OPINION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 21 August 2024

regarding the Dutch notification of an extension of the period of application of a stricter national measure based on Article 458 of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions

(ESRB/2024/4)

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 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012[2], and in particular Article 458(4) and (9) 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) De Nederlandsche Bank (DNB), acting as designated authority for the purpose of Article 458 of Regulation (EU) No 575/2013, notified the European Systemic Risk Board (ESRB) on 22 July 2024 of its intention to extend its existing stricter national measure for credit institutions using the Internal Ratings Based (IRB) approach in their calculations of regulatory capital requirements for an additional period of two years (1 December 2024 – 30 November 2026), in accordance with Article 458(9) of that Regulation.

(2) The existing stricter national measure, which has been in force since 1 January 2022 concerns risk

[1] OJ L 331, 15.12.2010, p. 1.
[2] OJ L 176, 27.6.2013, p. 1.
[3] OJ C 97, 12.3.2016, p. 28.

weights for targeting asset bubbles in the residential property sector (Article 458(2)(d)(iv) of Regulation (EU) No 575/2013). The measure imposes a minimum average risk weight to credit institutions using the IRB approach in relation to their portfolios of exposures to natural persons secured by mortgages on residential property located in the Netherlands. Loans partly or wholly covered by the Dutch National Mortgage Guarantee (Nationale Hypotheek Garantie) scheme are exempt from the measure. The minimum average risk weight for exposures secured by residential property is calculated by assigning different risk weights to portions of the exposure based on the loan-to-value (LTV) ratio. For each individual exposure item (loan), a 12 % risk weight is assigned to the portion of the loan not exceeding 55 % of the property's market value, and a 45 % risk weight is assigned to the remaining portion of the loan. This means that the risk weights for individual loans increase as LTV ratios rise: from 12% for loans with an LTV ratio up to 55%, to, for example, 26.85% for loans with an LTV ratio of 100%. The binding minimum average risk weight of the portfolio is then determined by taking the exposure-weighted average of risk weights of the individual exposure.

(3) In Opinion ESRB/2020/1 of the European Systemic Risk Board[4], the ESRB assessed the draft stricter national measure as warranted under the circumstances that existed at the time of the assessment. It was the ESRB's assessment that the draft stricter national measure did not have a negative impact on the internal market that outweighed the financial stability benefits resulting in a reduction of the macroprudential or systemic risk identified.

(4) Taking into account the opinions provided by the ESRB and the European Banking Authority (EBA) in line with the procedure set out in Article 458 of Regulation (EU) No 575/2013, the European Commission decided on 5 March 2020 not to propose to the Council an implementing act to reject the draft stricter national measure[5]. In the absence of such an implementing act, the draft stricter national measure, whose application was postponed due to the outbreak of COVID-19, became applicable from 1 January 2022.

(5) Following a request by DNB to the ESRB under Article 458(8) of Regulation (EU) No 575/2013, the General Board of the ESRB decided on 16 February 2022[6] to include this stricter national measure in the list of macroprudential policy measures which are recommended to be reciprocated under

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[4] Opinion ESRB/2020/1 of the European Systemic Risk Board of 6 February 2020 regarding Dutch notification of a stricter national measure based on Article 458 of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms, available on the ESRB's website at www.esrb.europa.eu.

[5] Commission Decision of 5 March 2020 not to propose an implementing act to reject the proposed national measure notified on 8 January 2020 by the Netherlands under Article 458(4) of Regulation (EU) No 575/2013 of the European Parliament and of the Council C (2020) 1214 final, available on the Commission's website at www.ec.europa.eu.

[6] Recommendation ESRB/2022/1 of the European Systemic Risk Board of 16 February 2022 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 174, 28.4.2022, p.1).

Recommendation ESRB/2015/2 of the European Systemic Risk Board[7].

(6) Moreover, following a request by DNB to extend the period of application of the stricter national measure based on Article 458 of Regulation (EU) No 575/2013 for a period of two years, the ESRB issued an opinion on 6 September 2022.

(7) In Opinion ESRB/2022/6 of the European Systemic Risk Board[8], the ESRB assessed the first extension of the existing stricter national measure (1 December 2022 – 30 November 2024) as justified, suitable, proportionate, effective and efficient. In addition, the ESRB considered that the stricter national measure did not have a negative impact on the internal market that outweighed the financial stability benefits.

(8) Therefore, to assess the second extension of the period of application of the existing stricter national measure notified by DNB on 22 July 2024, the ESRB's assessment team referred to in Decision ESRB/2015/4 issued an assessment note, which is annexed hereto,

HAS ADOPTED THIS OPINION:

1. The extension by two years of the period of application of the existing stricter national measure applicable in the Netherlands is, under the current circumstances, assessed as justified, suitable, proportionate, effective, and efficient. In particular:
   (a) the changes in the intensity of macroprudential or systemic risk continue to be of such nature as to pose risk to financial stability at national level;
   (b) the macroprudential tools set out in Regulation (EU) No 575/2013 and in Directive 2013/36/EU of the European Parliament and of the Council[9] are less suitable or effective than the existing stricter national measure applicable in the Netherlands to deal with the macroprudential or systemic risk identified;
   (c) the stricter national measure does not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole, thus forming or creating an obstacle to the functioning of the internal market;
   (d) the issue concerns only one Member State.

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7 Recommendation ESRB/2015/2 of the European Systemic Risk Board of 15 December 2015 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 97, 12.3.2016, p. 9).

8 Opinion of the European Systemic Risk Board of 6 September 2022 regarding Dutch notification of an extension of the period of application of a stricter national measure based on Article 458 of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions (ESRB/2022/6), available on the ESRB's website at www.esrb.europa.eu.

9 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 (OJ L 176, 27.6.2013, p. 338).

2. The stricter national measure 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.
3. The attached assessment note entitled ‘Assessment of the Dutch notification in accordance with Article 458 of Regulation (EU) No 575/2013 concerning an extension of a stricter national measure for residential mortgage lending’ is an integral part of this Opinion.

Done at Frankfurt am Main, 21 August 2024.

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

Francesco MAZZAFERRO