



EUROPEAN COMMISSION
 Directorate General Internal Market and Services

Call for advice to the ESRB on macro-prudential rules

According to Article 513 of Regulation No 575/2013/EU on prudential requirements for credit institutions and investment firms (CRR) of 26 June 2013 the Commission shall report by 31 December 2014 to the European Parliament and the Council about the review of macro-prudential rules.

With this mandate, the Commission seeks the ESRB's technical advice to assess whether the rules provided for in CRR and in Directive No 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (CRD) are sufficient to mitigate systemic risks in sectors, regions and Member States.

Context

Article 513 of Regulation (EU) No 575/2013 requires the Commission, after consulting the ESRB and EBA, to review by June 2014 whether the macro-prudential rules contained in the Regulation and in Directive 2013/36/EU are sufficient to mitigate systemic risks in sectors, regions and Member States.

The Commission also seeks to receive information on the authorities acting in each Member State as the "designated authority" to implement the macro prudential tools provided under CRD/CRR. The overview should be accompanied by an analysis of the extent to which choices on the governance of macro-prudential tools may affect the efficiency, effectiveness and transparency of the macro-prudential framework and, if appropriate, by suggestions on how macro-prudential and micro-prudential decision making should be coordinated.

Scope

The ESRB is required to consider the following:

- a. Whether the current macro-prudential tools in the Regulation and the Directive are effective, efficient and transparent;
- b. Whether the coverage and the possible overlap between different macro-prudential tools for targeting similar risks are adequate;
- c. How internationally agreed standards for systemic institutions interact with the provisions in the Regulation and Directive.

The Commission is aware of the fact that the time frame set for the review (6 month after the date of application of CRD/CRR) does not yet allow a detailed analysis of established practises. The Commission expects however a deep conceptual analysis of the appropriateness of the overall macro-prudential framework.

Furthermore, the Commission would appreciate to receive an overview of the macroprudential tools already implemented or planned by Member States.

The Commission also seeks to receive information on the authorities acting in each Member State as the “designated authority” to implement the macro prudential tools provided under CRD/CRR. The overview should be accompanied by an analysis of the extent to which choices on the governance of macro-prudential tools may affect the efficiency, effectiveness and transparency of the macro-prudential framework and, if appropriate, by suggestions on how macro-prudential and micro-prudential decision making should be coordinated.

The ESRB is kindly asked to answer to the questions listed in the Annex I. However, the ESRB is invited to raise any other issues it may consider relevant in the context of the review of the macro-prudential rules of the Regulation and the Directive.

Deadline to reply to this call for advice:	30 April 2014
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Contact: Andreas Strohm, tel: 0032-2-2950985; Andreas.Strohm@ec.europa.eu

Questions:

A. Do you consider that the current macro-prudential tools in the Regulation and the Directive are effective, efficient and transparent? Please provide also answers to the following sub-questions:

1. The Buffer Framework

- a. The Directive entails four different capital buffers: the Capital Conservation Buffer, the Countercyclical Capital Buffer, two buffers for Systemically Important Institutions (G-SIIB and O-SIIB) and the Systemic Risk Buffer. Do you think that the buffer system in its entirety is effective, efficient and transparent?
- b. The Directive and the Regulation offer different procedures for each buffer:
 - i. Do you believe that these procedures should be changed or aligned in order to improve the effectiveness and transparency of the macro-prudential rules?
 - ii. If yes, do you have alternative suggestions on how to improve the procedures in terms of increasing effectiveness and transparency? Please reason your suggestions and include an assessment on expected effects on the functioning of the internal market.
- c. For the Systemic Risk Buffer and the O-SIIB, buffer different caps for setting the respective buffer rate apply.
 - i. Do you think that these caps are appropriate in terms of allowing to mitigating systemic risks in sectors, regions and Member States?
 - ii. Do you think that the rules which articulate the relation between the application of the rates for Systemic Risk Buffer and the SIIB Buffers (Article 131 paragraphs 14 and 15 CRD) are appropriate in terms of transparency, efficiency and effectiveness?
 - iii. If the answer is no, what would be your alternative suggestions? Please reason and include an assessment on expected effects for the functioning of the internal market.
- d. Given the different caps and procedures for the different buffers, is it realistic to assume that national authorities may select the macro-prudential instrument also on the basis of procedural considerations?

2. The Individual Buffers

- a. Do you consider that the design of the individual buffers mentioned under 1a is appropriate in terms of mitigating the macro-prudential risk addressed and in terms of effectiveness, efficiency and transparency?
- b. If not, do you have alternative suggestions? Please reason your suggestions and include an assessment on the expected effects for the functioning of the internal market.

B. Do you consider that the coverage and the possible degree of overlap between the different macro-prudential tools for targeting similar risks in the Regulation and the Directive are adequate? Please provide also answers for the following sub questions:

1. General questions

- a. Do you think that capital buffers should be targeted to different types of risks?
- b. Is it possible to sufficiently distinct the types of macro-prudential risks so that overlaps can largely be avoided?
- c. If yes, which separate risks should be covered by the macro-prudential capital rules?

2. Possible overlap between different macro-prudential capital buffers

- a. In your opinion, are the capital buffers in CRD/CRR targeted to different macro-prudential risks or do they inadequately overlap?
- b. In your opinion, would it be adequate to reduce the number of buffers in order to reduce a possible overlap? Or/and would you suggest to design the existing buffers more adequately to separate risks?

3. Possible overlap between capital buffers and macro-prudential use of pillar 2

- a. Article 103 CRD empowers the competent authority to impose requirements to institutions in a similar or identical manner in cases the institutions are exposed to similar risks or pose similar risks to the financial system. In your view, does this provision inadequately overlap with the buffer requirements of the Systemic Risk Buffer and/or the O-SIIB buffer?
- b. If yes, do you identify relative advantages and disadvantages of each measure in terms of effectiveness, efficiency and transparency?
- c. Would it be adequate to restrict the macro-prudential use of pillar 2 in cases where capital buffers would be available for national authorities to address similar risks? Please substantiate your opinion and include an assessment on the expected effects for the functioning of the internal market.

4. Use of pillar 2 in a macro-prudential context

- a. Article 105 CRD empowers the competent authority to impose a prudential charge related to the disparity between the actual liquidity position of a bank and any liquidity and stable funding requirements at national or Union level. Do you consider that this provision entails a macro-prudential objective?
- b. If yes, do you suggest that designated macro-prudential authorities should be involved in the decision making process?
- c. If yes, do you have suggestions how this could be organized?

5. Possible overlap between the provisions of Articles 124, 164 and Article 458 with regard to targeting asset bubbles in the real and commercial real estate sector

- a. Article 124 and 164 CRR empower the competent authority to impose higher risk weights for residential and commercial immovable property and higher LGD ratios for retail exposures based on financial stability considerations. Do you consider that these provisions entail a macro-prudential objective?
- b. Do you see any potential conflicts of interests between competent and designated authorities since competent authorities are empowered to act under Article 124 and 164 while designated authorities may act under Article 458?

C. Are there adequate liquidity tools available to sufficiently mitigate systemic risk?

- a. A well designed policy framework for addressing systemic liquidity risks may rely on the further development of international and European micro-prudential standards, including the design of sound stable funding requirements. Do you agree that it would be difficult to develop an adequate macro-prudential framework before the micro-prudential standards are adopted?
- b. If not, please substantiate your opinion and submit suggestions including an assessment of the expected effects for the functioning of the internal market.
- c. In your opinion, should the macro-prudential rules entail liquidity surcharges for systemically important institutions?

D. Macro-prudential flexibility measures under Article 458 CRR: they were introduced to ensure flexibility for national authorities to impose stricter prudential requirements to address systemic risks. They include the level of own funds, large exposures requirement, public disclosure requirements, the level of the capital conservation buffer, liquidity requirements, risk weights for the residential and commercial property sector, and measures for intra-financial sector exposures.

These instruments may only be used if the national authority can justify that the identified systemic risk cannot be adequately addressed by other instruments. To ensure their proper use, they are subject to a notification of the envisaged national measure, “opinions” to be submitted by the ESRB and EBA, a proposal of the European Commission and a final decision of the Council.

- a. Do you consider that the one month-deadline for providing “opinions” from the ESRB and EBA on notified national measures is adequate in order to carry out a proper assessment?
- b. Are there any macro-prudential concerns which would justify not extending the one month period?
- c. Do you have suggestions which may facilitate the process of evaluation of a national measure, such as the mandatory use of notification forms?
- d. Do you consider the legal requirements when conducting a “substantive” examination appropriate?
- e. Is the balance between rules in Article 458 CRR restricting the use of “national flexibility measures” to safeguard the functioning of the internal market on the one hand and providing tools to address systemic risk at a sectoral, regional or national level on the other hand adequate?
- f. If your answer is no, please submit concrete suggestions on how Article 458 CRR framework could be improved. Please substantiate your views, including an assessment of macro-prudential effectiveness and expected effects for the functioning of the internal market.

E. Please assess how internationally agreed standards for Systemically Important Institutions interact with the provisions in the Regulation and the Directive. Does the assessment suggest a change of the provisions? Please substantiate your views.

F. Please assess whether the provisions in the Regulation and the Directive are sufficient to effectively and efficiently address potential macro-economic risks arising from foreign currency lending. If your answer is no, please substantiate reasons why existing measures (like the ESRB recommendation on FX-lending) are considered not to be sufficient and submit concrete suggestions on how the legislative framework should be improved, taking into account expected effects for the functioning of the internal market.