OPINION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 6 February 2020

regarding Dutch notification of a stricter national measure based on Article 458 of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms

(ESRB/2020/1)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

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

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[1], and in particular Article 3(2)(j) 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 investment firms and amending Regulation (EU) No 648/2012[2], and in particular Article 458(4) 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/2014/2[3],

Whereas:

(1) De Nederlandsche Bank (DNB), acting as designated authority for the purpose of Article 458 of Regulation (EU) No 575/2013, notified the European Systemic Risk Board (ESRB) on 8 January 2020 of its intention to apply a stricter national measure applicable to credit institutions using the Internal Ratings Based Approach (IRB) in their calculations of regulatory capital requirements.

(2) The draft stricter national measure concerns risk weights for targeting asset bubbles in the residential property sector (Article 458(2)(d)(vi) of Regulation (EU) No 575/2013). In particular it imposes a minimum average risk weight that is to be applied by credit institutions using the IRB approach in relation to their portfolios of exposures to natural persons secured by residential property located in the Netherlands. The minimum average risk weight of the portfolio is the exposure-weighted average of the risk weights of the individual exposure items. The minimum risk weight of each individual exposure item within the scope of the measure is either: (i) 12% if the loan-to-value ratio is less than

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1 OJ L 331, 15.12.2010, p. 1.

2 OJ L 176, 27.6.2013, p. 1.

3 OJ C 97, 12.3.2016, p. 28.

55%; or, (ii) the weighted average of a 12% risk weight assigned to the portion of the loan not exceeding 55% of the market value of the property securing the loan, and a 45% risk weight assigned to the remaining portion of the loan. Loans wholly or partly backed by the Dutch National Mortgage Guarantee (Nationale Hypotheek Garantie) scheme are not included in the scope of the draft stricter national measure.

(3) The draft stricter national measure is expected to come into force by September 2020 and to remain in force for two years.

(4) In 2016 the ESRB issued a warning[4] in which it identified vulnerabilities in the residential real estate sector in the Netherlands, related mainly to persistently high levels of household debt combined with low mortgage loan collateralisation and a significant share of mortgagors having total debt exceeding the value of their home.

(5) On 27 June 2019 the European Systemic Risk Board issued a recommendation[5] in which it noted, among other issues, the lack of macroprudential capital-based measures in place at that time to address the accumulated vulnerabilities related to the collateralisation of existing mortgage loans and the potential second-round effects related to household indebtedness.

(6) To assess the draft stricter national measure notified by DNB, the ESRB's assessment team referred to in Decision ESRB/2015/4 issued an assessment note, which is annexed hereto,

HAS ADOPTED THIS OPINION:

1. The draft stricter national measure notified by DNB under Article 458 of Regulation (EU) No 575/2013 is justified, suitable, proportionate, effective and efficient. In particular:

   (a) Dutch banking sector is highly exposed to the residential real estate market in the Netherlands, as 23% of their assets, on average, are loans secured on Dutch residential real estate. In addition, DNB has identified a high and persistently increasing systemic risk in the Dutch housing market as a result of sustained increases in residential real estate prices (by an average of almost 8% each year over the past three years). Therefore, from a macroprudential perspective, risk weights currently assigned to loans secured on Dutch residential real estate are deemed low in the light of the increasing vulnerabilities.

   (b) Articles 124 and 164 of Regulation (EU) No 575/2013 and Articles 101, 103 to 105, 133 and 136 of Directive 2013/36/EU of the European Parliament and of the Council[6] do not adequately address the macroprudential or systemic risks identified, taking into account the the relative effectiveness of those measures;

4 Warning ESRB/2016/10 of the European Systemic Risk Board of 22 September 2016 on medium-term vulnerabilities in the residential real estate sector of the Netherlands (OJ C 31, 31.1.2017, p. 53).

5 Recommendation ESRB/2019/7 of the European Systemic Risk Board of 27 June 2019 on medium-term vulnerabilities in the residential real estate sector in the Netherlands (OJ C 366, 30.10.2019, p. 22).

6 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 and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

(c) the draft stricter national measure does not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole, thus forming or creating an obstacle to the functioning of the internal market;

(d) the issue concerns only one Member State;

(e) the risks have not already been addressed by other measures in Regulation (EU) No 575/2013 or Directive 2013/36/EU.

2. The draft stricter national measure does not have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction of the macroprudential or systemic risks identified.

3. The attached assessment note entitled 'Assessment of the Dutch notification in accordance with Article 458 of Regulation (EU) No 575/2013 concerning the application of a stricter national measure for residential mortgage lending' is an integral part of this Opinion.

Done at Frankfurt am Main, 6 February 2020.

Francesco Mazzaferro

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