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

* First name

Melitta

* Surname

SCHUETZ

* Email (this won't be published)

melitta.schuetz@bmf.gv.at

* Scope

- ( ) International
- ( ) Local
- (x) National
- ( ) Regional

* Level of governance

- ( ) Parliament
- (•) Authority
- ( ) Agency

* Organisation name

255 character(s) maximum

Austrian Ministry of Finance, Financial Market Authority, Oesterreichische Nationalbank

* Organisation size

- ( ) Micro (1 to 9 employees)
- ( ) Small (10 to 49 employees)
- ( ) Medium (50 to 249 employees)
- (•) Large (250 or more)

Transparency register number

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Check if your organisation is on the [transparency register](). It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

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( ) Andorra	( ) El Salvador	( ) Madagascar	( ) São Tomé and Príncipe
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( ) Anguilla	( ) Eritrea	( ) Malaysia	( ) Senegal
( ) Antarctica	( ) Estonia	( ) Maldives	( ) Serbia

- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
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- Bahamas
- Bahrain
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- Belgium
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- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands

- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana

- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger

- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- 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

- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- 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
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
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- Laos
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- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
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- Norway
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- Pakistan
- Palau
- Palestine
- Panama
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- Paraguay
- Peru
- Philippines
- Pitcairn Islands
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- Saint Barthélemy
- Timor-Leste
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- Tonga
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- Turkey
- Turkmenistan
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- 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

- Czechia
- Lebanon
- Saint Helena Ascension and Tristan da Cunha
- Zambia
- Democratic Republic of the Congo
- Lesotho
- Saint Kitts and Nevis
- Zimbabwe
- Denmark
- Liberia
- Saint Lucia

* Field of activity or sector (if applicable)

- [ ] Accounting
- [ ] Auditing
- [ ] Banking
- [ ] Credit rating agencies
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- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [x] Other
- [ ] Not applicable

* Please specify your activity field(s) or sector(s)

Public Institutions

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. **For 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

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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.

To date, macroprudential policies were effective in mitigating financial stability risks. Although so far we have not experienced significant increases in banks' losses due to the Covid pandemic, the substantially increased capital levels in the EU compared to the subprime crisis have strengthened banks' resilience. While the changes to the macroprudential policy toolkit introduced by CRD V have not been fully put to the test yet, empirical evidence is encouraging so far: The policies seem to work as intended and help mitigate structural and cyclical risks appropriately. Please see the following references:

• Galan, J. (2020), "The benefits are at the Tail: Uncovering the Impact of Macroprudential Policy on Growth-at-Risk", Journal of Financial Stability, No 100831.

• Imbierowicz, B., J. Kragh and J. Rangvid (2018), "Time-varying capital requirements and disclosure rules: Effects on capitalization and lending decisions", Journal of Money, Credit and Banking, Vol. 50(4), 573-602.

• Vogel, U. (2020), "O-SII designation and deposit funding costs", Economics Letters, Vol. 192, No 109261.

• Vandenbussche, J., U. Vogel and E. Detragiache (2015), "Macroprudential Policies and Housing Prices: A New Database and Empirical Evidence for Central, Eastern, and Southeastern Europe", Journal of Money, Credit and Banking, Vol. 47(S1), pp. 343-377.

• Eickmeier, S., Kolb, B. and Prieto, E. (2018), "Macroeconomic effects of bank capital regulation", Bundesbank Discussion Paper No. 44.

We see no need to question the overall adequacy of the macroprudential buffer framework. Moreover, we deem the interaction of capital buffers sufficiently defined as buffers either address different types of risks or follow a clear pecking order (i.e. SyRB).

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
- [x] 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.

During the pandemic, FMA and OeNB refrained from reducing the combined buffer requirement (CBR) to maintain market confidence. We communicated clearly that buffers can be used during the pandemic. Retrospectively, this approach proved to be successful as the rating of the Austrian banking system retained a more favourable rating than almost all of the banking systems globally , the funding conditions excellent and credit supply strong.

Based on recent evidence, we therefore do not regard stigma effects as a significant impediment to buffer usability. For example, the findings by the ECB FSC Expert Group on monitoring buffer usability do not suggest an increase in banks' funding costs in proximity to the CBR. Also, Schmitz et al. (Buffer usability and potential stigma effects, 2021) find that using capital buffers is more profitable for banks than deleveraging and losing profitable market share. Therefore, we do not see the need for changes to the buffer framework, especially not towards a greater share of releasable buffers.

However, in our view the relevant impediment to buffer use are overlapping parallel non-risk-weighted requirements (LR and MREL based on the LR methodology) next to the risk-weighted capital requirements, as these represent obstacles to banks' ability to use non-releasable and releasable buffers alike. The empirical findings of the ESRB Analytical Task Force (ATF) on overlaps between capital buffers and minimum requirements show for a sample of 95 large European banks that the average usability of CBR is less than 30% and the usability of excess capital over and above the CBR is limited (less than 50%). The usability is also heterogeneous across countries and types of banks.

Importantly, some overlaps are unintended, some are an inherent and intended feature of parallel requirements that are explicitly designed as backstops. Potential options should therefore address unintended overlaps, thereby preserving the objectives of parallel frameworks, enhancing the consistency of the regulatory framework and reducing complexity, at least not increase it further. Ultimately, the ESRB Report concluded that more releasable buffers would only be effective if they were implemented in the form of additional CET1. As a way forward, it could be helpful to take the conclusions of the ESRB ATF into account.

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 Austria, we regard the O-SII buffer requirements as effective at increasing the banks' capital basis, improving the transmission mechanism and strengthening resilience.
However, there is evidence of heterogeneity in the O-SIIs' buffer calibration in the EU. The survey carried out by EBA in 2020 observes a considerable degree of variation both in the methodologies used and in the selection of the applicable buffer rate. Similar O-SII scores at EU level do not always translate into similar O-SII buffer requirements. In addition, there is also heterogeneity in the phase-in arrangements.

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.

Answer to Question 4:
Addressing the overlap issues as identified in the ESRB report of the ATF on Overlaps between capital buffers and minimum requirements (LR and TLAC/MREL) would improve the usability of buffers. From a financial stability view, a review clause on the interaction of the macroprudential framework with the leverage ratio (LR) and MREL frameworks with regard to buffer usability is useful, but not sufficient. In line with the results of the ESRB analysis, overlaps would need to be reduced to increase total buffer usability. Therefore, options identified in the report such as restricting double counting of capital or a LR buffer for O-SIIs have to be thoroughly explored to address the issue. Removing overlaps increases macroprudential space and resilience at the same time, which is a quick win for financial stability.
For example, mirroring O-SII buffer as LR buffer would increase total buffer usability for O-SII as more capital above minimum requirements were available to be dipped into if needed (please see ESRB ATF Overlap Report on effect of LR buffer). Currently only the risk-weighted G-SII buffer is mirrored and not the G-SII's risk-weighted O-SII buffer, if higher, which is a regulatory inconsistency. Mirroring all capital buffers into the LR buffer would significantly increase buffer usability to around 77% according to the ESRB analysis. Introducing such a buffer - with at least some releasable element - would help to strengthen the resilience of Union O-SIIs and increase macroprudential space. In this context, we also see the need for harmonising O-SII buffer rates with a focus on raising buffers on the lower end.
In addition to our comments in Q2 concerning the functioning of the LR as a backstop, the minimum requirement must not be diluted in order to maintain Basel compliance.

Answer to Question 4.1.: In our view, the current buffer framework is not complicated as such. Therefore, we suggest refraining from major changes. Frequent legal changes to the framework are costly and contribute to its complexity.

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.

We are convinced that the macroprudential framework provides enough macroprudential space, if used appropriately. Within the current proportionate buffer framework all types of systemic risks – structural and cyclical – can be adequately addressed. To define “a priori” a capital neutral level is not the objective of macroprudential policy, which is to prevent and/or mitigate systemic risk in a risk-based manner. We oppose the idea of creating more macroprudential space by introducing more releasable buffers as it would weaken the primary objective and add legal and institutional complexity. The current framework already foresees the CCyB and SyRB to create macroprudential space. However, we support a more flexible use of the CCyB within the current governance structure. A broader range of indicators would allow authorities to raise the CCyB without decreasing resilience (which would be the case with a CCoB release), and only if warranted by the analytical framework (contrary to a positive neutral CCyB rate or core SyRB rate).

Macroprudential buffers are designed to be used in a crisis and that banks can dip into them to absorb losses and/or to provide profitable loans to the real economy. We regard this framework as well-functioning, which is also supported by the report of the ECB FSC Expert Group on Monitoring capital buffers. The report rejects the hypotheses (i) of impediments to buffer usability, and (ii) of negative systemic effects of a relatively lower distance to MDA on aggregate credit growth, while it finds substantial risk that buffer releases are largely used for distributions.

Increasing macroprudential space should not come at the expense of decreased overall capital levels through the cycle. Ad-hoc measures that deviate from the current framework stigmatise the EEA banking sector as in need of regulatory forbearance and undermine market confidence of investors. The focus should lie on resilience instead. While additional releasable buffers would clearly increase resilience, a pure reshuffling of capital buffers in a capital neutral way fails to create more macroprudential space and unjustifiably lowers current structural buffers.

In addition, we see no need for more centralised governance to coordinate potential releases as macroprudential authorities reacted in a timely, coordinated and decisive manner during the pandemic and common large shocks (like the pandemic) have heterogeneous effects across member states. From an operational perspective, centralised governance would add a lot of complexity to the framework, especially if mixed with national options.

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.

MDA restrictions work as automatic stabilisers and are more appropriate than a buffer release combined with system-wide dividend restrictions. Releasing buffers combined with restrictions on dividends might lead to higher bank funding costs in the medium to longer term. Based on this, the most prudent policy option would be to let the current MDA framework continue to act as an automatic stabiliser by preserving capital within the banking system.

We do not see a conflict of interest in capital replenishment and lending in the recovery as capital is endogenous. We do not support the introduction of additional releasable buffers as, we fear that released capital buffers will not be fully built up again as banks are not incentivised to refrain from capital distributions. If more releasable buffers will be introduced, buffer releases would need to be combined with strict dividend restrictions so that freed up capital would not be used for other purposes than lending. Furthermore, we oppose a preferential treatment of AT1 holders that would allow coupon payments when falling below the MDA as it would undermine the risk-bearing capacity of these instruments in going concern and could perpetuate investors' perception that AT1 instruments are debt-like and not equity-like.

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.

In our view, the overlap issue needs to be a priority in the review. In line with the results from the ESRB ATF on Overlaps between capital buffers and minimum requirements the multiple use of capital should be duly analysed to identify and address adverse effects. Capital used to meet both a buffer requirement in one framework and a parallel minimum requirement in another framework cannot absorb losses in going concern. In such cases, only buffer resources that do not simultaneously count towards minimum requirements are usable. Once LR P2R, if used by supervisors, and MREL in 2024 will fully apply the overlap would tend to increase. This will not be a purely transitional problem as the output floor might improve but not solve the issue.
Importantly, policy options that will be considered by the European Commission to address the issue should preserve the objectives of parallel regimes, i.e. not undermine the goals of the LR or MREL framework, and thus, ensure consistency with the Basel III framework (please see also Q4).

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.

In our view, an EU-wide harmonised floor methodology would be a potential way to reduce unwarranted heterogeneity in buffer calibration and cross-border spill overs. For this purpose, EU co-legislators could issue a legal mandate covering, in addition to the identification process, the buffer calibration process. Such methodology, possibly developed by the EBA with involvement of the ESRB, would allow to counter systemic risk in a more homogeneous way across member states while further strengthening the resilience of O-SIIs, and thus of the entire European banking system. If the goal is to address differences in buffer rates of banks that have similar scores, it is more appropriate to consider a floor methodology as a first step to limit heterogeneity at the lower end of the buffer rates. A floor methodology would have the advantage of not unduly constraining jurisdictions that consider that a higher rate would be more appropriate given specific national systemic risks while ensuring a minimum degree of harmonisation.
However, any proposed legislative change to reduce unwarranted heterogeneity in O-SII buffer calibration and cross-border spillovers may need to maintain a degree of flexibility in calibration to incorporate country's specificities. National specificities may give rise to differences in systemic risk that affect the calibration of the buffers and thus contribute to explaining the variation in O-SII buffer rates. These differences relate to the value of location-specific information, knowledge and relationships – national authorities have access to more accurate and up to date information. As such, any proposed legislative change needs to maintain a degree of flexibility for national authorities to better calibrate the instrument to each country's specificities, considering also differences in banking sector concentration. The downside of such flexibility is the risk of inaction bias on the part of national authorities.
Furthermore, extending the LR buffer to O-SIIs is one option to make the framework more consistent and increase comparability of leverage requirements across banks. It would ensure for G-SII the higher of risk-weighted G-SII and O-SII buffer is reflected in the LR buffer and would level the playing field with O-SIIs.
Not least, the G-SIIs methodology for cross border relevance should at the current juncture not view the banking union as a single geographical entity as lower buffers for G-SIIs are not warranted due to their large social costs in case of failures. Given the different approaches to insolvency laws, collateral enforcement across member states and also numerous national points of discretion in banking regulation, cross border activity remains complex and the banking union not a single geographical entity. As long as national deposit insurance schemes (DGS) and not a pan-European DGS exist, we do not see a need for changing the methodology.

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.

We support that sectoral SyRB rates are weighted with the sectoral share in all risk exposures for the calculation of the threshold. All else held constant, the incentive to apply a sectoral SyRB would increase if (i) the sectoral SyRB rates were accordingly weighted with the sectoral share in all risk exposures for the calculation of the threshold, or (ii) the authorization threshold increased. However, since this threshold acts as a safeguard to prevent potentially disproportionate effects on the internal market, such as ringfencing of capital, the authorization thresholds should not be adjusted.

Therefore, CRD V should be accordingly adjusted to define the combined SyRB rate. According to Article 133 (2) of CRD V, institutions shall calculate the nominal amount of the systemic risk buffer by multiplying the SyRB rates by the corresponding (targeted) risk exposure amount. Therefore, Article 133(2) should be accordingly adjusted to also include the calculation of the combined SyRB rate, by weighting the sectoral buffer rate with the sectoral share in all exposures. At the same time, whenever the CRD V sets out the authorization threshold for the cumulative SyRB/O-SII/G-SII buffer rates, the legal text should use the designation of “combined systemic risk buffer rate”, instead of “systemic risk buffer rate”.

In the view of the above considerations, the CRD should explicitly include the calculation of the combined SyRB rate, that includes the exposure-weighted sectoral buffer rates, and thereby resort to this designation whenever the authorization thresholds are set out in the legal text. This adjustment would incentivise authorities to use the sectoral SyRB, as the more onerous procedure for cumulative SyRB and O-SII/G-SII buffer rates above 5% would not be triggered relatively early.

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
- ● 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.

> Potentially incomplete aspects of the EU macroprudential framework such as the toolkit for non-bank financial intermediaries should be assessed outside this Review.

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?

- ○

- Yes
- (selected) 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.

Over the last years various types of macroprudential instruments have been used in the EU as well as in Austria. Please see answer to Q1.

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

- 1 - Highly ineffective
- 2 - Ineffective
- 3 - Neutral
- (selected) 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:

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including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Due to major monetary and fiscal policy interventions the macroprudential framework was not fully put to the test during the pandemic, therefore no comprehensive assessment of the functioning of the toolkit in the crisis is possible. Moreover, especially as regards the consequences for the banking system the Covid crisis is not over yet as more insolvencies and subsequent losses for banks may materialise after support measures have ceased.
In Austria, the capital buffer framework worked well during the Covid crisis (please see also Q2). Capital conservation has also been aided by the supervisory recommendation on dividend distributions. Banks followed this guidance and suspended the payment of dividends throughout 2020.
In general, the increase of euro area bank solvency during the pandemic (i.e. due to the system-wide pay-out restrictions) and the increase of loan growth during the pandemic do not point towards a capital shortage. If anything, the pandemic has shown that we might need to revaluate the previous risk environment and should strive for more rather than less resilience.
Any regulatory changes should be guided by the following high-level principles: (i) reduce complexity of regulation, (ii) increase resilience of the financial system, (iii) reflect flexibility across EU Member States due

to heterogeneous financial cycles, and (iv) compliance/equivalence with the BCBS. Potential changes to the macroprudential framework should not lead to a dilution of internationally agreed standards.
Overall, the macroprudential framework requires stability. It worked well during the pandemic. Frequent changes are confusing and costly for legislators, regulators, supervisors, banks and market participants.

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.

Answer to Question 8: Please see Question 7. No major changes necessary.

Answer to Question 8.1.
If a common minimum set of BBMs (borrower-based measures) is introduced, in our view it is vital that it only consists of principle-based minimum standards. They should fully respect the idiosyncrasies of national real estate markets and should not require Member States to make any changes to tools and definitions already in place.
In contrast, we deem a harmonisation of BBMs going beyond principle-based minimum standards disadvantageous. The idiosyncrasies and complexities of national real estate markets and mortgage related risks would render such an endeavour highly complex and prone to regulatory failures. Structural and institutional features of real estate and credit markets, tax policies, legal frameworks and more generally different homeownership policies might influence the appropriate design and definitions of BBMs and require flexibility from the common approach. Deviations from these common definitions are often necessary to better reflect the risks of national markets.
Harmonising existing BBM practices could be also a costly process for national authorities and credit providers. Even slight changes in the design of tools and definitions would require changes in national legal acts, in internal rules of credit providers, and in IT data collection systems. Furthermore, changing definitions of BBMs and indicators would create challenges for macroprudential analysis. Countries already applying BBMs have already put great efforts in gathering the data and compiling data series that are used for the analysis of real estate risks. If definitions would change more significantly, this would create structural breaks in the data impairing impact assessments of macroprudential policy measures' and reducing their credibility or even delaying their application.
Therefore, at the moment, the balance between the benefits of greater harmonization and the costs of imposing minimum standards in terms of data, definitions, and availability does not support the harmonisation of existing practices between Member States in the EU legal framework.

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 do not see the need for a legal basis for imposing binding system-wide or national dividend restrictions. Please see BIS, Covid-19 bank dividend payout restrictions: effects and trade-offs, 2020.
Overall, introducing this power in a legally binding form may create uncertainty for investors and might put EU banks at a disadvantage relative to their international counterparties. Taking into account the effectiveness and the degree of compliance with the Recommendations issued by the ESRB during the Covid pandemic, it does not seem necessary to enshrine this power in the EU legal framework. The ESRB also in the future should have a prominent coordinating role between national authorities to mitigate the risk of heterogeneous responses harming the level playing field across the EU. Therefore, such measures do not need to be introduced at this stage. Subsequently, we support the current proportionate MDA concept with its transparent automatic pay-out restrictions.

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.

We oppose any relaxation of prudential requirements after a shock event, as it would undermine the confidence in the banking system and its disclosure as well as the predictability of microprudential and macroprudential supervision.

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?

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including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support a streamlining of the different instruments in the CRR, also the streamlining of the activation and extension of measures in Article 458 CRR.

First, we expect that the output floor, once fully implemented, will reduce the necessity to adapt IRB risk weights or LGD values. Second, changes in Article 164 of CRR 3 will significantly improve the usability of this macroprudential measure as under the current proposal minimum LGD values applicable at the level of the individual exposure, contrary to the currently exposure weighted average LGD, can be applied. So, we expect the relevance of Art. 458 CRR to decrease with regard to the IRB approach. We could support bringing together Article 124 CRR and the risk weight measure currently in Article 458 CRR into a new single article leaving the options that go beyond risk weights for exposures secured by real estate untouched. Furthermore, in order to foster reciprocation and streamline procedures, actions taken up to a certain threshold could be automatically reciprocated, similarly to the procedure for Article 124 CRR. Going beyond this threshold could still require authorisation from the Commission/Council, similarly to the procedure under Article 458 CRR. Therefore, some features of the “measure of last resort” would be maintained.

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
- (x) 4 - Commensurate
- 5 - Highly commensurate
- 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.

We are not aware of any overshooting macroprudential measures. However, an inaction bias at the national and ECB level might have led to inadequately low O-SII and CCyB buffer rates in the past. We support a harmonisation of O-SII buffer rates via a common floor methodology, but it should not result in a low benchmark that would lead to overall lower buffer levels. Rather it should focus on raising buffers levels on the lower end (e.g. by raising the current floor for the ECB’s top-up-power). Please see answer to question 4.5.

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
- 3 - Neutral
- 4 - Effective
- (x) 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.

The ESRB as common hub for macroprudential notifications helped to reduce the workload. Moreover, we support the current targeted use of safeguard procedures by using caps (e.g. 5% SyRB) or when applying changes to Pillar 1 (Art. 458 CRR).

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
- (selected) 5 - Highly effective
- 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.

We deem the automatic reciprocity framework for specific tools (e.g. CCyB) accompanied by the voluntary reciprocity framework provided by the ESRB sufficient. In particular, the latter helps to reduce the complexity of the framework by allowing deviations if there is no significant exposure.

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
- 3 - Neutral
- 4 - Effective
- (selected) 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.

We consider the current framework well balanced. National designated authorities are best suited to address systemic risks as financial and economic cycles differ in the Member States. The ECB, the ESRB and the EC are an integral part of the institutional set-up to complement the national expertise in overcoming the inaction bias and to ensure a consistent application and information sharing in the euro area and the EU, respectively.
However, to enable coordinated action and thereby contribute to achieving the objectives of the internal market it should be clarified (preferable in the ESRB Regulation) that the ESRB informs the European Commission one month ahead of the issuance of an ESRB recommendation requiring the implementation of new macroprudential tools from the Union, more than one Member State, one or more of the ESAs, more than one of the national supervisory authorities, the national authorities designated for the application of measures aimed at addressing systemic or macro-prudential risk or the national resolution authorities, the Single Resolution Board or the ECB within the tasks conferred to the ECB in accordance with Articles 4(1), 4 (2) and 5(2) of Regulation (EU) No 1024/2013.

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.

Answer to Question 13:
Please see Question 10.

Answer to Question 13.1.:
We do not see much value added in regular overall assessments of the macroprudential requirements (or stance). If it is deemed necessary, such assessments should be conducted in addition to the EU-level monitoring and vetting of individual macroprudential measures given that member states' financial cycles are very heterogeneous and one analytical tool is highly unlikely to fit all kinds of systemic risks across countries and all time periods. Measures at the international level such as ESRB warnings and recommendations and the ECB´s top-up powers including underlying coordination processes in financial stability fora are already available to discuss the appropriateness of macroprudential measures or stances.

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.

No. Please see answer to Question 11.

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
- ◉ 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.

In Austria, we are using the SyRB for addressing third country risks.

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
- ○ 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.

There are currently no specific macroprudential tools at authorities’ disposal for mitigating banks’ systemic risks related to global market-based finance, securities and derivatives trading. Work is ongoing in the various European working groups (of the Eurosystem and the ESRB) on different areas (e.g. margin & haircuts, MMFR review). The ESRB is already monitoring risks and vulnerabilities for non-banks and best practices across ESRB members with the NBFI Monitor on an annual basis. In addition, every quarter the ESRB Secretariat runs a “bottom-up survey” to collect the view of ESRB Members on non-bank (and other) risks that they have identified at national and at European level.

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.

Answer to Question 16:
Recent analysis (see ECB/ESRB Project Team on climate risk monitoring (2021), “Climate-related risk and financial stability”, European Systemic Risk Board) showed uneven impacts of climate change for the EU financial sector, with financial stability vulnerabilities being concentrated in certain regions, sectors and firms. The breadth of the existing macroprudential toolkit allows flexibility to address different types of risks, targeting also different subsets of exposures at sectoral, regional or entity level. The (sectoral) SyRB would be already available to capture climate risks.
Macroprudential instruments for new risks, like climate change, risks stemming from biodiversity loss or cyber risks can be further explored after or outside of this review as the development of tools is still at an early stage.

Answer to Question 16.1.
We do not consider a challenging business environment per se as a systemic risk, which should be mitigated by macroprudential tools. First, competition can help to reduce the systemic relevance of individual banks. Second, systemic risk stemming from exposure to new products can be addressed by capital buffers.

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.

In our view, microprudential policy and vigilant supervision is and remains an essential cyber risk mitigant which addresses root causes of cyber risks at the beginning of any crisis lifecycle. Thus, it contributes essentially to increasing overall operational resilience and thereby to preventing a cyber incident from becoming systemic. We consider the Digital Operational Resilience Act (DORA) an essential element of these efforts. Macroprudential policy has a role to play but has its limitations: existing macroprudential tools enhance the resilience of the financial sector to shocks and thus provide relevant backstops for financial and reputational related contagion and thereby can mitigate the amplification of a cyber incident. However, they cannot affect the probability of occurrence of cyber incidents. An expansion of the existing macroprudential tools would not be targeted enough and would overload existing tools, whereas direct (microprudential) requirements may be more efficient in enhancing overall cyber resilience and reducing operational amplification channels.

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.

In our view, climate risks should primarily be addressed with microprudential regulation. The current macroprudential toolkit comprises the SyRB as a potential tool for addressing climate risk, however, the current wording of CRD V is not sufficiently clear, if and how a SyRB can be applied to address climate risks. It might therefore be clarified by the European Commission that a sectoral SyRB can be used to address specific systemic climate 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.

See Question 16.3. However, in principle the considerations for the use of the sectoral SyRB (Q 16.3) also apply to other ESG risks.

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.

We call for a more flexible use of the CCyB and addressing overlaps as priorities in the 2022 Review.
Any regulatory changes should be guided by the following high-level principles: (i) reduce complexity of regulation, (ii) increase resilience of the financial system, (iii) reflect flexibility across EU Member States due to heterogeneous financial cycles, and (iv) compliance/equivalence with the BCBS. Potential changes to the macroprudential framework should not lead to a dilution of internationally agreed standards.
Overall, the macroprudential framework requires stability. It worked well during the pandemic. Frequent changes are confusing and costly for legislators, regulators, supervisors, banks and market participants.

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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