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

Fields marked with * are mandatory.

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

*First name

Marco

*Surname

Mancino

*Email (this won't be published)

m.mancino@eacb.coop

*Organisation name

255 character(s) maximum

European Association of Co-operative Banks (EACB)

*Organisation size

- ◯ Micro (1 to 9 employees)
- ◉ Small (10 to 49 employees)
- ◯ Medium (50 to 249 employees)
- ◯ 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.

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* 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
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◯ Andorra	◯ El Salvador	◯ Madagascar	◯ São Tomé and Príncipe
◯ Angola	◯ Equatorial Guinea	◯ Malawi	◯ Saudi Arabia
◯ Anguilla	◯ Eritrea	◯ Malaysia	◯ Senegal
◯ Antarctica	◯ Estonia	◯ Maldives	◯ Serbia
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◯ Argentina	◯ Ethiopia	◯ Malta	◯ Sierra Leone
◯ Armenia	◯ Falkland Islands	◯ Marshall Islands	◯ Singapore
◯ Aruba	◯ Faroe Islands	◯ Martinique	◯ Sint Maarten
◯ Australia	◯ Fiji	◯ Mauritania	◯ Slovakia
◯ Austria	◯ Finland	◯ Mauritius	◯ Slovenia
◯ Azerbaijan	◯ France	◯ Mayotte	◯ Solomon Islands
◯ Bahamas	◯ French Guiana	◯ Mexico	◯ Somalia
◯ Bahrain	◯ French Polynesia	◯ Micronesia	◯ South Africa

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- 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
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey

- 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
- Czechia
- Democratic Republic of the Congo
- Denmark
- Indonesia
- Iran
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- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
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- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- 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
- Zambia
- Zimbabwe

* Field of activity or sector (if applicable)

- Accounting

- [ ] Auditing
- [x] 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
- [ ] 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

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- ( ) **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.
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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.

As a whole, the existing CRR/CRD/BRRD framework has proved highly effective to ensure overall resilience of European institutions, also in light of the evident progress in terms of capital strengthening of EU banks. Additional buffers are not necessary.

It could be argued however that the current buffer framework is not sufficiently flexible nor successful when looking at usability in times of crisis, which simply does not exist in practice. Banks have proven to be resilient in the current Covid-19 economic crises and were the key player in financing the economic recovery. The challenging environment rather raises the question whether banks should be overburdened with capital buffers of CET1, as issuing of CET1 leads to high costs.

In fact, when looking at the individual components of the capital buffer regime we notice overlapping buffer

requirements. In practice, additional buffers, e.g. SyRB requirements, are imposed by the competent authorities for risks that are already covered on the basis of Article 92 CRR, SREP Pillar 2 Requirement (overall own funds requirements) or even other buffers.
This approach is not in line with the basic principle that the systemic risks buffer shall only be used to address risks that are not already addressed by the other buffers. This essential prerequisite is even explicitly mentioned by the Commission in its opening statement of this consultation.

It seems instead that the systemic risk buffer has become more a bank-specific than a macroeconomic tool. A refined framework should ensure a more "general" macroeconomic view, this applies to the G-SII and O-SII buffer.
Further details concerning the interactions of the individual components see below (Q 4.1).

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

- ○ 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 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.

The framework is rather ineffective in this regard, particularly in scenarios when economic conditions cool down. This is due to the restricting supervisory/regulatory consequences institutions are typically faced with when using capital buffers even if the competent authority allowed the institution to do so and which act as disincentives to actually use the buffers (e.g. set up of capital conservation plan, MDA trigger, impact on SREP scoring) (see also Q 4.2.).

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.

In our opinion the application of the O-SII buffer has not been coherent across the EU/Banking Union. We support the approach taken by the EBA Guidelines on the criteria to determine O-SIIs (EBA/GL/2014/10), which requires national authorities to calculate a score for institutions and subsequently designate institutions with a score equal to or above a certain threshold (default score: 350) O-SIIs.
In addition to the score, the supervisory assessment (para. 13 and 14 EBA/GL/2014/10) enables national authorities to designate other institutions than those surpassing the score as O-SIIs based on the indicator scores on “additional qualitative and/or quantitative indicators of systemic importance”.
However, national authorities have not at all been coherent with the application of the criteria regarding their supervisory assessment of additional institutions for the purpose of O-SII determination. This was also acknowledged by the EBA in its “Report on the appropriate methodology to calibrate O-SII buffer rates” from December 2020 (Rep/2020/38). To achieve a level playing field, we see merit in removing the supervisory assessment or at least frame it with adequate safeguards for institutions so that it is foreseeable and transparent.
Since the Guidelines have been published there have been numerous changes to the regulatory framework. Therefore, we believe the criteria listed in Annex 2 EBA/GL/2014/10 (criteria to be taken into account in supervisory assessment) are now already considered in other regulatory requirements, e.g., BRRD.
If the Commission is of the view that the supervisory assessment is necessary, EBA should at least be mandated to review its Annex 2 criteria and to simplify the list of optional indicators.
The way the supervisory assessment has been performed is in fact contrary to a level playing field, in particular in the Banking Union. Apart from that, the additional indicators, and the link to the determination as O-SII are not sufficiently clear, institutions therefore cannot understand their O-SII determination. Other indicators also tend to be covered by other macroprudential measures or minimum requirements. For example, designating an institution (well below the score necessary according to the O-SII scoring method provided by EBA) as O-SII solely based on the high amount of covered deposits should not be possible where comparable sized and complex institutions in other Member States would not be designated as O-SII and the risk stemming from covered deposits is sufficiently covered by MREL and the systemic risk buffer.

We advocate to delete the supervisory assessment and solely base O-SII determination on scores. However, we understand that the Commission cannot directly intervene in EBA Guidelines and therefore would advocate to mandating EBA with a review of the criteria/indicators for O-SII determination.
In general, and in particular with regard to the O-SII buffer, transparent and exhaustive justifications by national authorities are key to an effective and comprehensible framework. We therefore propose to impose more transparency requirements on authorities than the current framework. In the interest of good governance, a clear legal process should also be created, i.e., a review of the buffer (which is already mandatory on an annual basis) should also lead to a decision which can be contested with legal action.

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.

In practice, it is too often not evident for banks why additional buffers need to be held to cover risks that are already covered by other requirements of the comprehensive legal framework for banks. We believe that there is a need for proper framing and a clear limit to the discretion of competent authorities, which is too wide at present, and more clarity and transparency in the whole regulatory and buffer setting process is required.

We believe the capital buffer framework would benefit from a clear distinction between countercyclical buffer and the (sectoral) systemic risk buffer. Both buffers seem to address in general the same or highly interconnected risks. The countercyclical buffer aims to ensure a long-term viable provision of credit to the economy by making the banking system less pro-cyclical. In other words: if credit provision outgrows the general economic growth the countercyclical buffers aims to counter the risks. Sectoral systemic risk buffers can be applied, inter alia, to exposures secured by residential property or exposures secured by mortgages on commercial immovable property. In times of economic growth and credit provision outgrowing the general GDP increase, this will mostly also affect exposures secured by immovable property.

We advocate to refine the buffer framework to better distinguish between buffers, to request from the authority an explanation why both buffers are necessary – and why it would not be the same risk being addressed – and to explore offsetting both buffer rates in relation to exposures for which a countercyclical and (sectoral) systemic risk buffer apply.
In this vein, we want to emphasize the fact that systemic risks are partially addressed through the G-SII / O-SII buffer. The buffers mentioned aim to address risks from different perspectives (the exposures and the institutions' respectively) but there is an evident risk of overlap due to the insufficient transparency of the decisions. It should be ensured that risks are not included twice and therefore, we call for a clear and transparent documentation and disclosure of the underlying details for the decision-making when determining the systemic risk buffer.

The same reasoning also applies to the SREP and therefore P2R and P2G. Although the P2R is no macroprudential tool, both Pillar 2 requirement and guidance aim at addressing certain risks by requiring or recommending institutions to hold more own funds. Also, the scenarios underlying the P2G may consist of macroprudential elements. Any double counting, also between P2R/P2G and buffers, should be avoided.

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.

As the Commission indicates, our understanding is that buffers are designed for proactive and countercyclical management of macroeconomic conditions, particularly crisis situations. Therefore, they can support bank lending in times of stress and the use of buffers in crisis is not only allowed, but encouraged by supervisory authorities, as shown in the context of the Covid-19 crisis.
No consequences should be triggered if buffers are breached in macroeconomic crises as this would jeopardize the purpose of buffers and sets contrasting incentives.
It is important that this is also included in the recovery and resolution framework. In particular, the current framework requires banks to include buffers in the calibration of recovery plan indicators. In our opinion, the buffer framework does not aim to burden the bank governance with recovery indicator escalation processes.
We advocate to better reflect the buffer usability in macroeconomic crisis in the prudential and recovery /resolution framework. As the commission states "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)".
We advocate for a possibility of calibrating buffers downwards in crisis to avoid the triggering of the escalation process in the recovery plan.

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.

It is necessary to grant sufficiently long periods to institutions for replenishing the buffers. Otherwise, the lending capacity of banks would be unduly restricted to the detriment of the European economy.
In this regard, clear and sufficient minimum periods framed in the legislation would help to avoid unrealistic expectations from the competent authorities and would ensure that banks can set informed expectations as to the planning to use and restore buffers.
A possible solution is to not trigger MDA or MREL MDA restrictions if buffers can be used.

As the pandemic crisis has shown, the simple announcement by regulators and supervisors that capital buffers can be used is not a sufficiently effective measure to ensure its application.
First, it is unfeasible to use the buffers to expand credit unless it is known when those buffers need to be replenished. A clear calendar for replenishment should be set in the framework and not be in the complete discretion of competent authorities. The calendar set should serve as a guarantee that there is enough time for restoring the initial capital position, and it should be sufficiently ample to start when uncertainty has diminished and there are signs of recovery.
Second, it is unclear what will be the supervisory reaction for banks in the event that buffer requirements are not met after the public announcement has been made. For example, it is likely that some NCAs would require the bank to deliver a capital plan after the combined capital buffers are not met. As a result, the bank would probably consider that expanding credit is not seen as a positive move by the Supervisor, regardless of the previous public announcement, and decide to constrain credit to avoid any controversies over its capital position.
Third, we have observed some asymmetries in how the MDA is applied by different NCAs. In some countries, the NCA is not keen on banks distributing any dividends if they fail to meet wholly the combined

buffer requirement (including Pillar 2 Requirement). Therefore, while theoretically some distribution of dividends would be possible when buffers are not met, in practice it might not be the case. It should be taken into account that the use of buffers would normally be granted in situations when uncertainty is high or the downturn severe. When stress is high, worries are high and the right of banks to distribute a prudent and sensible amount needs to be clear.

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.

One aspect that is particularly likely to create overlaps and double counting of risks is the link between O-SII buffers and systemic risk buffers and banks that would fall in scope for a resolution action, i.e. institutions or groups that if expected to fail or likely to fail would meet the public interest assessment criteria and therefore have to meet a recapitalisation amount (RCA) in addition to the loss absorption amount (LAA).
These banks are often burdened with these costly buffers while they incur other costs like the contribution to the national DGS and the risk of the bank failing for the financial system is already sufficiently addressed via the individual MREL requirement.

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.

On the basis of BCBS Standard ‘Leverage ratio requirements for global systemically important banks’ the leverage ratio buffer was calibrated by the BCBS for the specific purpose of mitigating the comparably larger risks to financial stability posed by G-SIIs and, against that background, should only apply to G-SIIs.

In light of the clear scope defined at global level, the European legislator decided to implement in Article 92 (1a) CRR II a leverage ratio buffer requirement for G-SIIs (only). According to Recital 14 CRR II an application of the leverage buffer requirement also for O-SIIs would be inappropriate. We believe that this approach should be maintained.

Since the range of institutions which are determined as O-SII in the Banking Union is very diverse as acknowledged by the EBA in its “Report on the appropriate methodology to calibrate O-SII buffer rates” from December 2020 (Rep/2020/38) we advocate for leaving the leverage buffer as a G-SII only requirement. Please see also our answer to Q3.

Finally, extending the leverage ratio buffer may have broader repercussions that need consideration beyond

the possible changes to the macroprudential framework for the banking sector, e.g. looking at the functioning of liquidity arrangements in networks/groups, and the leverage based MREL requirement.

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.

Sectoral
The current sectoral exposures that a sectoral systemic risk buffer may be applied to according to Art 133 para 5 b) CRD seem too complex and imply too many possibilities, meaning that a level playing field cannot be guaranteed any more. The sub dimensions of the risk profile are far too complex, and data will not always be available. As competent authorities have to calculate on a sectoral basis and not on an individual basis, the question arises whether the aggregated data is available at this level. Data may not be covered by COREP or other reporting requirements based on the CRR.

Double-Counting
Firstly, we see a strong need for adjustment of the calculation formula in terms of the systemic risk buffer. The current formula is defined by (Art 133 para 2 CRD V) as the sum of the buffer rate applicable to the total risk exposure amount of an institution and the buffer rate applicable to the risk exposure amount of the subset of exposures. To avoid any double counting, the total exposure amount should be reduced by the risk exposure amount of the subset of exposures.
We appreciate the consideration of systemic relevance (size, riskiness, interconnection) as an important factor for the assessing of the systemic risk buffer. As it will significantly differ from Member State to Member State, there will be different subsets of sectoral exposures across the EU. Regarding interconnection, spill-over effects may be difficult to measure or estimate. In particular, the distinction with the countercyclical capital buffer is difficult und should be accurately considered in order to avoid double counting. Therefore, a transparent disclosure of the decision-making and determining of all macroeconomic buffers by the relevant authority is of utmost importance.
Articles 133 para 7 and 8 CRD clearly state, that the systemic risk buffer is not to be used to address risks that are covered by Articles 130 and 131. This provision also aims at avoiding any double counting of risks.

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
- [x] 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.

The current macroprudential toolkit mainly consists of five buffers and borrower-based measures has sufficient instruments at hand to avoid any gaps.
In this context it should be particularly pointed out that the capital conservation buffer which all institutions are to hold serves as an additional safety net.
What we would further emphasize is the lack of clarity in the setting of the measures and the overlaps between capital requirements that lead to a double counting of risks.

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?

- [x] 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.

The systemic risk buffer is EU-specific while the other four buffers were implemented in the CRD on the basis of BCBS Standards. It goes without saying that this additional buffer requirement for European institutions severely impairs their global competitiveness as banks outside the EU jurisdictions (e.g. US banks) are regularly not confronted with similar buffer requirements.

This tilts the level playing field against European banks and has also adverse effects for the current efforts to design Europe as a more competitive location for business.
As these effects are certainly not intended by the European legislator, alleviations for the institutions concerning the SyRB should be seriously considered.

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

- [ ] 1 - Highly ineffective
- [ ] 2 - Ineffective

- [x] 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.

The still persisting Covid crisis shows that the current macroprudential toolkit is sufficient to combat even unpredictable, dramatic exogenous shocks like Covid-19 – but at the same time the use of buffers still faces considerable hurdles in light of mechanisms that are not well fine-tuned.

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.

In our view, it is important to ensure that only new exposures originated after a measure has come into effect are targeted.

This would be more risk sensitive and prevent unwarranted risk weight increases. Furthermore, we are of the opinion that legacy exposures would be disproportionately affected as in particular mortgage loans are concluded with a duration of several decades. Over the time, the overcollateralization of the exposure will increase as the credit claims is reduced due to repayment and the value of the immovable property will typically be increased. It can be assumed that risk weights and requirements currently applicable sufficiently reflect actual risks for exposures secured by mortgages on immovable property. However, we understand that circumstances in the financial or real economy might swiftly change in the future and authorities must be provided with the right tools to address risks to the financial stability.

Any future measure regarding the risk weight of immovable property or borrower-based measure must be limited to newly originated exposures.

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 strongly believe that the EU and/or national authorities should not have the power to restrict distributions for the entire banking system with a view to conserve capital in a severe crisis situation due to the following reasons (see also our comments to Q4.3):

European banks have shown their resilience even in times of Covid-19. Further powers for restricting distributions, in particular a ban of dividends, would give a bad signal to the European capital market, shareholders and members of cooperative banks and is also totally incompatible with the efforts to implement an EU-wide Capital Markets Union. Attracting new shareholders/members would become more difficult given the prospect of a lack of pay-out.

Rather, the supervisory authorities should take individual decisions on a case-by-case basis if and when a distribution would decrease the CET1 capital of an institution to an extent where the combined buffer requirement is no longer met (Article 141 CRD).

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.

During the Covid-19 crisis the well-capitalized European banks were able to provide continued support and financing to the economy.
At the same time the crisis showed that flexibility is of the essence in such circumstances. We would support additional powers for the European and National Competent Authorities for the purpose of relaxing prudential requirements after a shock in order to enhance banks' capacity to support the recovery after an economic crisis.

Avoiding a procyclical effect of regulatory requirements is necessary: the Great Financial Crisis showed in the past that policy measures are effective particularly when taken timely, an economic rebound is much more difficult when the stimulus lags and credit crunch effects have already materialized.

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.

NA

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
- (selected) 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.

There is often a feeling that a level playing field is actually not established within the EU. At the same time, it is very difficult to assess if the disparities across countries are unjustified due to the varying individual risks that institutions in EU Member States are subject to.

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
- (selected) 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.

As already mentioned in Question 4.1 it is not always well understandable for banks why additional buffers are imposed by the competent authority for risks that are already covered by other requirements of CRR /CRD/BRRD.
Macroprudential tools seem to be used excessively. In light of this, more clarity and transparency in setting the requirements and less complexity in the whole process is necessary.

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
- (selected) 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.

Please see our answer to Q 9.1. in terms of a level playing field.

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
- (selected) 3 - Neutral
- 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.

The roles and responsibilities of all authorities involved in the process could be streamlined.
An enhancement could be a disclosure of all responsibilities of the competent authorities in each member state, e.g. in form of a table.

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.

We believe that in general, the current framework which leaves macroprudential powers like the determination of the O-SII, systemic risk and countercyclical buffer to national authorities is appropriate. National authorities are closer to the institutions located in the respective Member State and can therefore better assess risks in the national market. Institutions are also more familiar with the procedures and remedies against decisions.

One solution could be to standardize certain aspects such as the O-SII determination more (see Q3) and to have more transparency beyond the borders of the member states, for example through a complete database (e.g. kept at the ESRB or EBA) where buffer decisions are disclosed more transparently and most importantly, broken down by risk.

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.

NA

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
- (x) 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.

This is clearly specific to Member States.

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
- (x) 5 - Fully adequate
- 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.

The current macroprudential toolkit is very comprehensive and adequate for the purpose of addressing macro risks.
In terms of the possible gaps mentioned relating to derivates, margin debt and SFTs it has to be borne in mind that these transactions have to be backed at microprudential level with the legally required own funds by the institutions anyway – these exposures are not left unaddressed by the overall regulatory framework.

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.

No, banks have been investing heavily in financial innovation for many years and often cooperate with FinTechs nowadays. There is no systemic risk as such that should be covered by banks that arises from new competitors and crypto-based transactions – in the case of crypto-based assets, the concern is mostly AML-related and the impact of such investments is rather entity specific, for both individuals and firms.

Besides, what is crystal clear is that FinTech and BigTech that offer the same products as banks have to obey to the same rules to ensure a level playing field among all financial service providers ('same products, same risks, same rules').
Imposing new requirements on banks but leaving new actors unchecked would not curtail risk but only let it cumulate outside the banking sector.

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.

Safeguarding cybersecurity is primarily a matter of operational risk in the sense of Article 4(1)(52) CRR. In the final Basel III (aka Basel IV) EU implementation proposal of the Commission there is a strong focus on calculation of own funds requirements to cover operational risks.
In addition, there are EBA Guidelines on ICT and security risk management in place which include strict expectations for ICT and security risk management for the institutions.

In addition, cybersecurity is already part of the SREP framework. We believe that the question of exposition against IT- and cybersecurity risk is better addressed institution specific as it depends on the individual policy and approach taken by the bank for addressing IT- and cybersecurity risks.

There is no need to enhance the macroprudential framework in this area.

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.

No, climate risks (environmental risks) are already sufficiently covered by Pillar 1 (i.e. impact of climate-environmental risk factors on credit risk), Pillar 2 (SREP) and Pillar 3 (disclosure) requirements. Moreover, in the meantime several supervisory expectations and guidance were published by the authorities in terms of climate risks (e.g. ECB guide on climate-related and environmental risks for banks, EBA Report on management and supervision of ESG risks etc). Moreover, in 2022 the ECB is conducting a climate risk stress test whose primary goal is to assess European banks' stress testing capabilities for these categories of risk and the response of banks' exposure classes to them.
As described under Q16.2, the exposition against climate risk is better addressed at institution specific level.

Where macroprudential authorities could be involved is in building observatories able to map risks and develop early warning systems for new cyber threats and sources of climate risk, this could support the financial industry in managing a heating of those risks.

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.

No, please see our answer above on Q 16.3.

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.

NA

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.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

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)

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