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- ○ Guinea
- ○ Guinea-Bissau
- ○ Guyana
- ○ Mali
- ○ Malta
- ○ Marshall Islands
- ○ Martinique
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- ○ Mauritius
- ○ Mayotte
- ○ Mexico
- ○ Micronesia
- ○ Moldova
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- ○ Montenegro
- ○ Montserrat
- ○ Morocco
- ○ Mozambique
- ○ Myanmar/Burma
- ○ Namibia
- ○ Nauru
- ○ Nepal
- ◉ Netherlands
- ○ New Caledonia
- ○ New Zealand
- ○ Nicaragua
- ○ Niger
- ○ Seychelles
- ○ Sierra Leone
- ○ Singapore
- ○ Sint Maarten
- ○ Slovakia
- ○ Slovenia
- ○ Solomon Islands
- ○ Somalia
- ○ South Africa
- ○ South Georgia and the South Sandwich Islands
- ○ South Korea
- ○ South Sudan
- ○ Spain
- ○ Sri Lanka
- ○ Sudan
- ○ Suriname
- ○ Svalbard and Jan Mayen
- ○ Sweden
- ○ Switzerland
- ○ Syria
- ○ Taiwan
- ○ Tajikistan
- ○ Tanzania
- ○ Thailand
- ○ The Gambia

- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen

- Czechia
- Lebanon
- Saint Helena Ascension and Tristan da Cunha
- Zambia
- Democratic Republic of the Congo
- Lesotho
- Saint Kitts and Nevis
- Zimbabwe
- Denmark
- Liberia
- Saint Lucia

* Field of activity or sector (if applicable)

- [ ] Accounting
- [ ] Auditing
- [ ] Banking
- [ ] Credit rating agencies
- [ ] Insurance
- [ ] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [ ] Other
- [x] Not applicable

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **Fo r the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

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- [x] **Anonymous**
Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
- [ ] **Public**
Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

- [x] I agree with the personal data protection provisions

1. Overall design and functioning of the buffer framework

The comprehensive macroprudential toolkit for banks, introduced following the Global Financial Crisis, is applicable since 2014. The macroprudential framework implements, and expands on international standards agreed by the BCBS. The main tools are capital buffers, i.e. additional Common equity Tier 1 (CET1) capital requirements on top of the Pillar 1 and Pillar 2 requirements that banks need to fulfil to remain a going concern. Capital buffers hence reduce the risk that unexpected losses will result in banks having to be declared failing or likely to fail. They enable banks to absorb losses while maintaining the provision of key services to the economy.

The CRD sets out five capital buffers, which together form the combined buffer requirement (CBR). Four buffers are based on the Basel agreements, while one is EU-specific. The four Basel-defined buffers are:

- capital conservation buffer (CCoB, Art 129 CRD), which is calibrated at 2.5% of the total amount of assets adjusted by the riskiness of these assets (Risk Weighted Assets, RWA), to ensure that banks have an additional layer of usable capital that can be drawn down when losses are incurred;
- countercyclical capital buffer (CCyB, Art 130 CRD), which aims to protect the banking sector from periods of excess aggregate credit growth that have often been associated with the build-up of system-wide risks;
- global systemically important institutions (G-SII) buffer (Art 131 CRD), which aims to reduce the probability of failure of a global systemically important bank by increasing their going-concern loss absorbency capital requirement;
- other systemically important institutions (O-SII) buffer (Art 131 CRD), which aims to reduce the probability of failure of banks that are deemed systemically important at the national level by increasing their going-concern loss absorbency capital requirement.

The EU-specific buffer is the systemic risk buffer (Art 133 CRD), which can be used to address a broad range of systemic risks, which may also stem from exposures to specific sectors, as long as they are not already addressed by the other buffers above.

Each bank has to meet a specific CBR. Unlike a breach of minimum capital requirements, breaching the CBR does not prevent banks from operating as a going concern, but banks breaching their CBR have to restrict distributions in the form of dividends, share buy-backs, coupon payments on additional Tier 1 (AT1) instruments, and discretionary bonus payments, and they will have to submit a capital conservation plan to supervisors.

When faced with a shock, buffers should avoid excessive deleveraging by banks, which could amplify the initial shock to the economy. In the Covid-19 crisis (the first crisis with a macroprudential framework in place), banks have indirectly benefited from unprecedented public support measures to their household and corporate customers; therefore, the shock-absorbing feature of capital buffers has not been tested.

The crisis has triggered a discussion on whether the capital buffer framework is optimally designed not only to provide additional resilience, but also to act counter-cyclically when necessary, including by encouraging banks to maintain their supply of credit during an economic downturn. The review of the macroprudential framework should therefore focus on the best use of buffers in a crisis, covering various aspects:

- Stigma related to Maximum Distributable Amount (MDA) restrictions: Using capital buffers during a crisis (i.e. breaching the combined buffer requirement (CBR)) does not prevent banks from continuing to operate as a going concern, unlike a breach of Pillar 1 minimum capital requirements. However, when operating below their CBR, banks face automatic and graduated (depending on the buffer shortfall) restrictions on distributions, including dividends, bonus payments and coupon payments on Additional Tier 1 instruments. While these payout restrictions are designed to prevent imprudent depletion of capital, they may also incentivise banks to deleverage to avoid such restrictions and market stigma.

- Capital buffer usability: Unlike minimum requirements, capital buffers that have been built-up can in principle be drawn down or released when losses have to be absorbed during times of stress. Capital buffers are only fully usable if they can be depleted without breaching parallel minimum requirements, i.e. the Leverage Ratio (LR) and the Minimum Requirement for own funds and Eligible Liabilities (MREL), including the MREL subordination requirement for certain banks. In practice, parallel prudential and resolution minimum requirements may become binding before capital buffers are fully used and hence may limit banks' ability to sustain lending in situations of economic distress. However, it is also important to bear in mind that the leverage ratio is precisely intended to prevent banks from becoming excessively leveraged. Moreover, reducing overlaps between buffers and other requirements may not be possible without implications for the calibration of overall capital requirements and of requirements in the resolution framework (Bank Recovery and Resolution Directive (BRRD), Single Resolution Mechanism Regulation (SRMR)).

- Balance between structural and releasable buffers: In response to the Covid-19 crisis, responsible authorities reduced and relaxed capital requirements for banks (notably certain buffers) and Pillar-2 Guidance to enhance their lending capacity in the face of a steep rise in liquidity needs of households and businesses. The scope for capital releases from macroprudential buffers was quite limited, though, as only one macroprudential buffer, the CCyB, is explicitly designed to be released in a crisis. The bulk of the capital buffers (i.e. CCoB, G-SII and O-SII buffers and, to a lesser extent, SyRBs) are of a structural nature and should be in place at all times or for as long as a particular type of risk is present. As there are concerns that banks might prefer to deleverage rather than allow their capital to fall below the CBR, there are calls for making a larger share of buffers releasable in a crisis. One option that is being widely discussed is a positive neutral CCyB rate, i.e. a CCyB calibration that would be above zero even in the absence of a credit boom. A key question in that regard is whether a positive CCyB rate over the cycle should (and could) be achieved without an increase in the overall level of capital requirements.

- Procyclicality in risk weights: Capital buffer requirements are expressed in percentages of risk-weighted assets, so the amount of capital needed to meet a given combined buffer requirement depends on the level of risk weights. This is an issue for banks using internal models to calculate risk weights for their various exposures, but it may also affect banks using the standardised approach to the extent that they rely on external ratings. Rising credit losses caused by an economic shock may drive up risk weights (or lower external ratings), increasing the amount of risk-weighted assets held by banks and, hence, the amount of capital they need to meet their buffer requirements, which are expressed as percentages of risk-weighted assets. This phenomenon has not been observed in the current crisis as public support measures have kept loan defaults at a low level. However, in a different crisis with rapidly rising loan defaults, rising risk weights could accelerate the depletion of capital buffers and cause banks to behave pro-cyclically. This could also be an important aspect of how the buffer framework operates in a crisis, although the impact of risk weight variations over the cycle can be expected to be mitigated by the Output Floor.

- Banks' willingness to use their buffers will also depend on their expectations as regards the restoration and replenishment of buffers after a shock. They will be more reluctant to lend if they know that their capital requirements will quickly increase. This depends on how MDA restrictions and capital conservation rules as laid down in Art. 141 to 142 CRD are applied and how soon released/reduced buffers are restored to their previous levels

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Apart from the operation of the buffer framework over the cycle, its suitability for dealing with structural risks should also be reviewed. Particular attention should be given to the appropriateness of capital buffers for systemically important institutions, global (G-SIIs) and other (O-SIIs). Together, these institutions are the main providers of credit to households and firms in Member States and, as such, vital to economic performance. At the same time, the integration of G-SIIs and O-SIIs in increasingly complex financial systems makes them vulnerable to financial shocks occurring outside the banking sector and may create potential contagion channels for financial instability (see section 4 for the global contagion risks). In addition to specific buffer requirements (G-SII buffer), G-SIIs have to comply with tighter limits on their leverage ratio, the leverage ratio buffer. Such a leverage ratio buffer requirement does not exist for O-SIIs. Art. 513(e) CRR requires the Commission to consider whether the leverage ratio buffer requirement should also apply to O-SIIs.

Another primarily structural buffer is the SyRB. Its use has been made much more flexible recently (through the 2019 amendments to CRD, which became applicable at the end of 2020), allowing its application to sectoral exposures (or subsets thereof); at the same time, the restriction to apply it only to structural risks was removed. SyRBs, in particular sectoral SyRBs, are not yet widely used. They have been considered as a possible substitute for risk weight measures in accordance with Art. 458 CRR, which exist in several Member States. The calibration of a sectoral SyRB would have to be very high to address macroprudential risks that are not fully reflected in risk weights, as those low risk weights would also imply lower capital requirements for a given buffer rate. High calibrations would also imply more complex authorization procedures.

Having several different types of buffers introduces a degree of complexity in the macroprudential framework. This complexity may be unavoidable in the EU in view of (i) the flexibility that is needed to address a wide range of different systemic risks across different Member States, and, (ii) the existing decentralised governance of the EU macroprudential framework in banking. However, it may be useful to consider whether this complexity could be reduced or whether clearer guidance would be needed to ensure a consistent use of the buffer framework across Member States.

1.1. Assessment of the buffer framework

Question 1. Has the capital buffer framework been effective so far in providing sufficient resilience against all types of systemic risks in Member States and for different types of banks and exposures?

- ○ 1 - Highly ineffective
- ○ 2 - Ineffective
- ● 3 - Neutral
- ○ 4 - Effective
- ○ 5 - Highly effective

Don’t know / no opinion / not applicable

Please explain your answer to question 1, considering not only overall resilience, but also the interactions of the individual components of the capital buffer framework (i.e. CCoB, CCyB, G-SII, O-SII and SyRB buffers); is it sufficiently clear which buffer is to be used to address which risk?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The capital buffer framework has contributed to a more resilient system, in which banks maintain higher quantity and quality of capital. The introduction of the CRD V, leads to a robust capital buffer framework that is sufficient to build resilience against various kinds of (systemic) risk. The buffer toolkit is, however, less capable of mitigating or reducing the build-up of risks for which other measures are potentially more suitable. We are of the opinion that the role of each buffer is currently clearly delineated, which limits the risk of overlap.

While the capital framework thus provides sufficient room to act, the coronavirus crisis highlighted that there was only a limited build-up of releasable capital buffers in Europe. While banks’ capital buffers provide scope to absorb losses and to maintain the provision of credit, it could be that banks in practice do not perceive non-releasable buffers as fully usable. There may be valid reasons for this, such as the fear of market stigma or rating downgrades. However, there is currently little evidence for the lack of usability. The majority of banks did not experience capital proximity to their MDA trigger and were able to supply credit to support the real economy. On a macro-scale no credit supply impediments have therefore been observed.

We deem it important that the cyclical elements of the capital framework are improved. This would ensure that banks build up capital in economic booms that is available in a downturn. Against that background we propose to clarify the current legislation and to promote a more proactive use of the CCyB. This could be achieved by reducing the emphasis on the credit-to-gdp gap while better accounting for other variables that measure cyclical risks.

Question 2. Has the capital buffer framework been effective in dampening financial or economic cycles in Member States?

- 1 - Highly ineffective
- (selected) 2 - Ineffective
- 3 - Neutral
- 4 - Effective
- 5 - Highly effective
- Don’t know / no opinion / not applicable

Please explain your answer to question 2, considering in particular the experience to date with the calibration of buffers during phases of economic growth and rising vulnerabilities, and the use of buffers after an economic /financial shock; do you see any impediments to the intended use of buffers both during upswing and downswing phases?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We think that the capital buffer framework could have been more effective in dampening financial cycles in Member States. The macroprudential instrument that is explicitly meant to vary over the financial cycle, the CCyB, was not used to its full extent. When the coronavirus crisis started in Europe, the total size of the CCyB in eurozone countries only amounted to 0.2% of the total RWA of eurozone countries. We think one reason for this is the credit-to-gdp gap as a 'key' variable contributes to inaction bias. There are more dimensions to cyclical risk than excessive credit growth, so we think the scope of activation indicators for the CCyB should be broadened in that regard.

Question 3. How well is the systemic importance of banks addressed by G-SII and O-SII capital buffer requirements?

- ◯ 1 - Very poorly
- ◯ 2 - Poorly
- ◉ 3 - Neutral
- ◯ 4 - Well
- ◯ 5 - Very well
- ◯ Don't know / no opinion / not applicable

Please explain your answer to question 3, considering in particular whether G-SII and O-SII buffer requirements are appropriate and coherent, also across countries, in view of their market shares, activities, market conditions, advances in setting up the Banking Union, and the risk their failure would pose to financial stability.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support the current G-SII methodology and acknowledge that it ensures resilience of large banks from a global perspective. We value that the methodology is well-accepted on a global scale and that the G-SII identification methodology also directly translates into a buffer requirement. We see no need for adjustments in the current G-SII methodology at this stage.

With respect to the O-SII buffer, we note that the EBA methodology on O-SII identification, broadly speaking, adequately identifies the set of O-SIIs in a country. The methodology, however, leaves some room for improvement with respect to buffer calibration. The ECB minimum floor for the O-SII buffer supports harmonization of capital requirements within the single market. However there is still a level of heterogeneity in O-SII buffer rates in different jurisdictions among O-SIIs that have similar O-SII scores based on the EBA methodology. As systemic risk and other structural features do not seem to be causing these differences, we support the development of EU-wide guidelines drafted by the EBA in close cooperation with the ERSB and ECB, on the calibration of O-SII buffer rates. In particular, we are in favor of fine-tuning the O-SII floors, resulting in less unwarranted heterogeneity in the O-SII buffers for institutions with similar O-SII scores, while leaving sufficient room for national specificities to adjust these upwards. We believe that such a development would also help fostering further development of the banking union.

In addition, to enhance the consistency and coherence of the framework and to reduce the risk of excessive leverage. An O-SII leverage ratio add-on should be included in the framework similar to the G-SII leverage buffer. In general, systemically important banks have lower risk-weight densities than non-significant institutions. An O-SII LR would improve the credibility of the LR to function as an appropriate backstop to risk-based requirements. In addition, the same (economic) arguments that speak in favor of introducing the G-SII LR buffer often also apply to O-SIIs. Finally, we are of the view that a logical benchmark to translate the risk-weighted O-SII buffer requirement into a LR add-on would be the conversion factor that is currently used for calibrating the G-SII LR buffer (i.e. 50% of the risk-weighted buffer).

1.2. Possible improvements of the buffer framework

Question 4. What changes would improve the current buffer framework and what would be, in your view, the pros and cons of these changes?

Question 4.1 Enhanced clarity of the buffer framework:

Consider whether there is scope for simplifying/streamlining the buffer framework or providing better guidance on how to use it.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As explained above under question 1, we support looking into a more pro-active use of the CCyB and clarify such use in the CRD.

Moreover, we support the use of the powers in Article 458 when risks are elevated. In the current legal provisions, Article 458 tools, such as tighter liquidity requirements, can only be imposed when there is a change in the intensity of systemic or macroprudential risk. In our view these last resort measures should still be allowed to be used when risks have stabilized but remain elevated.

Question 4.2 Releasable buffers:

Consider in particular whether an increase of releasable buffers could be achieved in a capital-neutral way over the cycle, the circumstances and conditions under which buffers should be released and what coordination/governance arrangements should be in place.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although we support the case for the build-up of additional macroprudential space in the SSM Area, we also recognize that changes to the capital framework can be confusing. Future changes to the framework should in any case not water down capital requirements, but rather ensure the resilience and flexibility of the framework. They should be Basel-compliant and only embed a centralized governance, such as a further ECB mandate, if that is truly necessary. Capital neutrality and central governance are not objectives by their very nature, within the design of macroprudential tools.

Question 4.3 Buffer management after a capital depletion:
How can capital buffers be restored/replenished after an adverse shock in such a way that banks will provide sufficient lending in the recovery? In that regard, is there scope for optimising the MDA restrictions and capital conservation rules as laid down in Articles 141 to 142 CRD?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are of the opinion that the current scope of MDA restrictions and capital conservation rules as laid down in the CRD are appropriate and proportionate. On the one hand they ensure that upon a buffer breach, capital is not paid out to shareholders, but instead used for core activities to support the real economy. At the same time the restrictions are proportionate. A smaller breach of the trigger leads to a smaller restriction. We find it justifiable that the further a bank dips into its buffer, the more it should get restricted on possible distributions. After all, the financial crisis demonstrated that a number of banks continued to make large distributions even though their individual financial condition and the outlook of the sector were deteriorating, which ultimately reduced the resilience of the sector as a whole. This speaks in favor of maintaining the current MDA-mechanism as was introduced in Basel III.

At the same time, we acknowledge the importance of replenishing buffers without hampering a credit institution’s granting of credit, and the regulator’s role. In our view, increasing the better functioning of the cyclical elements of the capital framework amount of releasable capital could help in that regard.

Question 4.4 Overlap between capital buffers and minimum requirements:
How important is it to reduce the overlap between capital buffers and other requirements, and how could this be achieved without unduly raising overall capital requirements and having to re-open the composition of the leverage-ratio based “capital stack” and the calibration of the MREL based on the total exposure measure and the MREL subordination requirement?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are not in favor of overhauling the current framework and adding complexity to address the issue of overlap. Having said that, we are open to simple proposals as long as these do not water down capital requirements and reduce the resilience of the sector.

Problems with overlaps will likely become less significant following Basel implementation (e.g. output floor). Without overhauling the complete framework and without modifying the interaction between the various requirements (i.e. some overlap between requirements is intended/desirable).

Question 4.5 Consistent treatment of G-SIIs and O-SIIs within and across countries:

Should there be more EU-level guidance or binding rules on the identification of O-SIIs and the calibration of O-SII buffers? Should the leverage ratio buffer requirement for G-SIIs also apply to O-SIIs?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are of the opinion that the EBA Guideline on O-SII identification performs sufficiently well and provides enough flexibility to deal with extreme cases. We would welcome more guidance (e.g. Guidelines drafted by the EBA in close cooperation with the ESRB and the ECB) on O-SII buffer calibration in order to reduce the unwarranted heterogeneity in the application of the framework and to avoid a race to the bottom.

We also strongly support introducing an O-SII LR buffer. Please also refer to answer provided for question 3.

Question 4.6 Application of the SyRB to sectoral exposures:

Are the thresholds for opinions and authorisations appropriate for sectoral SyRB rates (and for the sum of G/O-SII and SyRB rates)? Should the combined SyRB rate be calculated as a percentage of total risk exposure amounts and not sectoral risk exposure amounts? How should sectoral risk exposure amounts be calculated after the introduction of the output floor?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No specific opinion.

2. Missing or obsolete instruments, reducing complexity

The EU has a broad and complex range of macroprudential tools. One of the questions to be assessed in the review is whether certain existing tools have become obsolete, whether some need to be strengthened and whether certain tools are missing. The scope for reducing unwarranted complexity should also be explored.

The Commission is required to assess in particular whether Borrower-Based Measures (BBM) should be added to the EU macroprudential toolkit to complement capital-based instruments and to allow for the harmonised use of these instruments in the internal market, assessing also whether harmonised definitions of those instruments and the reporting of respective data at Union level are a prerequisite for the introduction of such instruments (Article 513(1)(d) CRR). BBM could complement the existing toolset to address and mitigate systemic risks, especially those related to real estate, and to prevent the potential negative spill-overs to the broader financial system and the economy. While several Member States are already using BBM based on national law, a complete set of BBM is not available in all Member States. This could affect the ability to address systemic risk and create cross-country inconsistencies and difficulties with reciprocity, where this is necessary to ensure the effectiveness of BBM in the internal market.

The review should also seek to identify instruments that may be obsolete. The finalisation of the Basel III reforms and the introduction of an output floor has implications for macroprudential instruments that directly or indirectly affect risk weights such as those provided under Articles 124, 164 and 458 CRR, which concern exposures secured by mortgages. Furthermore, having multiple prudential tools that can target similar risks creates unwarranted complexity and may contribute to a more fragmented internal market. The powers to set floors for, or raise, certain risk weights and parameters (as set out in Articles 124 and 164 CRR) have not been widely used since their introduction in the EU framework. In particular, Article 164 CRR has never been used by an EU Member States. Some of the shortcomings of the two articles have been addressed in CRRII, with the aim of improving their usability. While the very short time span since the improved articles have been applicable does not allow to conclude on their actual usability, it does make sense to reassess their suitability in view of the introduction of the output floor with the finalisation of the Basel III reforms.

With Article 458 CRR, the CRR and CRD package contains a last-resort measure to flexibly address a number of systemic risks that cannot be adequately and effectively addressed by other macroprudential tools in the package. The use of the tool is subject to various safeguards, aimed at avoiding that such measures create disproportionate obstacles to the functioning of the internal market. During the past years, Article 458 CRR has been used by some Member States to adjust risk weights for exposures to residential real estate markets. The need for such measures may diminish, given that the SyRB can be used for sectoral exposures and due to the phasing-in of the output floor.

Article 459 CRR empowers the Commission under very restrictive conditions to impose stricter prudential requirements for a period of one year in response to changes in the intensity of micro- or macroprudential risks. However, scenarios where the conditions for using this article would be met are very unlikely. Moreover, the Article could become more symmetric and allow for the temporary relaxation of certain requirements, notably to support the recovery after an adverse shock.

One measure that could have made sense in the context of the Covid crisis would be the temporary imposition of system-wide restrictions on the distribution of capital to investors and staff in the face of exceptional uncertainty. However, such a measure would not have been covered by Article 459. During the Covid-19 pandemic, authorities in the EU asked banks to refrain from capital distributions, through dividends, share repurchases and bonuses, to ensure the stability and resilience of the banking system and to support the flow of credit to the real economy. Those recommendations aimed at retaining capital in the banking system, including capital released from buffers and from Pillar 2. The recommendations were observed by banks. EU legislation currently only allows supervisors to impose legally binding distribution restrictions on banks on a case-by-case basis but does not provide for legally binding supervisory powers to temporarily prohibit distributions on a system-wide basis under exceptional circumstances. Microprudential supervisors consider that they had sufficient powers to enforce the recommendation on distribution restrictions in the Covid-19 crisis. However, in the context of the macroprudential review, the role of macroprudential authorities in imposing restrictions on distributions in exceptional circumstances should also be considered, as well as their coordination at the European level.

2.1 Assessment of the current macroprudential toolkit and its use

Question 5. Based on the experience so far, have you observed any major gaps in the EU macroprudential toolkit (also beyond the buffer framework)?

- ○ 1 - Major gaps
- ○ 2 - Minor gaps
- ● 3 - Neutral
- ○ 4 - Comprehensive
- ○ 5 - Fully comprehensive
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 5, indicating which gaps you perceived and what consequences these gaps have or might have had:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We believe the current buffer framework provides sufficient room for imposing capital requirements that foster the resilience of the sector, but encourage clarifying the proactive use of the CCyB in the CRD text (as is explained in question 1). The framework also contains some room for tightening liquidity requirements should this be needed (although this is part of the last resort measure Article 458).

Question 6. Has the experience with the macroprudential toolkit so far revealed any redundant instruments or instruments that need to be redesigned to make them fit for purpose?

- ◯ Yes
- ◉ No
- ◯ Don’t know / no opinion / not applicable

Please explain your answer to question 6, specifying which instruments could be redundant or would need to be redesigned, as well as the expected benefits thereof:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are of the opinion that no instruments are redundant at the current stage. As regards the relation of risk weight measures with the final implementation of Basel III, we are of the opinion that Basel input and output floors will not render macroprudential tools for risk weights redundant. In our view, the changes brought about by the final Basel III packages are of a microprudential nature and are not designed to address systemic risks. In addition, we believe that Article 458 also allows for a more targeted approach to address risks (e.g. Art 458 can increase risk weights in the RRE sector directly, whereas these low risk weights are only indirectly targeted by the output floor to the extent that output floor is binding; in line with our answer to question 8.3).

Question 7. How effective has the macroprudential toolkit and EU governance framework been in managing a crisis?

- ◯ 1 - Highly ineffective
- ◯ 2 - Ineffective
- ◉ 3 - Neutral
- ◯ 4 - Effective
- ◯ 5 - Highly effective
- ◯ Don’t know / no opinion / not applicable

Please explain your answer to question 7, notably in light of the experience gained during the Covid-19 crisis:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We believe that the macroprudential toolkit and EU governance framework has been relatively effective in managing a crisis. However, we think it could have been even more effective had there been adequate activation of tools (SyRB, CCyB) before the crisis.

2.2 Possible improvements of the buffer framework

Question 8. What changes to the current set of instruments would improve the macroprudential toolkit and what would be, in your view, the pros and cons of these changes?

Question 8.1 Borrower-based measures:

Should all Member States have a common minimum set of borrower-based measures to target more directly potentially unsustainable borrowing by households and corporates, particularly in a low-interest-rate environment? Which tools should Member States have and what role should EU bodies play in fostering their effective use?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

NL could support an obligation in the CRD for MS to incorporate a minimum set of RRE BBMs in national legislation. In the Netherlands there are several regulatory requirements in place to prevent unsustainable borrowing and protect consumers, such as a creditworthiness assessment, and loan to income and loan to value norms. These regulatory requirements have contributed to financial stability in the Netherlands by limiting the build-up of financial vulnerabilities and systemic risk. We are therefore of the opinion that the regulatory requirements that are in place in the Netherlands might also provide added value in terms of strengthening lending practices and protecting consumers in other member states. At the moment, borrower based measures like the LTV and LTI are primarily based on national policy frameworks. We deem it important that the decision on activation and design of these measures should remain with the national authority.

Question 8.2 System-wide distributions restrictions:

Should EU and/or national authorities have the power to restrict distributions for the entire banking system to conserve capital in a severe crisis situation? Under which conditions and how should such system-wide restrictions be used, taking also into account the role of European bodies?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not think it is necessary at this stage to formally introduce a generic legal tool to introduce system-wide payout restrictions. We consider it important that in exceptional systemic circumstances, capital relief measures support the real economy and underpin a resilient sector. It would be highly undesirable in such circumstances if banks would use their freed-up capital and channel this onwards to shareholders. However, the corona crisis has shown that it is possible to come to an implicit understanding with the sector to not distribute capital but keep it in the system for supporting the real economy, without the need to formally introduce the opportunity in legislation

To the extent that the review would foresee a shift from the current structural into releasable capital buffers (e.g. a release of the CCoB), such a measure should be accompanied by dividend restrictions (for which its instigation could also be linked to specific/exceptional circumstances), also to observe Basel compliance.

Question 8.3 Temporary relaxation of prudential requirements to support the recovery after a shock:

Should EU and/or national authorities have more powers to relax prudential requirements after banks have suffered a shock, to avoid pro-cyclical behaviour and enhance banks' capacity to support the recovery? What elements of the prudential framework could be addressed using such powers (e.g. unwarranted risk weight hikes after a shock)? Could Art. 459 CRR be adapted for this purpose?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not see the need for more powers for EU and/or national authorities to relax prudential requirements after banks have suffered a shock. We think that the current framework provides sufficient opportunity to relax requirements if the buffers are built up in an appropriate manner.

Question 8.4 Instruments targeting risk weights and internal model parameters:

How will the forthcoming application of the input and output floors under the Basel III agreements affect the need for tools that adjust risk weights or the parameters of internal models (Art. 124, 164 and 458 CRR)? Are such tools still necessary and, if yes, how should they be adapted to the new regulatory environment?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The output floors of Basel III serve a different purpose than articles 124, 164, and 458, which are targeted to specific types of exposures and have in scope (SA) risk weights and LGD floors. Therefore, the relevance of these articles in countering systemic risks remains after the imposition of the Basel III floor.

3. Internal market considerations

The EU macroprudential framework also seeks to preserve the integrity of the internal market while leaving it mostly to Member State authorities to adequately address systemic risks, which tend to be specific to individual Member States (although this may change with deeper economic and financial integration). The largely decentralised use of macroprudential instruments is therefore framed by provisions in CRR and CRD, which require an EU-level surveillance and, in some cases, authorisations for measures that could create obstacles to the functioning of the internal market. The complexity of procedures and of the interactions between different instruments may, however, prevent authorities from making an effective use of the instrument and possibly cause an inaction bias, especially in the case of sectoral SyRBs that may need to be calibrated at very high rates to be effective.

Moreover, the effectiveness of national macroprudential measures in the internal market depends on being able to prevent, through reciprocation by other Member States, circumvention and regulatory arbitrage. This issue may arise not only in relation to other Member States, but possibly also for other parts of the financial sector to the extent that they can provide similar services as banks. It is important to assess, also in light of the recent crisis experience, whether the current framework offers not only the appropriate macroprudential tools to national authorities, but also ensures their effectiveness in the internal market, and whether it provides for adequate safeguards for the integrity of the internal market and avoids market fragmentation especially within the Banking Union. The review should therefore also consider whether provisions related to the internal market achieve their goals, and whether they do so without undue complexity or whether there is scope for simplifying and streamlining procedures while maintaining necessary safeguards.

Art. 513(1)(f) CRR requires an assessment as to whether the current voluntary reciprocation of certain macroprudential measures should be made mandatory and whether the current ESRB framework for voluntary reciprocity is an appropriate basis for that. Reciprocity is currently voluntary for a CCyB above 2.5%, SyRBs and measures taken under Article 458 CRR.

3.1 Assessment of the current macroprudential framework's functioning in the internal market

Question 9. Are macroprudential measures as used by national authorities generally commensurate with systemic risks in a given country, or do you consider that there are unjustified disparities across countries?

- ○ 1 - Highly disparate
- ○ 2 - Disparate
- ● 3 - Neutral
- ○ 4 - Commensurate
- ○ 5 - Highly commensurate
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 9, providing supportive evidence on possible disparities and their likely impact on the internal market:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It is challenging to assess to what extent the current tools are commensurate with the systemic risk. National authorities were granted the power over macroprudential measures so that they could better account for national specificities given that financial cycles are not yet fully synchronized at the SSM level. Having said that, we do observe that the use of macroprudential tools varies across countries. For instance, a level of unwarranted heterogeneity can be observed in O-SII buffer rates in different jurisdictions among O-SIIs that have similar O-SII scores based on the EBA methodology.

In light of the above, we support the development and use of minimum floors. In addition, we provide particular support for an EU-wide guideline on the calibration of O-SII buffer rates.

See also our answer to question 3.

Question 10. Has the oversight of national macroprudential policies through notification, assessment and authorisation procedures been proportionate and effective in preventing an excessive use of macroprudential tools and undue market fragmentation?

- ○ 1 - Highly ineffective
- ○ 2 - Ineffective
- ○ 3 - Neutral
- ○ 4 - Effective
- ○ 5 - Highly effective
- ● Don’t know / no opinion / not applicable

Please explain your answer to question 10, taking also into account the complexity of procedures and related administrative burdens for authorities and the industry and whether you see scope for streamlining and simplifying the procedures, while retaining necessary safeguards:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No specific opinion.

Question 11. Have the provisions on reciprocation been effective in maintaining a level playing field in the banking sector and preventing the circumvention of national macroprudential measures through regulatory arbitrage?

- ○ 1 - Highly ineffective
- ○ 2 - Ineffective
- ○ 3 - Neutral
- ● 4 - Effective

- 5 - Highly effective
- Don’t know / no opinion / not applicable

Please explain your answer to question 11, indicating notably whether you would see merit in extending the mandatory reciprocation framework to the instruments not currently covered by it:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As there is no evidence of material cross-border risk shifting and arbitrage, we do not deem it necessary to substantially change the reciprocity framework at this stage.

Question 12. Has the current allocation of responsibilities for macroprudential policy between the national and European level been effective in ensuring that sufficient and appropriate action is taken to limit systemic risks and manage crises?

- 1 - Highly ineffective
- 2 - Ineffective
- 3 - Neutral
- (x) 4 - Effective
- 5 - Highly effective
- Don’t know / no opinion / not applicable

Please explain your answer to question 12, taking notably into account the roles of the ESRB, the ECB and the Commission (which may impose stricter prudential requirements in accordance with Article 459):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

NL is of the opinion that the formal balance between central and national responsibilities is grosso modo the right one. Macroprudential policy is to an extent a national competence that allows NCAs to put policies in place that it deems necessary given the specific national circumstances. We agree that in certain specific circumstances a unified approach may be warranted, but we would like this to apply to specific policies only.

3.2 Possible improvements relating to the functioning of the macroprudential framework in the internal market

Question 13. What changes to the current governance arrangements and oversight procedures would improve the compatibility of macroprudential policy making with the internal market, and how could the complexity of procedures be reduced?

Question 13.1 Monitoring of the macroprudential stance:

Should there be regular overall assessments of the macroprudential requirements (or stance) in each Member State in addition to, or as a substitute of, the EU-level monitoring and vetting of individual macroprudential measures? What measures should be available to which bodies in case the national macroprudential stance is deemed disproportionate to the level of risk (too low or too high)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No specific opinion.

Question 13.2 Reciprocation of national macroprudential measures:

Should there be mandatory reciprocation for a wider range of macroprudential measures and how could this be implemented (role of the ESRB, materiality thresholds, etc.)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No specific opinion.

4. Global and emerging risks

Financial stability in the EU does not only depend on limiting systemic risks and vulnerabilities within the EU banking sector. There are contagion risks originating outside the EU, possibly involving non-bank financial intermediation, that also need to be addressed. While financial intermediation through non-banks is growing in importance, banks continue to play a pivotal role in the global financial system. Large banks provide crucial services for non-bank financial intermediaries. At the same time, some increasingly significant developments, and in particular cyber security breaches, the entry of big tech firms into financial services and crypto assets, all take place at a global scale and can represent growing threats to financial stability. Also, the Covid-19 crisis has shown how events originating outside the financial sector can affect financial stability. In the future, climate risks are likely to materialise more suddenly, more frequently, more severely and with greater cross-border implications. In the recent consultation on the renewed sustainable finance strategy, most respondents highlighted the importance of having a robust macroprudential framework that incorporates climate risks. The suitability of the existing macroprudential toolkit will have to be assessed in view of the above-mentioned global risks.

Exposures to third countries can also represent a threat to financial stability. Articles 138 and 139 CRD foresee powers to address risks arising from excessive credit growth in third countries and to ensure a coherent approach for the buffer setting for third country exposures. These powers have never been used since their introduction in the EU framework, raising the question whether these provisions represent the most appropriate way of dealing with systemic risks stemming from third countries.

From a financial stability perspective, a growing non-bank financial sector brings benefits in terms of increased risk-sharing across the financial system, but it can also result in new risks and vulnerabilities. In particular, the expansion of the non-bank financial sector in recent years has been accompanied by an increase in the riskiness of some asset portfolios, rising liquidity transformation and increased leverage. Such risk-taking has created vulnerabilities which need to be monitored and assessed, taking into account interconnectedness within the financial system and the banking sector in particular, as well as the role of non-bank financial institutions in funding the real economy more broadly. Art 513(1)(g) CRR mandates the Commission to consider tools to address new emerging systemic risks arising from banks' exposures to the non-banking sector, in particular from derivatives and securities financing transactions markets, the asset management sector and the insurance sector.

The banking sector is exposed to growing cyber-threats, and its reliance on critical infrastructure offered by third-party providers may create new vulnerabilities. Financial stability can be disrupted when cyber incidents spread across banks through their financial and information technology connections, as well as their common dependence third-party service providers.

Finally, crypto-assets are a new, rapidly expanding but high-risk and largely unregulated asset class that also spawns a large industry of service providers. Banks can become exposed to crypto-assets through an increasing variety of channels, direct and indirect, financial or operational. It should therefore also be assessed whether adjustments to the macroprudential framework are needed in response to the rise of the crypto economy.

4.1 Assessment of the current macroprudential framework's suitability for addressing cross-border and cross-sectoral risks

Question 14. Have macroprudential tools been appropriate and sufficient to limit the systemic risk arising from EU banks' exposures to third countries?

- ○ 1 - Not at all appropriate and sufficient
- ◉ 2 - Not really appropriate and sufficient
- ○ 3 - Neutral
- ○ 4 - Appropriate and sufficient
- ○ 5 - Fully appropriate and sufficient
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 14, also in light of the experience gathered so far, considering in particular whether the EU's existing macroprudential tools and capital requirements (notably Articles 138 and 139 CRD) are sufficient to limit systemic risks emanating from EU banks' third country exposures:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We largely support the current toolkit as a way of preserving resilience with respect to third country risks. However, to the best of our knowledge, thus far no macroprudential tools have been activated for exposures to third countries. In our view, this inaction cannot only be explained by adequate macroprudential policy in third countries.

Question 15. Is the EU macroprudential toolkit adequate for monitoring and mitigating banks' systemic risks related to global market-based finance, securities and derivatives trading as well as exposures to other financial institutions?

- 1 - Not at all adequate
- 2 - Not really adequate
- 3 - Neutral
- 4 - Adequate
- 5 - Fully adequate
- (x) Don't know / no opinion / not applicable

Please explain your answer to question 15, in light of the experience gathered so far, identifying in particular gaps related to derivatives, margin debt and securities financing transactions:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No specific opinion.

4.2 Possible enhancements of the capacity of the macroprudential framework to respond to new global challenges

Question 16. How do you expect systemic risks to evolve over the coming years and what enhancements of the EU macroprudential monitoring framework and toolkit (notably capital buffers, rules on risk weights and exposure limits), would be necessary to address global threats to financial stability?

Question 16.1 Financial innovation:

What risks to financial stability could result from banks' new competitors (FinTech and BigTech) and the arrival of new products (notably crypto-based)? Is there a need to enhance banks' resilience in view of such changes? If so, how could this be achieved while maintaining a level playing field?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The entry of more tech-adept competitors, such as BigTech and FinTech, into the financial services industry could lead to the more efficient provision of these services and could offer significant advantages to retail consumers in terms of ease of use and cost. This ‘digitalization trend’ in financial services has sped up during the pandemic and was at the same time accompanied by a large uptick in crypto-asset adoption amongst retail customers. Currently, the risks of these new products and competitors to financial stability seem to be limited given relatively limited interlinkages with the traditional financial system and their limited role in critical financial services. A recent study of our Authority for Consumers and Markets (ACM) confirms that the role of BigTech in the payment system is currently limited, but ACM also sees that Big Tech companies are strengthening their positions on the market through acquisitions and collaborations (https://www.acm.nl/en/publications/big-tech-and-dutch-payment-market-tightening-rules-needed-maintain-level-playing-field).

On a more forward-looking basis, however, we could see financial stability risks increase, particularly given the data-driven business models of BigTechs.
In general, BigTech firms can lead to three different forms of concentration risk:
- Outsourcing: traditional financial institutions rely upon a small group of critical service providers for the delivery of certain IT services (e.g. cloud).
- Distribution: if BigTech platforms become the main access point for consumers to financial services, a disruption of these platforms could undermine confidence in the broader financial system.
- Data: concentration of data increases the risk that outsourcing and distribution become increasingly concentrated.

An important question (as also voiced by the ESAs) is whether the current rules for supervising financial conglomerates would sufficiently capture BigTech conglomerates. In DNB’s scenario-analysis, it is concluded that it is unlikely that BigTechs will become significant financial risk-bearers in the years ahead as a result of establishing banking or insurance entities themselves. We do however expect them to play an increasingly important role as distributors of financial products and services through their platforms. A large financial stability risk might be that if distribution channels and customer contact are concentrated in BigTech platforms, it will be more difficult for risk-bearing institutions to make proper risk assessments and manage risks. That may also have system-wide consequences if BigTech platforms, which themselves bear no risk, lay off excessive risks to risk-bearing institutions.

To ensure the resilience of banks in the face of their growing role in the distribution of products, it might be worthwhile to consider rules to prevent platforms laying off excessive risks to risk-bearing institutions and rules to ensure that risk-bearing institutions are still able to conduct proper risk management.

Given the limited macro-financial risks that at this stage, the main risks to stability at this point in time could be operational in nature. Nonetheless, macroprudential authorities should continue to monitor concentration risks of IT service providers and if necessary formulate macroprudential policies. It should however be noted that macroprudential policy (at least in its current form) might be less suitable to deal with operational risks than with financial risks. For example, increasing capital requirements will most likely not ensure that a BigTech platform is reliable from an operational perspective.

One way BigTechs could have a large impact on financial stability is if they adopt a global stablecoin on their platforms. The risks of such global stablecoin arrangements have been very well described by the FSB. In this context, it might also be worth noting the recent rapid growth of decentralized finance where the same network effects can occur, which could lead to a select number of these platforms to become dominant. During 2022, DNB as well as the FSB are performing further analysis related to the growth of DeFi and the potential for these platforms to become a risk to financial stability.

To ensure a level-playing field, the regulatory approach to BigTechs should not be formulated at the national level as these firms often operate on a global level. Another important forum in this regard is the FSB, which might be able to coordinate on the regulatory approach for BigTechs (and the broader digitization developments) on a global level thereby avoiding the distortion of the level playing field.

Question 16.2 Cybersecurity:

Is there a need to enhance the macroprudential framework to deal with systemic cybersecurity threats? If not, how should the existing tools be used to mitigate threats and/or build resilience?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support bringing cyber risk in scope of the review, acknowledging that it is a new risk for which it is too early to propose concrete macroprudential tools to counter it.

Question 16.3 Climate risks:

Should the macroprudential toolkit evolve to ensure its effectiveness in limiting systemic risks arising from climate transition and from physical climate change, also considering the current degree of methodological and data uncertainty? And if so, how?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Research shows that under certain conditions climate risk has financial stability repercussions and that therefore a macroprudential response is likely warranted. We promote the (further) use of macroprudential stress testing as a way to identify systemic risks, choose potential prudential instruments, and calibrate them. At this stage, stress tests seem to point to concentrated exposures in industries and geographical areas.

While further research is needed, it is important that macroprudential authorities proactively consider any tools they have and how these can be used to address climate-related financial risks (CRFRs). This could be done through using existing tools such as the sectoral systemic risk buffer (sSyRB), building on the existing large exposure limit of Article 458 to develop a concentration limit, or introducing a new tool such as a concentration risk charge. NL favors an opening in Article 458 to facilitate taking into account climate risks. Other, new tools, such as a concentration risk charge, do seem more proportional but would also entail the addition of a new tool in CRR/CRD.

At this stage, we deem it important to clarify any use of current tools in tackling CRFRs, while further analyzing the pros and cons of (potentially new) macroprudential tools also in light of new research. It is important that relevant amendments are introduced in a timely manner into the CRR/CRD (likely upon the completion of additional work from the ECB and ESRB Project Team on climate risk monitoring), rather than waiting until the next round of the macroprudential framework review in five years.

In any case, we deem it important that changes to the toolkit do not result in overlap between micro and macroprudential requirements for institutions.

Question 16.4 Other ESG risks:

Should the macroprudential toolkit further evolve to address financial stability risks stemming from unsustainable developments in the broader environmental, social and governance spheres? How could macroprudential tools be designed and used for this purpose?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It seems too early to propose new or amended macroprudential tools for ESG risks beyond climate, given that quantitative research in this field is lacking. The SyRB could already be considered broad enough to cover residual risks.

Other observations

Please indicate any other issues that you consider relevant in the context of review of the macroprudential framework. You may also use this section to express your views on priorities and the desirable overall outcome of the review.

Question 17. Do you have any general observations or specific observations on issues not covered in the previous sections?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our main priorities for the review are:

- A more proactive use of the CCyB, so there would be a more prominent role of other indicators, rather than those focused only on excessive credit growth, in the setting of the CCyB.
- The introduction of an LR buffer for O-SIIs, given that this would likely foster the resilience of the sector, improve the credibility of the leverage ratio as a backstop, and reduce the risk of excessive leverage. Concerns regarding the usability of other releasable capital buffers can be limited by introducing the buffer requirement only as of 2024 when MREL requirements should be fully phased in and when the final Basel III package would soon start to have an impact.
- Keeping Article 458, as an important part of the toolkit that provides authorities with a last resort measure if needed. It should be made possible to exercise these powers not only when the intensity of risk changes, but also when risks remain elevated.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.
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Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2021-banking-macroprudential-framework_en)

Consultation document (https://ec.europa.eu/info/files/2021-banking-macroprudential-framework-consultation-document_en)

More on prudential requirements (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financia supervision-and-risk-management/managing-risks-banks-and-financial-institutions/prudential-requirements_en)

Specific privacy statement (https://ec.europa.eu/info/files/2021-banking-macroprudential-framework-specific-priva statement_en)

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Contact

fisma-macropru@ec.europa.eu