



## The ESRB and national macro-prudential measures – its role and first experiences

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*Under the new capital rules for banks that entered into force on 1 January 2014, the ESRB is required to be informed before certain national macro-prudential measures are adopted. In some cases, the ESRB may have to provide opinions and issue recommendations on such measures. Beyond these legal requirements, national authorities are also advised to share information on measures in their specific jurisdiction, as early as possible, particularly when these could have significant cross-border effects. In this way, the ESRB member organisations are also able to further increase their knowledge of macro-prudential policy, an area still much under development.*

*The Commentary first describes the general framework for notifications of national macro-prudential measures to the ESRB. It then considers the measures that have been notified and subsequently published on the ESRB's website in the period from January to June 2014. In the period under review, notifications from Belgium, Croatia, Denmark, Estonia, Latvia, the Netherlands, Slovenia and the United Kingdom have been published by the ESRB. Most of them relate to capital measures and, in particular, the use of the systemic risk buffer. The Commentary concludes by making some general observations on the first set of published notifications.*

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## 1 THE ESRB'S ROLE IN NATIONAL MACRO-PRUDENTIAL MEASURES

The ESRB is responsible for the macro-prudential oversight of the financial system within the EU and, therefore, the leading forum for authorities in Europe to share information on macro-prudential measures in their respective jurisdiction. In discussing this information, the ESRB members have the opportunity to learn from each other's experiences, which is important, as macro-prudential policy is an area still much under development.

The ESRB's role in national macro-prudential measures was further enhanced as a result of the new capital rules for banks that entered into force on 1 January 2014. The Capital Requirements Directive (CRD) and the Capital Requirements Regulation (CRR)<sup>1</sup> provide the national authorities of the Member States with a set of policy instruments, some of which are new, to address financial stability risks more effectively. As previously mentioned, certain national measures are now required by law to be notified to the ESRB, which, in turn, may have to issue opinions or recommendations, depending on the case at hand. In some cases, also the European Banking Authority (EBA) is required to provide its views.

One of the objectives of the new capital rules is to create a single rulebook for banking regulation in the EU, thereby providing a single set of harmonised prudential rules that institutions throughout the EU must respect instead of a patchwork of national rules. While the single rulebook is important for the internal market, a certain degree of national flexibility in the use of macro-prudential measures is still needed, as financial systems and credit cycles continue to differ across the EU. This concern is even more relevant for Member States in the euro area that no longer have national monetary policy tools at their disposal. One of the important objectives of the procedures under the new capital rules, including the aforementioned advisory role of the ESRB, is to ensure that the negative impact of such national measures on the internal market, if any, does not outweigh the financial stability benefits.

In order to assist national authorities in applying the macro-prudential measures under the new capital rules, the ESRB has recently issued a number of supporting documents, which have been made available on its website<sup>2</sup>. In its Flagship report on macro-prudential policy in the banking sector, an initial overview is provided for high-level policy-makers of the new macro-prudential framework in the EU. The report is accompanied by a more detailed Handbook on operationalising macro-prudential policy in the banking sector. The Handbook describes the key features and the role of individual macro-prudential instruments, as well as a number of topics that are relevant for all instruments.

The Handbook has one chapter dedicated to the cross-border issues that are to be covered by the ESRB's opinions as required under the new capital rules.<sup>3</sup> In broad terms, the ESRB would initially make an overall assessment of the likely financial stability benefits arising from the proposed measure as well as its appropriateness, and advise whether it should be approved. Subsequently, the ESRB would identify material negative spillovers to other countries as a result of applying such a measure. The ESRB would play a key role in advising how these could be mitigated, for example by issuing a

<sup>1</sup> Regulation No 575/2013/EU on prudential requirements for credit institutions and investment firms (Capital Requirements Regulation) and Directive No 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (Capital Requirements Directive).

<sup>2</sup> <http://www.esrb.europa.eu/mppa/html/index.en.html>

<sup>3</sup> For a more detailed discussion of the issues to be covered by ESRB opinions in terms of cross-border considerations, see Chapter 11 of the ESRB Handbook on operationalising macro-prudential policy in the banking sector.



recommendation to make amendments to the measure such that the financial stability benefits are maintained but negative spillovers are mitigated.

An important cross-border issue is so-called reciprocity, which refers to the recognition and application of the same measure by other countries to their banks for activities in the country that initially adopted the measure. In the absence of reciprocity, an uneven playing field may be created vis-à-vis foreign banks. It may also open up the possibility of regulatory arbitrage by cross-border banking groups that are able to shift their activities between group entities across borders. The end result could be a reduced effectiveness of the measure. With a few exceptions, reciprocity by other Member States is typically voluntary under the new capital rules. The ESRB may, however, recommend reciprocity, also at the request of the Member State that has adopted the measure.

In addition to the Handbook, the ESRB has recently issued guidance to Member States on a new macro-prudential instrument provided for in the new capital rules, namely the countercyclical capital buffer.<sup>4</sup> The guidance, which is required under the new capital rules, serves the purpose of establishing a common approach to setting the countercyclical capital buffer across the EU. At the same time, a supplementary ESRB Occasional Paper<sup>5</sup> has been published describing the technical analyses behind the recommendation.

Furthermore, when the ESRB is required to provide its stance on a notified measure it has to do so within the relatively short time frame of one month so that a smooth and efficient decision-making process within the ESRB is essential. The ESRB has therefore adopted an internal coordination framework for the notification of national macro-prudential measures, including the corresponding provision of opinions and issuance of recommendations.<sup>6</sup> To facilitate the process of adopting opinions and recommendations, the framework covers issues such as the advance exchange of information, the use of standardised notification templates and the setting-up of a dedicated Assessment Team to prepare draft opinions and recommendations<sup>7</sup>.

The Assessment Team was established in early 2014 as a permanent sub-structure of the Advisory Technical Committee and is chaired by the Secretariat of the ESRB. The European Central Bank (ECB, including the Single Supervisory Mechanism or SSM) and nine national central banks of Member States are represented in this team. The European Commission and the EBA have permanent observers attending the Assessment Team's meetings, while the relevant authorities from the notifying Member States have temporary observers.

Finally, it should be recalled that even before the new capital rules for banks came into force, the ESRB had adopted a recommendation under which national macro-prudential authorities are recommended to inform the ESRB, prior to the application of macro-prudential instruments at the

<sup>4</sup> Recommendation of the ESRB of 18 June 2014 on guidance for setting countercyclical buffer rates (ESRB/2014/1). The countercyclical capital buffer aims to take into account the macro-financial environment in which the bank operates by adding a time-varying capital buffer on top of the minimum capital requirements; this buffer is required during periods of excessive credit growth and can be drawn upon by the bank in an economic downturn.

<sup>5</sup> Detken, C. et al. (2014), "Operationalising the countercyclical capital buffer: indicator selection, threshold identification and calibration options", *ESRB Occasional Paper Series*, No. 5, June.

<sup>6</sup> Decision of the ESRB of 27 January 2014 on a coordination framework regarding the notification of national macro-prudential policy measures by competent or designated authorities and the provision of opinions and the issuing of recommendations by the ESRB (ESRB/2014/02).

<sup>7</sup> The adoption of the final opinions and recommendations is the prerogative of the General Board, the ESRB's only decision-making body.

national level, should significant cross-border effects on other EU Member States or the internal market be expected.<sup>8</sup> Advance information on and disclosure of national measures improves understanding and transparency among macro-prudential authorities across the EU. It further offers the opportunity for other Member States to put forward their views on the impact of the measure on their particular jurisdiction, which can be both positive and negative. The recommendation, as with all ESRB recommendations, is not legally binding but subject to an “act or explain” mechanism. The addressees (i.e. the national macro-prudential authorities) are obliged to report to the ESRB on the actions taken to comply with the given recommendation or to explain their reasons for not doing so.

## 2 TYPE OF NOTIFICATIONS TO THE ESRB

In line with the earlier discussion, one can broadly distinguish between compulsory and voluntary notifications of national macro-prudential measures. **Compulsory notifications** are required by law under the new capital rules. In some cases, they may also require a specific follow-up action by the ESRB, namely when the measure relates to the use of the systemic risk buffer or the use of national flexibility measures. Both cases are discussed in greater detail below since the ESRB has clarified the coordination framework for the notification of the measures and for the adoption of its opinions and recommendations. The ESRB has further provided standardised notification templates to ensure a smooth and efficient follow-up procedure.

Some compulsory notifications do not require any specific action on the part of the ESRB and are, therefore, for information purposes only. These include, for example, the setting of the buffer rate for other systemically important institutions (so-called O-SIIs) or Member States making use of the possibility to have a shorter transitional period for the implementation of the capital conservation buffer<sup>9</sup> and the countercyclical capital buffer.

**Voluntary notifications** can be given at any time and for any measure, but the advance notifications recommended under the aforementioned ESRB recommendation target those measures that may have significant cross-border effects on other Member States or the internal market. No particular notification procedures or formalities are provided for, nor is the ESRB required to take any formal action following such notifications. If the notifying authority agrees, the ESRB will publish, for reasons of transparency, the said notification on its website<sup>10</sup>.

### a) Systemic risk buffer

The systemic risk buffer (SRB) is an instrument of capital buffers provided for under the new capital rules that can be used to address a broad set of long-term, structural systemic or macro-prudential

<sup>8</sup> Recommendation of the ESRB of 4 April 2013 on intermediate objectives and instruments of macro-prudential policy (ESRB/2013/1).

<sup>9</sup> The capital conservation buffer is a capital buffer on top of the minimum capital requirements and upon which the bank can draw to cover losses in order to avoid breaches of the minimum requirements. In the event that the bank's capital falls below the minimum requirement and the said buffer, the bank is subject to restrictions on its distributions such as dividends, share buy-backs and discretionary bonuses.

<sup>10</sup> <http://www.esrb.europa.eu/mppa/html/index.en.html>



risks, such as those related to common exposures of banks and the structure of the banking sector.<sup>11</sup> The SRB translates into a requirement of additional capital for all banks or a subset of banks. The level of the buffer may vary across institutions or sets of institutions, depending on their respective contribution to the specific structural systemic risk and on the geographical location of their exposures.

The SRB level should be set at a level of at least 1% of the given bank's exposures<sup>12</sup> but there is no maximum level. Depending on the level of the buffer and the impact on other Member States, authorisation from the European Commission may be required, in which case the ESRB needs to provide an opinion beforehand. For a SRB of up to 3%, no authorisation from the Commission, and, therefore, no ESRB opinion, is required. The capital rules do not provide specific criteria for determining the SRB level applicable. However, it is specified that the buffer must not entail disproportionate adverse effects on the whole, or parts, of the financial system of other Member States or of the EU as a whole, thereby forming or creating an obstacle to the functioning of the internal market. Furthermore, the relevant national authority must review the SRB at least every second year. Before (re)setting an SRB, the relevant national authority must notify the European Commission, the ESRB, the EBA and the authorities of other Member States concerned. This notification must take place at least one month before the publication of the decision announcing the setting of the buffer.

### ***b) National flexibility measures***

The new capital rules include so-called “national flexibility measures”, which allow national authorities to impose stricter prudential requirements than provided for in the single rulebook with the aim of addressing particular systemic risks. At the same time, such measures are subject to strict conditions to ensure that any negative impact on the internal market does not outweigh the financial stability benefits.<sup>13</sup>

The particular systemic risks that can be targeted by such measures include, for example, bubbles in the real estate sector, liquidity risk, or high concentrations in banks' exposures. The national flexibility measures that can be used to address these risks are defined by the capital rules and national authorities may only use such measures if certain requirements are met. For example, relevant qualitative or quantitative evidence must be submitted to explain that they are suitable, effective and proportionate to address the particular situation. Moreover, it must be shown that the risks cannot be adequately addressed by other instruments already available under the capital rules.

The procedure for adoption of the national flexibility measures involves notification by the given national authority, opinions provided by the ESRB and the EBA, a proposal from the European Commission and a decision by the Council of the EU. The ESRB plays an important role in this process, as it is obliged to submit an opinion to the Commission on the notified measures. The Commission is required, taking utmost account of the ESRB's opinions, to assess whether there is convincing evidence that the measure will have a negative impact on the internal market that

<sup>11</sup> For a more detailed discussion on the tools addressing systemic banks and structural systemic risks, including the systemic risk buffer, see Chapter 4 of the ESRB Handbook on operationalising macro-prudential policy in the banking sector.

<sup>12</sup> The SRB may apply to exposures located in the Member State that sets the buffer and may also apply to exposures in third countries (i.e. outside the EU). The buffer may also apply to exposures located in other Member States, subject to certain conditions.

<sup>13</sup> For a more detailed discussion of the nationality flexibility measures under Article 458 of the CRR, see Chapter 7 of the ESRB Handbook on operationalising macro-prudential policy in the banking sector.

outweighs the financial stability benefits; if so, the Commission may propose that the Council of the EU rejects the measure. In the absence of a rejection of the measure, it may be applied for up to two years, with the possibility of extension for one year at a time, following the same procedure.

As further clarified in its coordination framework for the notification of national macro-prudential measures, the ESRB will, in its opinion, assess, from a macro-prudential perspective, the underlying rationale as well as the merit of the measures notified in terms of their justification, effectiveness, efficiency and proportionality. The ESRB will also consider the potential cross-border implications of notified measures, and, if deemed necessary, suggest certain amendments to mitigate potential negative spillover effects within the context of the internal market.

### **3 REVIEW OF THE FIRST NOTIFIED AND PUBLISHED MACRO-PRUDENTIAL MEASURES**

This section considers the macro-prudential measures that national authorities have notified to the ESRB and which the ESRB subsequently, and in agreement with the authorities concerned, published on its website in the first half of 2014.<sup>14</sup> The measures, ranked chronologically in order of their publication on the ESRB's website, are summarised in a table in the attached annex. Further details on each measure are available in the individual notifications posted on the ESRB's website.

#### ***Belgium***

Belgium notified that it intended to adopt a national flexibility measure to address increased systemic risk originating from the domestic market for residential mortgage loans. This measure requires banks that use an internal model for determining their regulatory capital requirements to hold more capital for their mortgage business. Technically, the measure consists of a 5-percentage point add-on to the risk weights applied by banks that use internal models for their Belgian mortgage loans. This measure would be the continuation of a measure that was already adopted by the National Bank of Belgium (NBB) at the end of 2013, but that required a new regulation following the entry into force of the new capital rules. Most banks were able to meet the additional capital requirement by using their voluntary capital buffers. The Belgian authorities indicated that, at this juncture, there was no immediate need for reciprocation of the measure, but that this might need to be reviewed depending on further developments.

This measure was triggered by the potential risk arising in the Belgian housing market against the background of a number of indicators that point to a potential overvaluation. The NBB analyses also revealed the existence of important sub-segments in the banks' outstanding portfolios of mortgage loans that combine high levels of risk parameters (e.g. loan-to-value ratio or debt service charges for borrowers). Given the importance of residential mortgage loans for Belgian banks, a downturn in the residential real estate market could, therefore, have a substantial impact on banks' solvency positions. In spite of these elements, the risk weights that result from banks' internal models are relatively low, also compared to other European countries, which is explained by low historical loss data, because of the absence of a crisis in the domestic residential real estate market in the past.

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<sup>14</sup> The ESRB has been informed of, and discussed, other planned national macro-prudential measures but they are not reviewed in this Commentary as they have not been officially notified to the ESRB and disclosed on the ESRB's website.

The new capital rules require Belgium to consider other available measures before recourse can be taken to a national flexibility measure, such as the aforementioned add-on to the risk weights from banks' internal models. The NBB, however, concluded that these other measures listed in the capital rules were not adequate to address the increased systemic risk, either because they provide the wrong incentives, or they are too broad-based, or they do not address the relevant type of risk or bank. The Belgian authorities also want to use an instrument with a strong signalling effect, which can be achieved through the national flexibility measure's high level of transparency.

The Belgian notification was the first case in which the ESRB was required to deliver an opinion on a national flexibility measure. Within one month of the notification, the ESRB provided its opinion to the Council of the EU, the Commission and Belgium as required under the new capital rules. The European Commission did not object to the measure.

### **Croatia**

Hrvatska Narodna Banka (HNB), the central bank of Croatia, has notified the ESRB of the use of the SRB of up to 3% of total exposures (i.e. in Croatia, other Member States and third countries) on both a solo and consolidated basis from May 2014 onwards. Since the SRB rate is not more than 3%, the ESRB is not required to issue an opinion and a simple notification suffices.

HNB justified the introduction of the SRB by the presence of structural risks resulting from systemically important institutions (SIIs), the high concentration in the banking sector, national macro-economic imbalances and the characteristics of the domestic real estate market. It should be noted that the new capital rules provide for specific capital buffers for global systemically important institutions (G-SIIs) and other systemically important institutions (O-SIIs), but these are only available from 2016 onwards. Moreover, the O-SII buffer is capped at 2% of the bank's total exposures.

The measure applies to all banks authorised by HNB. Two buffer rates apply, each to a different sub-group of banks. The first sub-group includes all institutions with a market share of less than 5%. They are subject to a buffer rate of 1.5% of all of their exposures. The second sub-group includes the institutions with a market share of more than 5%; for them a buffer rate of 3% of all exposures applies. These latter banks are typically the largest institutions that are part of bigger, cross-border banking groups. However, those banks which, at the time the measure came into force, were subject to a legally-binding joint decision by the college of supervisors on risk-based capital adequacy, are excluded from the SRB until this decision is no longer valid.

Before the new capital rules became applicable, Croatian banks were already subject to minimum capital requirements of 12%, on account of the aforementioned structural risks. With the introduction of the new capital rules, this minimum would drop to 10.5% (8% + 2.5% capital conservation buffer). With this measure, the minimum will, for the first sub-group, be brought back to its previous level and for the second sub-group it will be raised to 13.5%. HNB did not request reciprocation of the measure, as direct cross-border lending and lending through local branches of EU banks is negligible.

### **Denmark**

Finanstilsynet, the Danish financial supervisory authority, notified the ESRB that it had identified six O-SIIs in Denmark and five sub-categories of O-SIIs to which the former were allocated. The allocation to sub-categories is based on the level of systemic importance of the given institution. The systemic



importance is calculated as an average of the total assets as a percentage of the Danish banking sector's total assets, loans as a percentage of the sector's total lending, and deposits as a percentage of the sector's total deposits. The new capital rules require a simple notification of the names of the O-SIIs and the respective sub-category to the ESRB. Finanstilsynet further indicated that the identified O-SIIs were expected to be subject to a SRB with a transitional period of four years as from 2015, to be set by the Minister for Business and Growth.

### ***Estonia***

Eesti Pank, the central bank of Estonia, notified its intended use of the SRB of 2% of total exposures (i.e. in Estonia, other Member States and third countries) on both a solo and consolidated basis from August 2014 onwards. The measure applies to all banks and banking groups authorised in Estonia. Since the SRB rate is not more than 3% of exposures, a simple notification suffices. Member States with large branches in Estonia have been requested to reciprocate the measure on a voluntary basis. By imposing an SRB of 2%, banks would, once again, be subject to a higher minimum capital requirement equivalent to that which was required until the end of 2013. In addition, banks are asked to maintain the capital conservation buffer of 2.5%, as from May 2014, without the transitional period allowed under the new capital rules<sup>15</sup>. All banks operating in Estonia already meet the new minimum requirements with their voluntary capital buffers.

Eesti Pank justifies the introduction of the SRB by the structural vulnerabilities of the Estonian economy and financial sector. These economic vulnerabilities stem from the small and open economy and the ongoing convergence process that increase the volatility of the economy and its sensitivity to external shocks. Experience has also shown that an unexpected deterioration in the economic environment can quickly result in significant debt service problems in the non-financial sector and the sudden need for banks to make additional provisions for non-performing loans. The financial vulnerabilities include the high concentration of the banking sector and common exposures to the same economic sectors.

### ***The Netherlands***

De Nederlandsche Bank (DNB), the Dutch central bank, notified the ESRB of information made available to the public on macro-prudential measures scheduled to enter into force by 1 January 2016. The measures consist of the intended use of the O-SII buffer of up to 2% and the SRB of up to 3% of all bank exposures (i.e. in the Netherlands, other Member States and third countries), and which would gradually be phased in on a consolidated basis. In both cases, only an obligation of notification to the ESRB applies.

The objective of DNB's measure is to increase the loss absorption capacity of the largest Dutch banks, given the large and concentrated banking sector in the Netherlands. To this end, an O-SII buffer of 2% is imposed on the three largest banks, and an O-SII buffer of 1% on the fourth largest. However, DNB is of the view that the size of the O-SII buffer, capped at 2% under the new capital rules, is not commensurate with the magnitude of the systemic risks. It therefore imposes, additionally, an SRB of

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<sup>15</sup> According to an ESRB survey, also Bulgaria, Croatia, the Czech Republic, Italy, Latvia, Lithuania, Luxembourg, Malta, Slovakia and Sweden provide for an early introduction of the capital conservation buffer.



3% on the three largest institutions, the balance sheets of which all exceed 50% of Dutch GDP. Under the new capital rules, only the highest rate will apply if both the O-SII buffer and the SRB are employed. At present, the four institutions already hold capital in excess of the proposed requirements.

### *Latvia*

Finanšu un kapitāla tirgus komisija (FKTK), the Financial and Capital Market Commission of Latvia, notified the ESRB of the introduction of the capital conservation buffer without any transitional period. The buffer, set at 2.5% of the total exposures, has been in force as from 28 May 2014. Recourse to a shorter transitional period for the capital conservation buffer (and the countercyclical capital buffer) than provided for under the new capital rules requires only a simple notification to the ESRB.

### *Slovenia*

Banka Slovenije (BS), the central bank of Slovenia, notified the ESRB, on a voluntary basis, of its intention to activate, as from the end of June 2014 onwards, a macro-prudential liquidity measure that falls outside of the new capital rules, as it concerns an area which is not yet harmonised. BS will amend its regulation on minimum liquidity requirements for banks and savings banks, by introducing a measure which sets a minimum requirement on changes in loans to the non-banking sector relative to changes in deposits from the non-banking sector. This measure applies only to those credit institutions for which the absolute deposit level from non-banks – in the denominator of the ratio – is increasing. The minimum ratio is calculated taking into account – in the numerator – the changes in stocks of loans before considering impairments. This ratio is called the gross loans-to-deposits flow (GLTDF).

As from June 2014 and until the end of March 2015, the new minimum GLTDF ratio will need to be at least positive at the end of each quarter: this means that every institution for which the deposits from non-banks are growing should not reduce the gross volume of loans to non-banks, compared to their absolute level in the previous year. As from April 2015, the minimum ratio will be increased to 40%: this means that, for every €100 of new deposits from non-banks, the stock of loans to non-banks will need to increase by at least €40.

Banks that are either unable or unwilling to achieve these requirements will be subject to an intricate system of corrective measures. The first corrective measure continues to aim to achieve the objectives in terms of the GLTDF, but now at an accelerated pace of implementation. Should this first corrective measure not be complied with, a second set of corrective measures would be activated. In such a case, the institution would be required to meet one of the overall liquidity requirements of BS, depending on how long that institution is non-compliant with the GLTDF requirement.

This measure is the first case in the EU of a macro-prudential measure that aims to support lending to the real economy (against a contracting trend) and, additionally, to improve banks' liquidity positions (by requiring that new lending is financed by a minimum amount of non-bank deposits and by the system of corrective measures relating to banks' liquidity positions).



## *The United Kingdom*

The Bank of England, the central bank of the UK, notified the ESRB that its Financial Policy Committee (FPC) had set the countercyclical capital buffer rate for UK exposures at 0% in its June meeting. Although the level of aggregate credit in the UK economy remains very high, weak aggregate credit growth since the peak of the crisis means that the UK's so-called credit-to-GDP gap has recently been very negative. The credit-to-GDP gap, or the deviation of the credit-to-GDP ratio from its long-term trend, is an important element in the setting of the buffer rate, but the FPC also takes other quantitative and qualitative information into account. The new capital rules require national authorities to notify the ESRB of each quarterly countercyclical buffer rate, as well as specific supporting information, such as the credit-to-GDP gap.

## **4 CONCLUDING OBSERVATIONS**

Some concluding observations can be made on the basis of the experiences gained from the first notifications of national macro-prudential measures:

- In addition to the legally required notifications, national authorities tend to voluntarily inform the ESRB of the macro-prudential measures they intend to take at an early stage if significant cross-border effects on other Member States or the internal market are to be expected. Such voluntary notifications illustrate compliance with the ESRB's recommendation requesting that information be exchanged as early as possible, and this further strengthens the role of the ESRB as the leading forum in Europe for discussing macro-prudential policy and possible cross-border effects.
- Under the SSM Regulation<sup>16</sup>, the ECB should, in future, also be informed under a separate notification mechanism of such measures by the Member States that participate in the SSM. Furthermore, the ECB may, if deemed necessary, apply requirements for higher capital buffers and more stringent measures, under the capital rules, and on grounds of addressing systemic risks, than those established by the national authorities. In this case, the ECB may also be subject to a notification obligation to the ESRB.
- Most, but not all, notified measures relate to the use of capital instruments, in particular the SRB. The use of the SRB is justified for a variety of reasons: features of the given domestic economy and real estate market, size and concentration of the given domestic banking sector, as well as the presence of systemically important institutions. But the main motivation for the use of the SRB seems to be the presence of systemically important banks and the intention to cover the related systemic risk with a capital buffer. In some cases, the earlier-mentioned factors have prompted the authorities to set higher minimum requirements, which were then superseded once the new capital rules came into force.
- In most of the reported cases, the SRB is used as a substitute for the O-SII buffer, which is subject to more stringent requirements in terms of level (cap of 2%) and availability (only from 2016 onwards). Conceptually this is not ideal as the O-SII buffer is the dedicated instrument to

<sup>16</sup> Council Regulation No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.



address systemic risks resulting from O-SIIs. The level chosen for the SRB in the reported cases resulted in a simple notification procedure without the need for a formal opinion or approval, which begs the question as to the role of procedural considerations in the selection of the given measure and its level. In this context, it should be noted that, in its response to the call for advice from the European Commission on macro-prudential rules under the new capital requirements, the ESRB has already recommended a number of amendments to the SRB and O-SII buffer rules in order to address this concern.<sup>17</sup>

- Assessing the cross-borders effects of a national macro-prudential measure is of key importance for the internal market. There is a need for a more structured and developed assessment of such effects, which is an area that the ESRB may wish to explore further. In this regard, special attention may be devoted to assessing the impact on key macroeconomic and risk variables as well as spillovers to financial market segments not directly impacted by the measure. Reciprocation of a national measure by other Member States is a useful way to address the concern of an uneven playing field and, where appropriate, should, therefore, be encouraged. Exact reciprocation, however, is only possible if the other given country has the same instrument available in its jurisdiction, which may, not always be the case.

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<sup>17</sup> The call for advice and the response of the ESRB are available on the ESRB's website.

## ANNEX: CHRONOLOGICAL OVERVIEW OF NATIONAL MEASURES NOTIFIED TO, AND PUBLISHED BY, THE ESRB (PERIOD JANUARY-JUNE 2014)

Date of ESRB's publication	Notifying authority/country	Type of notification	Summary description
16/04/14	Hrvatska Narodna Banka (Croatia)	Compulsory (SRB). No ESRB opinion required.	SRB of up to 3% of all exposures (solo and consolidated basis), as from May 2014. A distinction is made between two subsets of banks with different SRB levels (1.5% and 3%). No reciprocation has been requested.
22/04/14	Banka Slovenije (Slovenia)	Voluntary (liquidity requirements outside of the CRD/CRR).	Minimum requirements for changes in loans to the non-banking sector relative to changes in deposits from the non-banking sector ("gross loans-to-deposits flow" ratio), as from June 2014. No reciprocation has been requested.
29/04/14	De Nederlandsche Bank (Netherlands)	Compulsory (SRB, O-SII buffer). No ESRB opinion required.	O-SII buffer of up to 2% (consolidated basis) and SRB of up to 3% of all exposures (consolidated basis) for the four largest banks, gradually phased in as from 2016. No reciprocation has been requested.
08/05/14	Belgium	Compulsory (national flexibility measure). ESRB opinion required.	5-percentage point flat add-on to risk weights of Belgian residential mortgage loans for banks that use internal models. Continuation of an existing measure. At this juncture, no reciprocation has been requested.
21/05/14	Eesti Pank (Estonia)	Compulsory (SRB, capital conservation buffer, without transitional period). No ESRB opinion required.	SRB of 2% of all exposures (solo and consolidated basis), as from August 2014. Introduction of capital conservation buffer as from May 2014. Member States with large branches in Estonia have been requested to reciprocate the SRB on a voluntary basis.
25/06/14	Finanstilsynet (Denmark)	Compulsory (O-SII buffer). No ESRB opinion required.	Identification of six O-SIIs and five O-SII sub-categories. Intention to use the SRB for O-SIIs in the period 2015-18.
25/06/14	Finanšu un kapitāla tirgus komisija (Latvia)	Compulsory (capital conservation buffer). No ESRB opinion required.	Introduction of the capital conservation buffer, without any transitional period, as from May 2014.
26/06/14	Bank of England (United Kingdom)	Compulsory (countercyclical capital buffer). No ESRB opinion required.	The countercyclical capital buffer rate for UK exposures is set at 0%.