OPINION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 16 November 2023

regarding the Danish notification of the setting or resetting of a systemic risk buffer rate pursuant to Article 133 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions

(ESRB/2023/12)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

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

Having regard to Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board[1], and in particular Article 3(2)(j) thereof,

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[2], and in particular Articles 131(5a) and (15), 133(4), (5) and (12) thereof,

Having regard to Decision ESRB/2015/4 of the European Systemic Risk Board of 16 December 2015 on a coordination framework for the notification of national macroprudential policy measures by relevant authorities, the issuing of opinions and recommendations by the ESRB, and repealing Decision ESRB/2014/2[3].

Whereas:

(1) The Danish Ministry of Industry, Business and Financial Affairs, acting as the designated authority for the purpose of Article 133 of Directive 2013/36/EU, notified the European Systemic Risk Board (ESRB) on 10 October 2023 of its intention to require certain credit institutions to maintain a Systemic Risk Buffer of Common Equity Tier 1 capital of 7 % applicable to a subset of sectoral exposures ('sectoral Systemic Risk Buffer' or 'sSyRB'), in accordance with Article 133 of that Directive.

(2) The sSyRB will apply to all domestic credit institutions. It will apply to all types of exposures located in Denmark to non-financial corporations operating in real estate activities and in development of building projects activities. By referring to non-financial corporations carrying out economic activities within the meaning of Regulation (EC) No 1893/2006 of the European Parliament and of the Council[4], the designated authority specifies a subdimension related to the economic activity of the debtor to define the

[1] OJ L 331, 15.12.2010, p. 1.
[2] OJ L 176, 27.6.2013, p. 338.
[3] OJ C 97, 12.3.2016, p. 28.
[4] Regulation (EC) No 1893/2006 of the European Parliament and of the Council (OJ L 393 30.12.2006, p. 1).

subsets of sectoral exposures falling within the scope of the sSyRB.[5]

(3) It is anticipated that the sSyRB will enter into force on 30 June 2024 and will complement microprudential measures aimed at ensuring sound credit standards, that also cover lending to real-estate companies.[6] The decision will be reviewed by the designated authority for the purpose of Article 133 of Directive 2013/36/EU at the latest two years after the initial application.

(4) The sSyRB will apply in combination with the other systemically important institutions buffer ('O-SII buffer') applied in Denmark, and will be cumulative with the O-SII buffer that applies to the subset of exposures to which the sSyRB rate is intended to apply. The sSyRB rate will be higher than 5 %. Furthermore, the sum of the sSyRB rate and the O-SII buffer rate, to which some of the credit institutions affected by the sSyRB rate will be subject, will be higher than 5 % for this subset of exposures and for each of the credit institutions that fall within the scope of the measure.

(5) The ESRB is required to provide the Commission with an Opinion as to whether the level of the sSyRB rate, as well as the combined rate of the O-SII buffer rate and the sSyRB rate is deemed appropriate, pursuant to Articles 133(12), 131(5a) and (15) of Directive 2013/36/EU.

HAS ADOPTED THIS OPINION:

1. Under the current circumstances, the sectoral Systemic Risk Buffer ('sSyRB') rate applicable in Denmark, as set by the Danish Ministry of Industry, Business and Financial Affairs is, assessed as justified, proportionate, effective and efficient. The objective of the proposed measure is to enhance the resilience of credit institutions with specific exposures in Denmark to real estate companies against potential severe corrections in real estate markets by increasing their Common Equity Tier 1 capital in relation to exposures to these markets. A sSyRB rate of 7% is considered commensurate with the intensity of, and potential losses stemming from, the above-mentioned risks in the Danish financial system and does not duplicate the functioning of the other systemically important institutions buffer ('O-SII buffer').

2. In combination with the O-SII buffer to which some of the credit institutions are already subject, the setting of the sSyRB rate would lead to a cumulative sSyRB and O-SII buffer rate higher than 5 % for a subset of exposures and for each of the O-SIIs that falls within the scope of the measure. Both buffers set or intended to be set by the Danish authorities cover different macroprudential or systemic risks. Under the current circumstances, the cumulative buffer rate is assessed as appropriate and effective for each of the credit institutions falling within the scope of the measure.

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[5] The determination of the specific subsets of sectoral exposures to which the sSyRB rate will be applied, is based on the EBA Guidelines on the appropriate subsets of sectoral exposures to which competent or designated authorities may apply a systemic risk buffer in accordance with Article 133(5)(f) of Directive 2013/36/EU, (EBA-GL-2020-13), available on the EBA's website at https://www.eba.europa.eu/. The proposed measure targets non-financial corporations engaged in the following economic activities: "Real estate activities" (NACE code "L"), apart from social housing associations and housing cooperative associations, and "Development of building projects" (41.1) under "Construction" (NACE code "F"), specified in NACE Rev.2, Statistical classification of economic activities in the European Community.

[6] Namely the "supervisory diamond" for banks; the "supervisory diamond" for mortgage credit institutions and the "Guidelines for financing rental real estate and real estate projects".

3. Under the current circumstances, the sSyRB rate, does not have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction of the macroprudential or systemic risk identified.
4. The attached assessment note entitled ‘Assessment of a measure taken in Denmark pursuant to Article 133 of the Capital Requirements Directive’ is an integral part of this Opinion.

Done at Frankfurt am Main, 16 November 2023.

Francesco Mazzaferro

Head of the ESRB Secretariat, on behalf of the General Board of the ESRB

Francesco MAZZAFERRO