Notification template for national macroprudential measures not covered by of the Capital Requirements Regulation (CRR)/ Capital Requirements Directives (CRD) (other than borrower-based measures)

Please upload this template to

- macropru.notifications@ecb.europa.eu when notifying the European Central Bank (ECB);
- DARWIN/ASTRA when notifying the European Systemic Risk Board (ESRB).

This notification will be made public by the ESRB once the relevant authorities have adopted and published the notified macroprudential measure[1].

E-mailing/uploading this template to the above addresses constitutes official notification; no further official letter is required. To facilitate the work of the notified authorities, please send the notification template in a format that allows the information to be read electronically.

1. Notifying national authority and scope of the notification		
1.1	Name of the notifying authority	**Malta Financial Services Authority**
1.2	Country of the notifying authority	**Malta**
1.3	Name of the macroprudential measure that is notified	Specify the macroprudential measure which is notified. **Banking Rule 09 – Measures addressing Non-performing Exposures and Forborne Exposures**
2. Description of the measure		
2.1	Description of the measure	Provide a detailed description of the measure, including calibration and the main parameters. **Loan loss provisioning: updated Banking Rule BR/09 on Measures addressing Non-performing exposures and Forborne exposures (the 'Rule'). The update to the Rule which was mainly triggered for microprudential purposes, includes the following: 1) Amendments to the quantitative requirements for non-performing exposures (NPEs), and 2) the implementation of the relevant Guidelines issued by the European Banking Authority (EBA).**

[1] On request by the notifying authority, it may be agreed with the Head of the ESRB Secretariat that this notification, or a part thereof, should not be published for reasons of confidentiality or financial stability.

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		1) Quantitative requirements for Non-performing exposures. This Rule is applicable to Credit institutions with a gross NPL ratio equal to or greater than 5% on consolidated, sub-consolidated or solo level. **Part 1 of the Rule provides requirements for loans that originated before 26 April 2019 as follows:** **- loans that were classified as NPEs before 26 April 2019, referred to as 'Stock NPEs', and;** **- loans that were classified as NPEs after 26 April 2019, referred to as 'Flow NPEs'.** **The minimum coverage expectation paths are specified for both Stock NPEs and Flow NPEs since such loans are not covered by Regulation (EU) 2019/630, amending the Capital Requirements Regulation.** **2) Implementation of EBA Guidelines. The sections covering Part Two to Part Five of the Rule implement the following EBA Guidelines:** **- The Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No 575/2013 (EBA/GL/2016/07),** **- The Guidelines on credit institutions' credit risk management practices and accounting for expected credit losses (EBA/GL/2017/06),** **- The Guidelines on management of non-performing and forborne exposures (EBA/GL/2018/06),** **- The Guidelines on disclosure of non-performing and forborne exposures (consolidated version) (EBA/GL/2018/10).**
2.2	Legal basis and process of implementation of the measure	Please specify the legal basis and process of implementation of the measure. **Article 3(1) of the Banking Act 1994 ('the Act') - the Competent Authority ('the Authority') as appointed under Article 3 (1) of the Act may make Banking Rules as may be required for carrying into effect any of the provisions of the Act. The Authority may amend or revoke such Banking Rules. The Banking Rules and any amendment or revocation thereof shall be officially communicated to**

		banks and the Authority shall make copies thereof available to the public
2.3	Coverage	Which institutions/exposures will be covered by the measure? **Exposures: Non-performing exposures** **Institutions: Credit Institutions licensed by the MFSA**
2.4	Any other relevant information	Any other relevant information (e.g. interaction with other measures addressing the same risk). **None. There are other regulatory measures that are complementary (as mentioned in the epigraph 5.3) but not addressing the same risk.**
3.	**Timing for the measure**	
3.1	Timing for the decision	What is the date of the official decision on the notified measure? **16/01/2023**
3.2	Timing for publication	What is the date of publication for the notified measure? **19/01/2023**
3.3	Disclosure	Provide information about the strategy for communicating the notified measure to the market. Please provide a link to the public announcement, if any. **Circular to Credit Institutions:** **https://www.mfsa.mt/wp-content/uploads/2023/01/Circular-to-Credit-Institutions-on-the-Update-to-Banking-Rule-BR09-on-Measures-Addressing-Non-Performing-Exposures-and-Forborne-Exposures.pdf**
3.4	Timing for application	What is the intended date of application of the measure? What is the intended timeline for phase-in of the measure (if applicable)?

		With immediate effect from the publication of the Circular. **19/01/2023**
3.5	End date (if applicable)	Until when is it presumed that the measure will be in place? If applicable, please select an end date. **Indefinite unless the Rule is amended or revoked/substituted by alternative regulatory measures.** Click here to enter a date.
4. Reason for the activation of the measure		
4.1	Description of the macroprudential risk to be addressed	Describe the macroprudential risk in the financial system to be addressed by the proposed macroprudential measure. **The Rule attempts to address Credit risks arising from the assessment of the quality of assets portfolio of credit institutions. This Rule specifies the sound risk management practices for credit institutions for managing non-performing exposures (NPEs), forborne exposures (FBEs) and foreclosed assets.**
4.2	Indicators used for activation of the measure	Provide the indicators triggering activation of the measure. Provide the data on which the decision is based if possible (preferably in an Excel file). **This Rule is applicable to Credit institutions with a gross NPL ratio equal to or greater than 5% on consolidated, sub-consolidated or solo level.**
4.3	Effects of the measure	Provide your assessment of the effects of the measure on your domestic banking system, other parts of the financial system, the real economy and financial stability in your country. **The authority requires that a regulatory allocation shall be made by a credit institution against the level of its non-performing exposures. This Rule provides for a regulatory allocation that sets the minimum amount of coverage expectations against the level of NPEs, to bridge any insufficient coverage resulting after impairments are recognised in line with IFRSs as adopted by the EU. Credit institutions are to apply these coverage expectations separately for each non-performing exposure. Such approach aims to better reflect the inherent risk of the**

		respective NPEs. Nevertheless, the authority expects a credit institution to undertake its own assessment and reasoned judgement on the possibility of timely recovery of funds and provide an enhanced level of regulatory allocation as may be required and merited in such circumstances.
5. Sufficiency, consistency and non-overlap of the policy response		
5.1	Sufficiency of the policy response	For a macroprudential policy to be 'sufficient', the policy responses must be deemed to significantly mitigate, or reduce the build-up of risks over an appropriate time horizon with a limited unintended impact on the general economy. Note that the ESRB will use this assessment of the macroprudential stance as relevant input in assessing the sufficiency of the macroprudential policy in the Member State. Please provide any additional information that the ESRB should consider in assessing the sufficiency of the policy response. **The design of the new Banking Rule is the result of the experience gained along the years from the implementation of the previous version of the Rule which was not directly designed to induce credit institutions to take sufficient measures to reduce legacy (prior to 26 April 2019) non-performing exposures. Through the amendment included, it is expected that within a clear time frame banks fully account for remaining legacy non-performing positions as well as to comply to the Guidelines issued by the European Banking Authority (EBA).**
5.2	Consistency of application of the policy response	For a macroprudential policy to be 'consistent', the policy instruments must be deemed to meet their respective objectives, as outlined in ESRB/2013/1[2], and they must be implemented in accordance with the common principles set out in the relevant legal texts. Note that the ESRB assessment of consistency will consider whether the same systemic risks are addressed

[2] Recommendation of the European Systemic Risk Board of 4 April 2013 on intermediate objectives and instruments of macro-prudential policy (ESRB/2013/1) (OJ C 170, 15.6.2013, p. 1).

		in a similar way across and within the Member States over time. Please provide any additional information that the ESRB should consider in assessing the consistency of the policy response. **The stricter criterion than those set out in the previous version of the Banking Rule 09, addresses the following ESRB intermediary objective - *Mitigate and prevent excessive credit growth and leverage*, as outlined in ESRB Recommendation ESRB/2013/1, given the tightening of the loan-loss provisioning requirement.** **Amendments to the Rule are meant to ensure alignment to the EBA Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No. 575/2013 (EBA/GL/2016/07), the EBA Guidelines on credit institutions' credit risk management practices and accounting for expected credit losses (EBA/GL/2017/06), the EBA Guidelines on management of non-performing and forborne exposures (EBA/GL/2018/06), and the EBA Guidelines on disclosure of non-performing and forborne exposures (EBA/GL/2018/10).**
5.3	Non-overlap of the policy response	For a policy instrument to be 'non-overlapping', it should aim to address a systemic risk that either differs from the risk addressed by other active tools in the same Member State, or to be complementary to another tool in that Member State which addresses the same systemic risk. - Are other policy instruments used to address the <u>same</u> systemic risk? - If yes, please explain the need for more than one instrument to address the same systemic risk and how the different instruments interact with each other. **The risks addressed by the stricter criterion than those set out in the previous version of the Banking Rule 09, are complimented by the domestically implemented borrower-based measures that incorporate caps on the loan-to-value, debt service-to-income and maturity limits; the more stringent domestic application of risk weights on RRE**

		exposures where a 35% risk weight is applied to 70% of the property LTV (rather than 80% as stipulated in CRR) which help to address the structural element of RRE risk and the sectoral systemic risk buffer that applies to domestic residential real estate mortgages secured by domestic real estate.
6. Cross-border and cross-sector impact of the measure		
6.1	Assessment of cross-border effects and the likely impact on the Internal Market (Article 133(11)(d) CRD and Recommendation ESRB/2015/2[3])	Assessment of the cross-border effects of implementation of the measure. a. Assessment of the spillover channels operating via risk adjustment and regulatory arbitrage. The relevant indicators provided in Chapter 11 of the ESRB Handbook on Operationalising Macroprudential Policy in the Banking Sector[4] and the Framework to assess cross-border spillover effects of macroprudential policies of the ECB Task Force on cross-border spillover effects of macroprudential measures can be used. b. Assessment of the: o cross-border effects of implementation of the measure in your own jurisdiction (inward spillovers); o cross-border effects on other Member States and on the Single Market of the measure (outward spillovers); o overall impact on the Single Market of implementation of the measure. **The stricter criterion is applied on all Credit Institutions licenced in Malta, thus limiting inward spillovers. Given that the volume of cross border lending is limited, at this juncture, no cross-border effects onto other member states are expected.**
6.2	Assessment of leakages and regulatory arbitrage within the notifying Member State	Referring to your Member State's specific characteristics, what is the scope for "leakages and regulatory arbitrage" in your own jurisdiction (i.e. circumvention of the measure/leakages to other parts of the financial sector)? Is there scope for "leakages and regulatory arbitrage" in other jurisdictions? **Risk attribute to leakages to other institutions and regulatory arbitrage is deemed to be very minimal in view**

[3] Recommendation 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 (ESRB/2015/3) (OJ C 97, 12.3.2016, p. 9).
[4] Available on the ESRB's website at www.esrb.europa.eu.

		that domestic licensed Credit Institutions issue most of the loans/credits to Maltese residents.
6.3	Request for reciprocation	Do you intend to ask the ESRB to issue a recommendation to other Member States to reciprocate the measures? Choose an item. - If yes, please provide in Section 6.4 the justification for that reciprocity request. - If no, what are the reasons for not requesting reciprocation? **Not requested, given applicability of the rule as per section 2.3, as well as in the light of credit institutions predominantly providing credit to residents of Malta.**
6.4	Justification for the request for reciprocation	To request reciprocation, please provide: a. a concise description of the measure to be reciprocated b. the financial stability considerations underlying the reciprocity request, including the reasons why the reciprocity of the activated measure is deemed necessary for its effectiveness. c. the proposed materiality threshold and justification for that level. If the ESRB deems the request for reciprocation to be justified, the description provided will form the basis for translation into all EU official languages for the purposes of an update of ESRB Recommendation 2015/2. **N/A**
7. Miscellaneous		
7.1	Contact person(s)/mailbox at notifying authority.	Contact person(s) (name, phone number and e-mail address) and mailbox for further inquiries. **Jorge Guada Prada, +356 25485611;** **e-mail Jorge.guadaprada@mfsa.mt**

7.2	Any other relevant information.	**Link to the updated Banking Rule 09:** **Banking Rule 09 - Measures Addressing Non-Performing Exposures and Forborne Exposures (mfsa.mt)** **This Rule, although having a macroprudential dimension, was developed by the MFSA, following discussions also with the Central Bank of Malta at the level of the Joint Financial Stability Board, on microprudential grounds.**
7.3	Date of the notification	Please provide the date on which this notification was uploaded/sent. **26/05/2023**