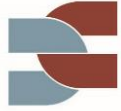




## EACB Comments

### European Commission consultation on the Review of the EU macro-prudential policy framework

Brussels, 24<sup>th</sup> October 2016



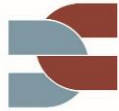
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The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 31 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.200 locally operating banks and 68.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 205 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 78 million members and 860.000 employees and have a total average market share of about 20%.

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## **Introduction**

The members of the EACB welcome the opportunity to comment on this Commission's initiative seeking input on the EU macro-prudential framework.

In our view it is very important to ensure, that decisions taken in individual EU Member States are in line with the objective of a level playing field and equal treatment, and particularly urgent in the light of the ESRB report from May 2016 on macro-prudential policy measures implemented and notified by national authorities, where a sharp increase can be observed in activated or planned macro-prudential measures over 2015.

Particularly for cross-border banking groups, there is a risk of inconsistencies in the application of the current macro-prudential framework. For instance, significant differences can be noticed regarding the application of the systemic risk buffer in terms of level, reasoning, affected institutions and phasing-in etc.

Aligning the interplay of measures, procedures and the institutional setting in a comprehensive manner is of key importance to avoid duplications and overlaps in addressing the same risk. Also the transparency of decisions taken by national authorities should be increased.

Examples of actions that could contribute to streamline and enhance the framework are:

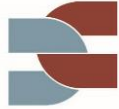
- The establishment of an ESRB guide for sound decision-making in the setting of the individual macro-prudential measures (level, risks addressed by which tool, pecking order).
- The evaluation of the role of the ECB with coordination powers for macro-prudential tools for the Eurozone.
- A clear and comprehensive justification by the authority on the use of macro-prudential tools.

## **Answers to specific questions**

*Q.1 Do you consider the degree of coordination between the different authorities in the current framework (i.e. ESRB, national macro-prudential authorities, Commission, Council, etc.) appropriate? [Please rank your answer from 1 (fully appropriate) to 5 (not appropriate at all), and explain your scoring.]*

Rank: 4

Banking and financial markets in Europe are not yet homogeneous, due to existing differences in Member States' markets. Due to national based economic policy and divergences in economic cycles, risks to stability arise first of all on national level, and macro-prudential policies have to take into account this element. A "one size fits all" approach on the European level is not appropriate. It is important that national authorities maintain a primary responsibility to be coordinated on European level. Nevertheless, we recognise that enhanced coordination with regard to significant institutions under the SSM could be necessary, in particular to ensure a level playing field. The ECB should be in a position to coordinate capital requirements.



*Q.2 (a) Would you consider appropriate to expand the macro-prudential framework beyond banking? [Please rank your answer from 1 (fully appropriate) to 5 (fully inappropriate), and explain your scoring.] (b) If deemed appropriate, what kind of systemic risks should be targeted and how?*

Rank: 1

We do consider appropriate that the macro-prudential framework applies also to non-bank financial intermediaries, in particular the shadow banking sector. Specific risks of Fintech companies should also be addressed. Otherwise there is a concrete risk of creating an uneven playing field and not addressing segments of the market that might instead build up risk. Rather than setting up the architecture and never revisiting it, the macro-prudential bodies need to monitor the regulatory perimeter on an ongoing basis.

*Q.3 Do you see a need to strengthen the coordination between designated and competent authorities when using stricter Pillar 1 measures for real estate exposures to address systemic risks? [Please rank your answer from 1 (strong need) to 5 (no need), and explain your scoring.] If you see a need, how should their coordination be strengthened?*

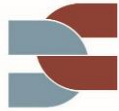
Rank: 1

We see a clear need for enhancing coordination between designated and competent institutions when using stricter Pillar 1 requirements for real estate exposures (Art 124, 164 and 458 CRR). This could be the case more in general for all CRR/CRD IV macro-prudential tools. Moreover, it would be key to clearly state which financial stability concerns are addressed by which macro-prudential measure in order to avoid duplications/overlaps. A harmonised list with designated tools could be established, this would also simplify comparisons.

*Q.4 Do activity-based instruments in the current framework allow to effectively tackle risks stemming from specific risk exposures? [Please rank your answer from 1 (fully agree) to 5 (fully disagree), and explain your scoring.]*

Rank: 4

In general, we see that activity-based instruments tend to increase complexity. Therefore, we do not see a need for activity-based instruments at the moment. Currently instruments are already applied on a case-by-case basis and a coordinated and integrated approach is missing. In any case, we think that a QIS is the necessary precondition to assess the effects of activity-based instruments.



Moreover, certain authorities favour controls on lending criteria (LTI limits, interest rate affordability checks), as from the consumer point of view, controlling lending criteria might be more transparent.

However, both types of instrument reveal risks of unintended consequences. For instance in real estate exposures there could be a shifting to unsecured lenders, certain borrowers being excluded from the market, and potential conflicts with national governments' objectives (e.g. on homeownership).

*Q.5 Do you consider a CCB for sectoral imbalances (e.g. in the real estate sector) a useful complementary instrument? [Please rank your answer from 1 (necessary complement) to 5 (useless complement), and explain your scoring.] If yes, how would you see the interaction of this sectoral CCB with the CCB already in place?*

Rank: 4

A sectorial CCB is too complex for the institutions and therefore hampers transparency. Already the concept of the general CCP is doubtful as the problem of procyclicality can rather be exacerbated. In particular with regard to the real estate sector we see no need for further regulatory interventions.

Sectoral imbalances can be already addressed by Pillar 2 requirements. In case a CCB would still be used as a complementary instrument, we would strongly suggest a strict definition (applied consistently across the EU) before considering applying this additional instrument. A selective use of the CCB could even unintendedly promote a flow towards investments on exposures not covered by the measure.

*Q.6 Do you see a need for adjusting measures targeting risks associated with banks' real estate exposures? If so, please explain your answer.*

We currently do not see any reasons for further measures targeting risks associated with banks' real estate exposures: On the one hand the Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property recently had given strict and extensive regulations. On the other hand the current discussions within the BCBS with regard to the amendments to the credit risk Standardised Approach will most likely lead to higher risk weights.

The existing measures targeting real estate associated risks should therefore be reassessed and rethought to ensure consistency and a level playing field. Several CRR/CRD IV tools are already used in parallel to address real estate related risks (see Art 124, 164 and 458 CRR and even the systemic risk buffer, e.g. in Hungary). The boundaries between these individual measures should be clarified.

Additionally, it is important that competent authorities avoid continuous and unjustified increases of RWs/LGDs and a "race to the top" among authorities transposing requirements from other Member States.



Finally, we would generally question the overall negative approach towards real estate exposures. In many Member States, mortgage lending has always been a standard low risk business. Real estate market bubbles should be tackled in a comprehensive way by various macro-economic steering measures and not just through banking regulation.

*Q.7 Do you see a need for disentangling different responsibilities between competent and designated authorities? If so, please explain your answer.*

Surely more coordination should be ensured.

*Q.8 Do you see merit in better distinguishing the activity-based from the institution-based instruments under Article 458 CRR, also in view of applicable activation procedure(s)? [Please rank your answer from 1 (a better distinction is necessary) to 5 (a better distinction is not necessary).]*

Rank: 1

We would suggest to avoid duplications and clarify the interdependencies between institution based and activity based instruments.

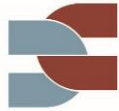
*Q.9 Do you see the need to better frame either the focus (targeted risks) or the scope of the SRB (i.e. applicability to the entire stock only or also to subsets of exposures)? If so, please explain your answer.*

Currently 11 Member States use this capital buffer for their banking institutions. There are differences in the required level, targeted banks/calculation base, motivation for the measure and implementation horizons. Also, there is no clear line between risks addressed by Pillar 2 measures and SRB respectively.

The current Directive provides no guidance whatsoever on the scope of and methodology for setting the SRB. In order to ensure adequate predictability and level playing field, the methodology should be laid down in legislation and include among other things:

- the scope of application in terms of addressees (G-SIBs/O-SIBs/all) and level of application EU parent/national parent/solo level)
- indicators of a systemic risk and a predetermined methodology for measuring them (relative size of the banking sector, concentration risks, interconnectedness etc). in order to ensure at least some degree of predictability for the quantification;
- the geographical scope of application as it is not clear how to frame a systemic risk geographically (e.g. whether there is a single systemic risk within the Banking Union, whether foreign branches contribute to the systemic risk of the home Member State or the host Member State or both etc).

*Q.10 Should the SRB be explicitly defined as either an activity based or an institution specific tool? Please explain your answer.*



By definition, the SRB should be based on indicators of a systemic risk within a geographically defined market and applied to institutions that contribute to the predetermined indicators of a systemic risk in that area, as suggested above.

*Q.11 How do you assess the interactions of institution-specific instruments in the current framework?*

We believe that an overall assessment of the combined effect resulting from all buffer requirements is necessary.

*Q.12 How do you assess the main weaknesses of institution-specific instruments in the current framework?*

*Q.13 Do you consider that the capital buffers for systemically important institutions are appropriately calibrated in the current framework? [Please rank your answer from 1 (fully agree) to 5 (fully disagree), and explain your scoring.]*

Rank: 4

Beside the overall appropriateness of the 2% cap, we see that this can be exceeded by using the SRB instead, and that there are overlaps with other measures (e.g. Pillar 2).

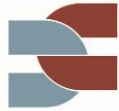
*Q.14 Do you assess the caps of the G-SII and the O-SII buffers as appropriate? [Please rank your answer from 1 (fully appropriate) to 5 (not appropriate at all), and explain your scoring.]*

Caps can be an appropriate instrument. However, a proper calibration and assessment of measures would be needed (see also Q.13). Perhaps there is insufficient comparability in setting the O-SII buffers across member states.

*Q.15 Do you think that the 2 percent cap for the O-SII buffer should be revised? If so, please explain your answer.*

*Q.16 Do you consider that the current cumulation rules applicable to institution-specific buffers need to be revised? If yes, what revisions would you consider necessary?*

It would be useful to have a catalogue of measures specifying both the targeted risks and the process, also indicating the cooperation needed from individual authorities proposing the measures.



*Q.17 Do you see a need for developing additional harmonized macro-prudential instruments? If yes, what type of new instrument would you deem necessary and why?*

In our view the range of instruments is already comprehensive, and given the overlaps what the current framework would rather need is more alignment. Rather than considering new instruments and indicators, the existing micro- and macro-prudential ones should be reviewed under the light of effectiveness and proportionality.

We see a need for a clear framework and timetable for reviewing the effectiveness of the instruments. We are very aware of the risk that this type of instrument can become *de facto* permanent instead of being relaxed through the cycle. There are clear misincentives that could push macro-prudential regulators to maintain certain tools previously adopted to tackle a specific moment of the economic cycle.

*Q.18 How do you assess the possibility for the ESRB to develop technical guidance on the use of non-harmonised instruments, for example via issuing recommendations? Would you see a specific type of instrument for which such an approach could be warranted and suitable?*

The ESRB is driven by the ECB and lacks parliamentary supervision. We see no need and justification for further regulatory competences and technical guidance to be assigned to the ESRB.

*Q.19 Do you consider the current hierarchy of instruments ('pecking order') as appropriate? [Please rank your answer from 1 (fully appropriate) to 5 (not appropriate at all), and explain your scoring.]*

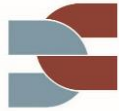
Rank: 4

In practice we see that there is no clear pecking order to which authorities adhere to, and different pecking orders are currently applied by individual authorities. In addition, due to the limited experiences with macroprudential instruments, we are not sure that authorities would be aware of the degree of effectiveness of different instruments in different situations.

*Q.20 Can overlaps in the tools' scope facilitate the circumvention of control elements embedded in the activation mechanism? If you answer yes, please explain how.*

*Q.21 What adjustments, if any, would you suggest for the notification and activation requirements for the SRB?*





In our view the most urgent action would be to assess and address overlaps, to see whether and where they are justified and where they are not.

*Q.22 What adjustments, if any, would you suggest for the notification and activation requirements for the measures under Article 458 CRR?*

*Q.23 What adjustments, if any, would you suggest for the notification and activation requirements for the CCB?*

*Q.24 Do you see the risk that especially the O-SII buffer and the SRB could be used for ring-fencing purposes? If yes, what do you suggest to address this risk?*

We see that such a risk exists. However ring-fencing can be avoided by stronger coordination.

*Q.25 How do you assess the shared responsibilities of the ECB/SSM and national authorities for macro-prudential policy within the Banking Union? In particular, do you think that the current asymmetry of powers conferred upon the ECB/SSM is appropriate? [Please rank your answer from 1 (fully appropriate) to 5 (not appropriate at all), and explain your scoring.]*

Rank: 4

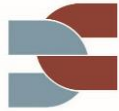
Please see Q.1.

*Q.26 How do you assess the coordination need between the different authorities involved? [Please rank your answer from 1 (strong need for more coordination) to 5 (no need for further coordination), and explain your scoring.] Do you see areas in which this coordination could be improved?*

Rank: 3

From the perspective of credit institutions it is important that the cooperation and communication between the different authorities involved is well functioning. Therefore a closer coordination could be requested.

*Q.27 Do you see need for amending the time periods of the notification process between national authorities and the ECB/SSM? [Please rank your answer from 1 (strong need for amending) to 5 (no need for amending).] What time limitations would you suggest?*



*Q.28 Do you see need to broaden the scope for mandatory reciprocity in the CRR/CRDIV? If yes, for which instrument(s) do you see such a need?*

*Q.29 Do you think that the ESRB's mandate and tasks are appropriately formulated to ensure efficient coordination of macro-prudential policies in the EU? [Please rank your answer from 1 (fully appropriate) to 5 (not appropriate at all).] If not deemed fully appropriate, what changes would you suggest to ensure such efficient coordination?*

*Q.30 How do you assess the current capacities of the ESRB to deliver on its mandate for conducting system-wide risk analysis, including its access to relevant data? [Please rank your answer from 1 (fully adequate) to 5 (not adequate), and explain your scoring.]*

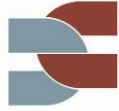
*Q.31 In particular, do you consider that the resources of the ESRB Secretariat are adequate in this context? [Please rank your answer from 1 (fully adequate) to 5 (not adequate), and explain your scoring.]*

*Q.32 What do you consider to be the best ways to ensure that the macro-prudential perspective is sufficiently reflected in EU policy making where systemic risk considerations are involved?*

*Q.33 How do you assess the instruments and powers of the ESRB? In particular, do you see the need for the ESRB's powers to explicitly include 'soft power' tools with a view to fulfil its mandate?*

We do not see a need for expanding ESRB competences.

*Q.34 Do you consider the transparency related to the act or explain mechanism (e.g. in following up recommendations, etc.) as satisfactory? [Please rank your answer from 1 (fully adequate) to 5 (not adequate at all).] If not deemed fully satisfactory, what improvement would be necessary?*



*Q.35 Would you consider the two-tier managerial structure along the lines proposed above an appropriate way to improve the governance structure of the ESRB? [Please rank your answer from 1 (fully agree) to 5 (fully disagree), and explain your scoring.]*

*Q.36 How does the current size of the General Board affect the exchange of confidential and sensitive information and smooth decision making? Do you see merit in reducing its size and/or shifting some of its tasks to the Steering Committee? [Please rank your answer from 1 (fully agree) to 5 (fully disagree), and explain your scoring.]*

Rank: 1.

General Board and Steering Committee should be merged into one single body. The current size of the General Board raises doubt whether an efficient decision making process can be ensured. A reduction in size would be a reasonable solution.

*Q.37 (a) How do you suggest accommodating the establishment of macro-prudential authorities at the national level, and the SSM and SRB, in the General Board's membership? (b) Do you consider it warranted to require Member States to designate a single national representative, with representation possibly varying in accordance with the concrete issues for discussion and decision? [Please rank your answer from 1 (fully agree) to 5 (fully disagree), and explain your scoring.]*

*Q.38 How do you assess the work of the two ESRB advisory committees (ATC and ASC)? In particular, would you suggest any changes in their role and/or composition?*

