OPINION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 25 August 2023

regarding the Belgian notifications of the setting or resetting of O-SII buffer rates pursuant to Article 131 and the setting or resetting of a systemic risk buffer 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/2023/7)

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 Article 131(3), (5a), (7), (12) and (15) 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) On 18 July 2023, the Nationale Bank van België/Banque Nationale de Belgique (NBB/BNB), acting as the designated authority for the purpose of Article 133 of Directive 2013/36/EU, notified the European Systemic Risk Board (ESRB) of its decision to reduce the sectoral systemic risk buffer (sSyRB) rate imposed – on a consolidated, sub-consolidated and individual basis – on all internal ratings-based (IRB) bank retail exposures to natural persons secured by residential real estate property, whose collateral is located in Belgium from 9 % to 6 %. This measure will become applicable from 1 April 2024.

(2) Also on 18 July 2023, the NBB/BNB, acting as the designated authority for the purpose of Article

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.

131 of Directive 2013/36/EU, also notified the ESRB of its decision to reset the Belgian other-systemically important institution (O-SII) buffer rates. The NBB/BNB proposed to increase the O-SII buffer rate for one credit institution, while maintaining the existing rates for the others. This measure will become applicable from 1 January 2024.

(3) Article 131(3) and (1) of Directive 2013/36/EU set out criteria on the basis of which O-SIIs are identified. Pursuant to the second subparagraph of Article 131(3), the European Banking Authority (EBA) issued Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10)[4] (hereinafter the 'EBA Guidelines'), in which it sets out mandatory and optional indicators for the scoring in Annexes I and II, respectively.

(4) The Belgian O-SII buffer will apply to eight domestic credit institutions, two of which are subsidiaries whose respective parent entities are established in other Member States. Two other institutions, Euroclear and New York Mellon, are worth mentioning for their international securities depository and global custodian business, respectively. The BNB/NBB has identified seven of these credit institutions as O-SIIs by using the scoring methodology described in the EBA Guidelines, and the eighth credit institution was identified by applying supervisory judgement pursuant to the criteria contained in the EBA Guidelines[5].

(5) More specifically, all but one of the previous buffer rates will stay unchanged, at 1.5 % for four of the credit institutions (KBC Group, BNP Paribas Fortis SA/NV, ING Belgium NV and Belfius Bank SA/NV) and at 0.75 % for three of the credit institutions (The Bank of New York Mellon, Investeringsmaatschappij Argenta and Crelan SA). The buffer rate imposed on Euroclear Holding will be increased from 0.75 % to 1.5 %. The Belgian O-SII buffer aims to increase the loss-absorbing capacity of the most systemically important credit institutions in Belgium, as they have an especially significant role in the Belgian financial system, the Belgian economy, and, in the case of Euroclear Holding and The Bank of New York Mellon, on the global stage. In general, the measure will both reduce the probability of failure of O-SIIs and internalise negative externalities that the financial system would be exposed to as a result.

(6) Pursuant to Article 131(15) of Directive 2013/36/EU, the O-SII buffer applicable to the credit institutions will be cumulative with the sSyRB rate of 9 % that six of these institutions will, on a consolidated level, be subject to until 31 March 2024. From 1 April 2024, the level of the sSyRB will be reduced to 6 %. In proposing this reduction, the NBB/BNB took into account the improvement in the loan-to-value profile of the stock of loans to which the sSyRB applies and the reduced overvaluation of housing prices. Based particularly on these improvements, the NBB/BNB updated the sensitivity/scenario analysis with less emphasis on loss given default than

4 Available on the EBA website at www.eba.europa.eu.

5 According to the Compliance Table with EBA Guidelines EBA/GL/2014/10, the Belgian National Bank complies with the guidelines. Available on the EBA website at www.eba.europa.eu.

before. The result was that microprudential capital requirements continued to have a lower loss absorbency than required to contain potential losses from the residential mortgage portfolios.

(7) The setting of the O-SII buffers and the reduction of the sSyRB have already been approved by the competent Belgian authorities and are expected to be royally decreed and published in due course. In addition, the Belgian authorities intend to set the countercyclical buffer (CCyB) at 0.5 % and activate it from 1 April 2024, and to increase it to 1 % from 1 October 2024. As a result of the activation of the CCyB, the combined buffer requirement is expected to be higher from 1 April 2024 than before the reduction of the sSyRB, although the motivation behind these two policy measures is different.

(8) Since the sum of the sSyRB rate and the O-SII buffer rate, both before and after 1 April 2024, will be higher than 5 % for a subset of exposures and for six of the credit institutions that, on a consolidated level, fall within the scope of both measures, the ESRB is required to provide the Commission with an opinion as to whether the level of the combined rate of the O-SII buffer rate and the sSyRB rate is deemed appropriate, pursuant to Article 131(15), subparagraph 2, in conjunction with article 131(5a) of Directive 2013/36/EU.

(9) In relation to last year's setting of the existing sSyRB, the ESRB issued an opinion on 16 February 2022[6] assessing that the measure was justified, proportionate, effective and efficient, that it was also proportionate and effective in combination with the O-SII buffer rates, and that it had no negative impact on the internal market outweighing its benefits.

(10) In relation to last year's setting of the existing O-SII buffer rates, the ESRB issued an opinion on 28 July 2022[7] assessing the combination of the O-SII buffer applicable to the same credit institutions and the sSyRB to which these credit institutions were already subject as appropriate and effective to address the identified risks,

HAS ADOPTED THIS OPINION:

1. The O-SII buffer rate applicable in Belgium, as set by the NBB/BNB, will be cumulative with the existing sSyRB to which some of the credit institutions are already subject. This will lead to a

6 Opinion ESRB/2022/2 of the European Systemic Risk Board of 16 February 2022 regarding the existing O-SII buffer pursuant to Article 131 and the Belgian notification of the setting 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, available on the ESRB's website at www.esrb.europa.eu.

7 Opinion ESRB/2022/5 of the European systemic Risk Board of 28 July 2022 regarding the existing systemic risk buffer pursuant to Article 133 and the Belgian notification of the setting or resetting of O-SII buffer rates pursuant to Article 131 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, available on the ESRB's website at www.esrb.europa.eu.

cumulative sSyRB and O-SII buffer higher than 5 % for a subset of exposures and for six of the credit institutions which fall within the scope of both measures on a consolidated level.

2. The intended reduction of the level of the sSyRB applicable in Belgium from 1 April 2024 will still result in cumulative sSyRB and O-SII buffer rates higher than 5 % for a subset of exposures and for six of the credit institutions which fall within the scope of both measures on a consolidated level.
3. Under the current circumstances, the cumulative buffer rate is assessed as appropriate and effective to address the identified risks for each of the credit institutions which fall within the scope of these two measures. In particular, the cumulative buffer rate does not, under the current circumstances, entail disproportionate adverse effects on financial stability in Belgium and is not expected to form or create an obstacle to the proper functioning of the internal market. This applies regardless of the fact that the sSyRB will be lowered from 1 April 2024.
4. The attached assessment note entitled ‘Assessment of a measure taken in Belgium pursuant to Article 131 in combination with a measure pursuant to Article 133 of the Capital Requirements Directive’ is an integral part of this Opinion.

Done at Frankfurt am Main, 25 August 2023.

Francesco Mazzaferro

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

Francesco MAZZAFERRO