

OPINION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 25 May 2021

**regarding French notification of an extension of the period of application 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/2021/4)**

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 Board¹, 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 648/2012², and in particular Article 458(4) and (9) 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/2014/2³,

Whereas:

- (1) The *Haut Conseil de stabilité financière* (HCSF, High Council for Financial Stability), acting as designated authority for the purpose of Article 458 of Regulation (EU) No 575/2013, notified the European Systemic Risk Board (ESRB) on 5 May 2021 of its decision to extend for an additional two years, in accordance with Article 458(9) of that Regulation, the period of application of its existing stricter national measure, as updated to reflect the amendments to Article 395 of Regulation (EU) No 575/2013 introduced by Regulation (EU) 2019/876 of the European Parliament and of the Council⁴, that will be applicable starting from 28 June 2021.
- (2) The existing stricter national measure, which has been in force since 1 July 2018 and has previously

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.

⁴ Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

been extended once, concerns the requirements for large exposures laid down in Article 392 and Articles 395 to 403 of Regulation (EU) No 575/2013 (as referred to in Article 458(2)(d)(ii) of Regulation (EU) No 575/2013). This existing measure imposes tighter large exposure limits (5% of their eligible capital), with regard to highly indebted large non-financial corporations (NFCs) that have their registered office in France, on French globally systemically important institutions (G-SIIs) and other systemically important institutions (O-SIIs) at the highest level of consolidation of the banking prudential perimeter of the institution concerned.

- (3) In its Opinion ESRB/2018/3 of the European Systemic Risk Board⁵, the ESRB assessed the draft stricter national measure as warranted under the circumstances that existed at the time of the assessment. In addition, it was the ESRB's assessment that the draft stricter national measure did not have a negative impact on the internal market that outweighed the financial stability benefits resulting in a reduction of the macroprudential or systemic risk identified.
- (4) Taking into account the opinions provided by the ESRB and the European Banking Authority in line with the procedure set out in Article 458 of Regulation (EU) No 575/2013, the European Commission decided on 6 April 2018 not to propose to the Council an implementing act to reject the draft stricter national measure⁶. In the absence of such an implementing act, the draft stricter national measure became applicable from 1 July 2018.
- (5) Following a request by the HCSF to the ESRB under Article 458(8) of Regulation (EU) No 575/2013, the General Board of the ESRB issued Recommendation ESRB/2018/8 of the European Systemic Risk Board⁷ to include this stricter national measure in the list of macroprudential policy measures which are recommended to be reciprocated under Recommendation ESRB/2015/2 of the European Systemic Risk Board⁸.
- (6) The HCSF, acting as designated authority for the purpose of Article 458 of Regulation (EU) No 575/2013, informed the ESRB on 23 April 2020 of its decision to extend for one additional year, in accordance with Article 458(9) of that Regulation, the period of application of its existing stricter national measure regarding requirements for large exposures.
- (7) In Opinion ESRB/2020/5 of the European Systemic Risk Board⁹, the ESRB assessed the first extension of the period of application of the stricter national measure from 1 July 2020 to 30 June 2021 as justified, suitable, proportionate, effective and efficient. In addition, it was the ESRB's

⁵ Opinion ESRB/2018/3 of the European Systemic Risk Board of 9 March 2018 regarding French 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, available on the ESRB's website at www.esrb.europa.eu.

⁶ Commission Decision of 6 April 2018 not to propose an implementing act to reject the proposed national measure notified on 13 February 2018 by France under Article 458(4) of Regulation (EU) No 575/2013 of the European Parliament and of the Council C(2018) 2105 final, available on the Commission's website at www.ec.europa.eu.

⁷ Recommendation ESRB/2018/8 of the European Systemic Risk Board of 5 December 2018 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 39, 1.2.2019, p. 1).

⁸ Recommendation ESRB/2015/2 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 (OJ C 97, 12.3.2016, p. 9).

⁹ Opinion ESRB/2020/5 of the European Systemic Risk Board of 19 May 2020 regarding French notification of an extension of the period of application 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, available on the ESRB's website at www.esrb.europa.eu.

assessment that the draft stricter national measure did not have a negative impact on the internal market that outweighed the financial stability benefits resulting in a reduction of the macroprudential or systemic risk identified. On 17 June 2020, taking into account the opinions provided by the ESRB and the European Banking Authority, in line with the procedures set out in Article 458 of Regulation (EU) No 575/2013, the Commission decided not to propose to the Council an implementing act to reject the first extension of the stricter national measure¹⁰, and in the absence of such an implementing act, the extension became applicable from 1 July 2020 until 30 June 2021.

- (8) To assess the second extension of the period of application of the existing stricter national measure notified by the HCSF, 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 extension of the period of application of the existing stricter national measure applicable in France, as updated to reflect the amendments to Article 395 of the Regulation (EU) No 575/2013 introduced by Regulation (EU) 2019/876 that will be applicable from 28 June 2021 is, under the current circumstances, assessed as justified, suitable, proportionate, effective and efficient. In particular:
 - (a) the changes in the intensity of macroprudential or systemic risk continue to be of such nature as to pose risk to financial stability at national level;
 - (b) the macroprudential tools set out in Regulation (EU) No 575/2013 and in Directive 2013/36/EU of the European Parliament and of the Council¹¹ are less suitable or effective than the existing stricter national measure applicable in France to deal with the macroprudential or systemic risk identified;
 - (c) the 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.
2. The 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 risk identified.
3. The attached assessment note entitled 'Assessment of the French notification in accordance with Article 458 of Regulation (EU) No 575/2013 concerning the extension of a stricter national measure as regards requirements for large exposures' is an integral part of this Opinion.

Done at Frankfurt am Main, 25 May 2021.

¹⁰ Commission Decision of 17 June 2020 not to propose an implementing act to reject the intended extension of the period of application of the national measure notified on 23 April 2020 by France under Article 458(9) in conjunction with Article 458(4) of Regulation (EU) No 575/2013 of the European Parliament and of the Council C(2020) 3998, available upon request on the Commission's website at www.ec.europa.eu.

¹¹ 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).

Handwritten signature of Francesco Mazzaferro in black ink.

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

Francesco MAZZAFERRO