

**Recommendation of the European Systemic Risk Board of 6 March 2023
amending Recommendation ESRB/2015/2 on the assessment of cross-
border effects of and voluntary reciprocity for macroprudential policy
measures**

(ESRB/2023/1)

Recommendation 2023/1 of the European Systemic Risk Board (ESRB) was published in the Official Journal of the European Union on 4 May 2023 and amends Recommendation ESRB/2015/2 as a consequence of the macroprudential policy measures adopted by *Finansdepartementet (Norwegian Ministry of Finance)*. Recommendation ESRB/2023/1 invites the relevant authorities of the Member States to reciprocate the macroprudential policy measures adopted in Norway, on the basis of certain pre-defined materiality thresholds.

Norway has introduced three macroprudential measures. On the one side, a systemic risk buffer rate of 4,5 % has been introduced to all credit institutions. On the other side, according to article 458 of CRR, for credit institutions authorised in Norway using the IRB approach, risk weight floors have been introduced, 20 % floor for average risk weights for exposures to residential real estate and 35 % floor for average risk weights for exposures to commercial real estate.

Owing to the limited amount of credit exposure amounts of Spanish institutions to counterparties in Norway –which place them below the materiality thresholds set by the ESRB–, on 22 June 2023 the Executive Commission of the Banco de España resolved not to reciprocate the measures adopted in Norway.

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(Resolutions, recommendations and opinions)

RECOMMENDATIONS

EUROPEAN SYSTEMIC RISK BOARD

RECOMMENDATION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 6 March 2023

amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures

(ESRB/2023/1)

(2023/C 158/01)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

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

Having regard to the Agreement on the European Economic Area ⁽¹⁾, in particular Annex IX thereof,

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 ⁽²⁾, and in particular Articles 3 and 16 to 18 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 ⁽³⁾, and in particular Article 458(8) thereof,

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ⁽⁴⁾, and in particular Section II of Chapter 4 of Title VII thereof,

Having regard to Decision ESRB/2011/1 of the European Systemic Risk Board of 20 January 2011 adopting the Rules of Procedure of the European Systemic Risk Board ⁽⁵⁾, and in particular Articles 18 to 20 thereof,

Whereas:

- (1) In order to ensure effective and consistent national macroprudential policy measures, it is important to complement the recognition required under Union law with voluntary reciprocity.

⁽¹⁾ OJ L 1, 3.1.1994, p. 3.

⁽²⁾ OJ L 331, 15.12.2010, p. 1.

⁽³⁾ OJ L 176, 27.6.2013, p. 1.

⁽⁴⁾ OJ L 176, 27.6.2013, p. 338.

⁽⁵⁾ OJ C 58, 24.2.2011, p. 4.

- (2) The framework on voluntary reciprocity for macroprudential policy measures set out in Recommendation ESRB/2015/2 of the European Systemic Risk Board ⁽⁶⁾ aims to ensure that all exposure-based macroprudential policy measures activated in one Member State are reciprocated in other Member States.
- (3) Recommendation ESRB/2017/4 of the European Systemic Risk Board ⁽⁷⁾ recommends the relevant activating authority to propose a maximum materiality threshold when submitting a request for reciprocation to the (European Systemic Risk Board) ESRB, below which an individual financial service provider's exposure to the identified macroprudential risk in the jurisdiction where the macroprudential policy measure is applied by the activating authority can be considered non-material. The ESRB may recommend a different threshold if deemed necessary.
- (4) Decision of the EEA Joint Committee No 79/2019 of 29 March 2019 amending Annex IX (Financial services) to the EEA Agreement [2019/2133] ⁽⁸⁾ incorporated Directive 2013/36/EU and Regulation (EU) No 575/2013 into the Agreement on the European Economic Area (EEA Agreement) with effect from 1 January 2020. Directive (EU) 2019/878 of the European Parliament and of the Council ⁽⁹⁾ and Regulation (EU) 2020/873 of the European Parliament and of the Council ⁽¹⁰⁾, which introduced significant amendments to Directive 2013/36/EU and Regulation (EU) No 575/2013, have been incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 383/2021 of 10 December 2021 amending Annex IX (Financial services) to the EEA Agreement ⁽¹¹⁾ and by Decision of the EEA Joint Committee No 301/2021 of 29 October 2021 amending Annex IX (Financial services) to the EEA Agreement ⁽¹²⁾, respectively. Directive (EU) 2019/878 and Regulation (EU) 2020/873 are now applicable in Norway.
- (5) With effect from 31 December 2020, credit institutions authorised in Norway are subject to: (i) a systemic risk buffer for exposures located in Norway applied at a rate of 4,5 %, pursuant to Article 133 of Directive 2013/36/EU; (ii) a 20 % floor for (exposure-weighted) average risk weights for exposures to residential real estate located in Norway, pursuant to Article 458(2)(d)(iv) of Regulation (EU) No 575/2013 (applicable to credit institutions using the internal ratings-based (IRB) approach); and (iii) a 35 % floor for (exposure-weighted) average risk weights for exposures to commercial real estate located in Norway, pursuant to Article 458(2)(d)(iv) of Regulation (EU) No 575/2013 (applicable to credit institutions using the IRB approach). The Norwegian authorities provided a phase-in period for the application of the systemic risk buffer for credit institutions that do not use the advanced IRB approach.
- (6) On 2 February 2021, Finansdepartementet (the Norwegian Ministry of Finance), acting as the Norwegian designated authority for the purposes of both Article 133(1) of Directive 2013/36/EU and Article 458(1) of Regulation (EU) No 575/2013, submitted to the ESRB a request for reciprocation of the systemic risk buffer rate pursuant to Article 134(5) of Directive 2013/36/EU and for the risk weight floors pursuant to Article 458(8) of Regulation (EU) No 575/2013.

⁽⁶⁾ 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).

⁽⁷⁾ Recommendation ESRB/2017/4 of the European Systemic Risk Board of 20 October 2017 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 431, 15.12.2017, p. 1).

⁽⁸⁾ OJ L 321, 12.12.2019, p. 170.

⁽⁹⁾ Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (OJ L 150, 7.6.2019, p. 253).

⁽¹⁰⁾ Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (OJ L 204, 26.6.2020, p. 4).

⁽¹¹⁾ Decision of 10 December 2021 (not yet published in the Official Journal).

⁽¹²⁾ Decision of 29 October 2021 (not yet published in the Official Journal).

- (7) Following the request by Finansdepartementet to the ESRB, the ESRB adopted Recommendation ESRB/2021/3 of the European Systemic Risk Board ⁽¹³⁾, thereby including these measures in the list of macroprudential policy measures which are recommended to be reciprocated under Recommendation ESRB/2015/2.
- (8) On 16 December 2022 Finansdepartementet notified the ESRB of its intention (i) to reset the systemic risk buffer rate for exposures located in Norway applicable to all credit institutions authorised in Norway and (ii) to extend by two additional years the risk weight floors applicable to residential and commercial real estate exposures located in Norway of credit institutions authorised in Norway using the IRB approach. The notified reset and extension of the measures do not affect their calibration and design. However, Finansdepartementet has extended the phase-in period for the application of the systemic risk buffer rate of 4,5 % to credit institutions that do not use the advanced IRB approach to 30 December 2023. Until that date, the systemic risk buffer rate applicable to exposures located in Norway is set at 3 % for credit institutions that do not use the advanced IRB approach. For the reciprocation of that measure, a similar phase-in period should be applied to foreign credit institutions not using the advanced IRB approach.
- (9) The notifications on 16 December 2022 also included a request to the ESRB to continue recommending reciprocation of all three measures. With regard to the reciprocation of the systemic risk buffer, Finansdepartementet proposed lowering the materiality threshold and to set it at a risk-weighted exposure amount of NOK 5 billion, which corresponds to around 0,16 % of the total risk-weighted exposure amount of credit institutions reporting in Norway.
- (10) Following the request by Finansdepartementet to the ESRB and in order to (i) prevent the materialisation of negative cross-border effects in the form of leakages and regulatory arbitrage that could result from the implementation of the macroprudential policy measures applied in Norway; and (ii) preserve a level playing field among EEA credit institutions, the General Board of the ESRB decided to continue to include the measures in the list of macroprudential policy measures that are recommended to be reciprocated under Recommendation ESRB/2015/2 and to amend slightly the parameters of the recommendation to reciprocate the systemic risk buffer.
- (11) In accordance with the request by Finansdepartementet, the materiality threshold for reciprocating the systemic risk buffer should be lowered and set at a risk-weighted exposure amount of NOK 5 billion. The Norwegian banking market is closely linked to markets in other Nordic countries such as Denmark, Finland and Sweden. In an integrated financial market, a low materiality threshold prevents potential leakages and regulatory arbitrage, thereby contributing to preserve financial stability and a level playing field. In addition, the administrative burden resulting from reciprocation of the systemic risk buffer is considered to be comparatively low, given that the systemic risk buffer to be applied by the Norwegian authorities is a simple and standardised measure, and credit institutions and authorities are already capable of identifying the country location of exposures. As the lowering of the materiality threshold might require the adoption of new national reciprocating measures or the amendment of existing ones, the standard three-month transition period following the publication of this Recommendation in the *Official Journal of the European Union* for the implementation of reciprocating measures should apply. With regard to the reciprocation of other measures referred to in the 16 December 2022 notifications, and which the ESRB continues to recommend for reciprocation, no new transition period is envisaged, as reciprocation is already recommended under Recommendation ESRB/2021/3.
- (12) Furthermore, Recommendation ESRB/2021/3, which amends Recommendation ESRB/2015/2 to include the Norwegian measures, was implemented when credit institutions authorised in Norway were not yet subject to Directive (EU) 2019/878. Therefore, relevant authorities in Member States that had already transposed Directive (EU) 2019/878 were able to reciprocate the Norwegian systemic risk buffer in a way and at a level that took account of any overlap or difference in the capital requirements applicable in their Member State and Norway. Directive (EU) 2019/878 has since been incorporated in the EEA Agreement and is now also applicable in Norway.

⁽¹³⁾ Recommendation ESRB/2021/3 of the European Systemic Risk Board of 30 April 2021 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 222, 11.6.2021, p. 1).

Therefore, any reference to Directive (EU) 2019/878 should be removed from Recommendation ESRB/2015/2. Moreover, the ESRB has not found any evidence that the systemic risk buffer rate, as reset by the Norwegian authorities, is fully or partially duplicating the functioning of the other systemically important institutions (O-SII) buffer provided for in Article 131 of Directive 2013/36/EU.

- (13) This amendment to Recommendation ESRB/2015/2 does not affect the continuity of recommending the reciprocation of the national macroprudential measures activated by the Norwegian authorities on 31 December 2020, as set out in Recommendation ESRB/2021/3. The current amendments to Recommendation ESRB/2015/2, except the lowering of the threshold for voluntary reciprocation of the systemic risk buffer and the extension of the phase-in period for the systemic risk buffer for credit institutions that do not use the advanced IRB approach, are of an editorial nature. Therefore, a renewed transition period for the recognition of the Norwegian measures, as described in Recommendation ESRB/2021/3, is not recommended. The standard three-month transition period following the publication of this Recommendation in the *Official Journal of the European Union* is only applicable to measures, or amendments thereto, reciprocating the systemic risk buffer that national authorities have to adopt due to the lowering of the materiality threshold.
- (14) Therefore, Recommendation ESRB/2015/2 should be amended accordingly,

HAS ADOPTED THIS RECOMMENDATION

Amendments

Recommendation ESRB/2015/2 is amended as follows:

- (1) in Section 1, sub-recommendation C(1), the measures under Norway are replaced by the following:

- a 4,5 % systemic risk buffer rate for all exposures located in Norway, under Article 133 of Directive 2013/36/EU, as applicable to and in Norway as of 31 December 2022 pursuant to the terms of the Agreement on the European Economic Area (*) (EEA Agreement) (hereinafter the 'CRD as applicable to and in Norway as of 31 December 2022'), to all credit institutions authorised in Norway;
- a 20 % floor for (exposure-weighted) average risk weights for exposures to residential real estate located in Norway, under Article 458(2)(d)(iv) of Regulation (EU) No 575/2013, as applicable to and in Norway as of 31 December 2022 pursuant to the terms of the EEA Agreement (hereinafter the 'CRR as applicable to and in Norway as of 31 December 2022'), to credit institutions authorised in Norway using the internal ratings-based (IRB) approach for calculating regulatory capital requirements;
- a 35 % floor for (exposure-weighted) average risk weights for exposures to commercial real estate located in Norway, pursuant to Article 458(2)(d)(iv) of the CRR as applicable to and in Norway as of 31 December 2022, to credit institutions authorised in Norway using the IRB approach for calculating regulatory capital requirements.

(*) OJ L 1, 3.1.1994, p. 3;

- (2) the Annex is amended in accordance with the Annex to this Recommendation.

Done at Frankfurt am Main, 6 March 2023.

The Head of the ESRB Secretariat,
on behalf of the General Board of the ESRB
Francesco MAZZAFERRO

ANNEX

The Annex to Recommendation ESRB/2015/2 is amended as follows:

1. the measures under Norway are replaced by the following:

- a 4,5 % systemic risk buffer rate for exposures located in Norway, under Article 133 of Directive 2013/36/EU, as applicable to and in Norway as of 31 December 2022 pursuant to the terms of the Agreement on the European Economic Area (EEA Agreement) (hereinafter the 'CRD as applicable to and in Norway as of 31 December 2022), to all credit institutions authorised in Norway;
- a 20 % floor for (exposure-weighted) average risk weights for exposures to residential real estate located in Norway, under Article 458(2)(d)(iv) of Regulation (EU) No 575/2013, as applicable to and in Norway as of 31 December 2022 pursuant to the terms of the EEA Agreement (hereinafter the 'CRR as applicable to and in Norway on 31 December 2022), to credit institutions authorised in Norway using the internal ratings-based (IRB) approach for calculating regulatory capital requirements;
- a 35 % floor for (exposure-weighted) risk weights for exposures to commercial real estate located in Norway, pursuant to Article 458(2)(d)(iv) of the CRR as applicable to and in Norway as of 31 December 2022, to credit institutions authorised in Norway using the IRB approach for calculating regulatory capital requirements.;

2. I. Description of the measures is amended as follows:

(a) paragraph 1 is replaced by the following:

- '1. With effect from 31 December 2020, Finansdepartementet (the Norwegian Ministry of Finance) introduced three macroprudential measures, namely (i) a systemic risk buffer for exposures located in Norway, pursuant to Article 133 of the CRD as applicable to and in Norway as of 31 December 2022; (ii) a risk weight floor for exposures to residential real estate located in Norway, pursuant to Article 458(2)(d)(iv) of the CRR as applicable to and in Norway as of 31 December 2022; and (iii) a risk weight floor for exposures to commercial real estate located in Norway, pursuant to Article 458(2)(d)(iv) of the CRR as applicable to and in Norway as of 31 December 2022.;

(b) in paragraph 2 '31 December 2022' is replaced by '30 December 2023';

3. II. Reciprocation is amended as follows:

(a) paragraph 5 is replaced by the following:

- '5a. Relevant authorities are recommended to reciprocate the Norwegian measures for exposures located in Norway in accordance with Article 134(1) of Directive 2013/36/EU and with Article 458(5) of Regulation (EU) No 575/2013, respectively. Relevant authorities are recommended to reciprocate the systemic risk buffer rate within 18 months following the publication of Recommendation ESRB/2021/3 of the European Systemic Risk Board (***) in the *Official Journal of the European Union*. The risk weight floors for residential and commercial real estate exposures in Norway should be reciprocated within the standard three-month transition period following the publication of Recommendation ESRB/2021/3 in the *Official Journal of the European Union*.

- 5b. As the lowering of the materiality threshold as referred to in Recommendation ESRB/2023/1 of the European Systemic Risk Board (***) might require a relevant authority to adopt a new national reciprocating measure or amend existing national measures reciprocating the Norwegian systemic risk buffer measure, the standard three-month transition period following the publication of Recommendation ESRB/2023/1 in the *Official Journal of the European Union* for the implementation of reciprocating measures applies.

(**) OJ C 222, 11.6.2021, p. 1.

(***) Not yet published in the Official Journal.;

(b) paragraph 6 is replaced by the following:

‘6. If the same macroprudential policy measures are not available in their jurisdiction, in accordance with sub-recommendation C(2), the relevant authorities are recommended to apply, following consultation with the ESRB, macroprudential policy measures available in their jurisdiction that have the most equivalent effect to the above measures recommended for reciprocity. The relevant authorities are recommended to adopt the equivalent measures for the reciprocity of average risk weight floors for residential and commercial real estate exposures within 12 months and for the reciprocity of the systemic risk buffer rate within 18 months, respectively, following the publication of Recommendation ESRB/2021/3 in the *Official Journal of the European Union*. To the extent that the lowering of the materiality threshold requires a relevant authority to adopt a new national reciprocating measure as described in this subparagraph or amend existing national measures reciprocating the Norwegian systemic risk buffer measure, the standard three-month transition period following the publication of Recommendation ESRB/2023/1 in the *Official Journal of the European Union* for the implementation of reciprocating measures applies.’;

(c) paragraph 7 is deleted;

4. in III. Materiality threshold, paragraph 8, point (a), is replaced by the following:

‘(a) for the systemic risk buffer, the materiality threshold is set at a risk-weighted exposure amount of NOK 5 billion, which corresponds to around 0,16 % of total risk-weighted exposures of credit institutions reporting in Norway.’;
