

OPINION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 3 August 2023

regarding the existing systemic risk buffer pursuant to Article 133 and the Norwegian notification of the setting or resetting of an O-SII buffer pursuant to Article 131 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions

(ESRB/2023/6)

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 Area¹, 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 Board², and in particular Article 3(2)(j) thereof,

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC³, and in particular Article 131(3), (5a), (7), (12) and (15) thereof,

Having regard to Decision ESRB/2015/4 of the European Systemic Risk Board of 16 December 2015 on a coordination framework for the notification of national macroprudential policy measures by relevant authorities, the issuing of opinions and recommendations by the ESRB, and repealing Decision ESRB/2014/2⁴,

Whereas:

- (1) The Norwegian Ministry of Finance, acting as the designated authority for the purpose of Article 131 of Directive 2013/36/EU, notified the European Systemic Risk Board (ESRB) on 27 June 2023 of its intention to require certain credit institutions to maintain an other systemically important institution (O-SII) buffer of Common Equity Tier 1 capital, in accordance with Article 131 of that Directive.
- (2) Article 131(3) of Directive 2013/36/EU establishes a set of criteria on the basis of which O-SIIs are identified. Pursuant to the second subparagraph of this Article, the European Banking Authority

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. 338.

4 OJ C 97, 12.3.2016, p. 28.

(EBA) has issued Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10)⁵ (hereinafter the 'EBA Guidelines'), in which it sets out mandatory and optional indicators for the scoring of systemic importance in Annexes 1 and 2, respectively.

- (3) The Norwegian O-SII buffer will apply to four domestic credit institutions, one of which is a subsidiary whose respective parent entity is established in another European Economic Area Member country. The Norwegian Ministry of Finance has identified these credit institutions as O-SIIs pursuant to the following criteria: (i) total assets as share of mainland Norway's gross domestic product (GDP) and (ii) loans to the private non-financial sector as share of total loans to the private non-financial sector in Norway. These criteria are listed as optional indicators in Annex 2 to the EBA Guidelines. In addition to these two main criteria, the Norwegian Ministry of Finance also considered the mandatory indicators of the EBA Guidelines when applying its supervisory judgement. This approach to assess O-SIIs partially complies with the EBA Guidelines⁶.
- (4) More specifically, the proposal is to maintain a buffer of 2 % applicable to one credit institution and a buffer of 1 % to three credit institutions. The measure is aimed at increasing the loss-absorbing capacity of the most systemically important institutions in Norway, as they play a particularly significant role in the Norwegian financial system and for the Norwegian economy.
- (5) In accordance with national legislation, the differentiation in the applicable buffer rates stems from the fact that the largest credit institution, to which the 2 % O-SII buffer rate is applicable, scores at least twice as high in terms of the abovementioned criteria as the credit institutions to which a 1 % O-SII buffer rate is applicable. In fact, the largest credit institution is almost six times larger than the second largest credit institution in terms of these criteria.
- (6) It is anticipated that the Norwegian Ministry of Finance will take a final decision on the setting of the O-SII buffer after the notification period and will announce it as soon as it has been taken.
- (7) Additionally, pursuant to Article 131(15) of Directive 2013/36/EU, the O-SII buffer applicable to all four credit institutions will be cumulative with the existing systemic risk buffer (SyRB) rate of 4.5 % these credit institutions are subject to⁷.
- (8) Considering that the sum of the SyRB rate and the O-SII buffer rate would be higher than 5 % for each of the credit institutions that fall within the scope of the proposed measure, the ESRB will

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

6 According to the Compliance Table Norway partially complies with the EBA Guidelines. 'The Norwegian Ministry of Finance adopted a regulation on the identification of systemically important financial institutions in Norway in May 2014. [...] As a general rule, an institution shall be designated as systemically important if it has total assets corresponding to at least 10 per cent of Mainland Norway's GDP, or a share of the Norwegian lending market of at least 5 per cent. [...] In addition to the two main criteria, the Regulation says that the FSA's advice also shall be based on an assessment of the institution's size, the institution's importance in Norway and other countries, the institution's complexity, the institution's role in the financial system infrastructure and to which degree the institution is interconnected with the rest of the financial system. To enlighten these criteria, the FSA will use the methodology in the EBA Guidelines.'

7 On 5 November 2020, the Norwegian Ministry of Finance notified the ESRB, under Article 133(11) of Directive 2013/36/EU as applicable to and in Norway on 1 January 2020, of its intention to set a SyRB rate of 4.5% applicable to credit institutions. In Recommendation ESRB/2020/14 of the European Systemic Risk Board of 4 December 2020 regarding Norwegian notification of its intention to set a systemic risk buffer rate in accordance with Article 133 of Directive (EU) 2013/36/EU the ESRB recommended that the proposed SyRB rate to be applied in Norway should be considered justified, suitable, proportionate, effective and efficient in relation to the risk targeted by the Norwegian Ministry of Finance.

provide the European Free Trade Association Standing Committee and the Norwegian Ministry of Finance with an opinion as to whether the level of the combined rate of the O-SII buffer rate and the SyRB rate is deemed appropriate, pursuant to Article 131(5a) and (15) of Directive 2013/36/EU and to Section II, Subsection (i), point 14(q), of Annex IX to the Agreement on the European Economic Area⁸.

- (9) In 2022 the ESRB issued an opinion⁹ within the context of the O-SII buffers set by the Norwegian Ministry of Finance. The ESRB assessed that the O-SII buffers, set by the Norwegian Ministry of Finance and applicable to three credit institutions, cumulative with the existing SyRB to which these credit institutions were already subject, were appropriate to address the identified risks.
- (10) The three O-SIIs subject to the cumulative buffers were DNB Bank ASA (O-SII buffer rate of 2.0 %), Kommunalbanken AS (O-SII buffer rate of 1.0 %) and Nordea Eiendomsrett AS (O-SII buffer rate of 1.0 %). SpareBank 1 SR-Bank ASA will be added to this list as the fourth O-SII, subject to an O-SII buffer rate of 1.0%. The O-SII buffer rates to which the other three credit institutions are subject will not change,

HAS ADOPTED THIS OPINION:

1. The O-SII buffer rate applicable in Norway, as set by the Norwegian Ministry of Finance, will be cumulative with the existing SyRB to which the credit institutions are already subject, resulting in a cumulative SyRB and O-SII buffer rate higher than 5 %.
2. Under the current circumstances, the cumulative buffer rate is assessed as appropriate and effective to address the identified risks for each of the credit institutions that falls within the scope of these two measures. In particular, under the current circumstances, the cumulative buffer rate does not entail disproportionate adverse effects on financial stability in Norway nor is it expected to form or create an obstacle to the proper functioning of the internal market.
3. The attached assessment note entitled 'Assessment of a measure taken in Norway pursuant to Article 131 of the Capital Requirements Directive which is cumulative with an existing measure pursuant to Article 133 of that Directive' is an integral part of this Opinion.

Done at Frankfurt am Main, 3 August 2023.



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

Francesco MAZZAFERRO

8 According to the amendments introduced by Decision of the EEA Joint Committee No 383/2021 of 10 December 2021 amending Annex IX (Financial Services) to the EEA Agreement (not yet published in the Official Journal of the European Union or in the EEA Supplement), which entered into force on 1 July 2022.

9 See Opinion ESRB/2022/8 of the European Systemic Risk Board of 15 November 2022 regarding the existing systemic risk buffer pursuant to Article 133 and the Norwegian notification of the setting or resetting of an O-SII buffer pursuant to Article 131 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions, available on the ESRB website at www.esrb.europa.eu.