



Brussels, 29.9.2022
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COMMISSION IMPLEMENTING DECISION

of 29.9.2022

authorising a combined systemic risk buffer and O-SII buffer rate in excess of 5 % of the relevant risk exposure amount notified by the Nationale Bank van België/Banque Nationale de Belgique under Article 133 and Article 131 of Directive 2013/36/EU

(Only the Dutch and French texts are authentic)

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THE EUROPEAN COMMISSION,

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

Having regard to 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC¹, and in particular Article 131(15) thereof,

Having regard to the Opinion of the European Systemic Risk Board²,

Whereas:

- (1) According to Article 131(6), point (b), of Directive 2013/36/EU, competent or designated authorities must review at least annually the other systemically important institutions (“O-SIIs”) buffer rates they require to be maintained. According to paragraph 12, second subparagraph, of that Article, competent or designated authorities must also review annually the identification of the O-SIIs to which such buffer rate is imposed. According to Article 131(7) of that Directive, competent or designated authorities must notify the European Systemic Risk Board (“ESRB”) before setting or resetting a buffer rate for O-SIIs, and the ESRB is to forward such notification to the Commission, the European Banking Authority and the competent and designated authorities of the Member States concerned without delay.
- (2) According to Article 131(15) of Directive 2013/36/EU, in combination with paragraph 5a, third subparagraph, of that Article, the Commission needs to authorise any macroprudential measure that leads to a combined systemic risk buffer rate and O-SII buffer rate that exceeds 5% of the relevant risk exposure amount for a given credit institution and set or subset of exposures. According to Article 131(15) of Directive 2013/36/EU, in combination with paragraph (5a), second subparagraph of that Article, the ESRB is to provide the Commission, within six weeks of receipt of a notification as referred to in Article 131(7) of Directive 2013/36/EU, with an opinion on whether the combined systemic risk buffer rate and O-SII buffer rate is appropriate.

¹ OJ L 176, 27.6.2013, p. 338.

² Opinion of the European Systemic Risk Board of 28 July 2022 regarding the existing systemic risk buffer pursuant to Article 133 and the Belgian notification of the setting or resetting of O-SII buffer rates pursuant to Article 131 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions (ESRB/2022/5).

- (3) On 11 January 2022, the Nationale Bank van België/Banque Nationale de Belgique (“NBB/BNB”) notified the Commission that it intended to set a sectoral systemic risk buffer rate of 9% of the relevant risk exposure amount for exposures to natural persons secured by residential immovable property located in Belgium and this for credit institutions located in Belgium that are using the internal ratings based approach for such exposures, for a period of up to two years starting on 1 May 2022.
- (4) On 6 April 2022, the Commission authorised the NBB/BNB by way of Implementing Decision C(2022) 2103 to set that systemic risk buffer (“SyRB”).
- (5) In the same Implementing Decision, the Commission authorised the NBB/BNB to implement, for a period of up to one year starting on 1 May 2022, the combined SyRB and O-SII buffer rate for six credit institutions that the NBB/BNB identified as O-SIIs, provided that the conditions for applying that combined SyRB and O-SII buffer rate remain unchanged. For those six O-SIIs, the combined SyRB and O-SII buffer rate exceeds 5% of the relevant risk exposure amount.
- (6) On 28 April 2022, the NBB/BNB notified the European Systemic Risk Board (“ESRB”) of its intention to reset, as of 1 January 2023, its existing O-SII buffer rate for eight Belgian credit institutions to rates that range between 0,75% and 1,5% of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013.
- (7) According to the notification of the NBB/BNB of 28 April 2022, the combination of the SyRB to which some of the institutions identified as O-SIIs are already subject and the O-SII buffer rate will lead to a combined SyRB and O-SII buffer rate that is higher than 5% of the relevant risk exposure amount for a subset of exposures and for each of the O-SIIs concerned.
- (8) The list of O-SIIs in the notification of the NBB/BNB of 28 April 2022, to which the reset O-SII buffer rate will apply for a period of one year from 1 January 2023, is identical to the list of O-SIIs to which Implementing Decision C(2022) 2103 applies, except that the list provided by the notification of the NBB/BNB of 28 April 2022 now includes Crelan SA rather than AXA Bank Belgium SA, following the takeover of AXA Bank Belgium SA by Crelan SA.
- (9) On 13 December 2021, the European Central Bank (the “ECB”) decided not to oppose the proposed acquisition by Crelan SA of qualifying holdings, and the exceedance of 50% of capital and voting rights, in AXA Bank Belgium SA. The final legal merger is expected to take place 27 months after closing the acquisition³. Following the takeover of AXA Bank Belgium SA by Crelan SA and the NBB/BNB annual revision of the O-SII buffer rates for 2023, Crelan SA will be subject to an O-SII buffer rate of 0.75% of its total risk exposure amount, which is the same O-SII buffer rate applied previously to AXA Bank Belgium SA. The O-SII buffer rates for the other institutions previously being identified as O-SIIs are reset at the same level.
- (10) On 28 July 2022, the ESRB adopted its opinion on the resetting, of the O-SII buffer rates, as notified by the NBB/BNB on 28 April 2022. In that opinion, the ESRB held that the combination of the SyRB and the O-SII buffer rate for the institutions concerned were appropriate to address the identified risk. The ESRB opinion stated that the combined SyRB and O-SII buffer rates are not expected to entail disproportionate adverse effects on the financial stability in Belgium or of the Union

³ The closing date is 31 December 2021.

as a whole and they are not expected to form or create an obstacle to the proper functioning of the internal market.

- (11) Article 133(8), point (c), of Directive 2013/36/EU stipulates that a systemic risk buffer is not to be used to address systemic risks that are already covered by a countercyclical buffer or by buffers for systemically important institutions. According to Implementing Decision C(2022) 2103, the O-SII buffer and the systemic buffer rate have different objectives. O-SII buffers are not meant to deal with sectoral risks, such as real estate risks, which should be covered by a systemic risk buffer. The Commission did not find any evidence to suggest that the two measures overlap in terms of the risks they are targeting. That conclusion is in line with the assessment provided by the ESRB in the Background Note related to the ESRB Opinion, stating that the objectives of the two buffers are clearly different and that there is no meaningful overlap between them. Considering that the O-SIIs identified in the notification of the NBB/BNB and the O-SII buffer rates applicable from January 2023 to those institutions in combination with the SyRB have hardly changed, the assessment of the Commission remains the same as the one laid down in Implementing Decision C(2022) 2103.
- (12) Where an institution is subject to a systemic risk buffer rate, Articles 131(15) and 133(12) of Directive 2013/36/EU require the Commission to assess whether the combination of such systemic risk buffer rate and an O-SII buffer rate could have disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the Union as a whole forming or creating an obstacle to the proper functioning of the internal market. The combined rates of the reset O-SII buffer and the existing SyRB for the six O-SIIs concerned are the same as those covered by Implementing Decision C(2022) 2103. In that Implementing Decision, the Commission was of the opinion that the combined rates for the SyRB and O-SII buffer for the institutions and exposures concerned, were not expected to lead to significant and disproportionate negative cross-border spill-overs effects to other Member States or the Union as a whole forming or creating an obstacle to the proper functioning of the internal market. The assessment therefore remains the same as the one provided in Implementing Decision C(2022) 2103.
- (13) The Commission, after having examined the notification by the NBB/BNB of 28 April 2022 and taking account the ESRB opinion, assesses that the combination of the notified O-SII buffer rate for the credit institutions concerned and the SyRB in place for the exposures and credit institutions concerned does not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the Union as a whole forming or creating an obstacle to the proper functioning of the internal market,

HAS ADOPTED THIS DECISION:

Article 1

The Nationale Bank van België/Banque Nationale de Belgique is hereby authorised to implement the O-SII buffer rates that result in the combined SyRB and O-SII buffer rate in excess of 5% of the relevant risk exposure amount for the following credit institutions, for a period of up to one year starting on 1 January 2023, provided that the conditions for applying that SyRB and the O-SII buffer rates remain fulfilled:

Credit institution	The combined SyRB rate for IRB
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	exposures to natural persons secured by residential immovable property located in Belgium and O-SII buffer rate
BNP Paribas Fortis NV/SA	10.50%
KBC Bank NV	10.50%
Belfius Bank NV/SA	10.50%
ING Belgium NV	10.50%
Argenta Spaarbank NV/SA	9.75%
Crelan SA/AXA Bank Belgium	9.75%

Article 2

This Decision is addressed to the Nationale Bank van België/Banque Nationale de Belgique, Berlaimontlaan/Boulevard de Berlaimont 14, 1000 Brussel/Bruxelles, Belgium.

Done at Brussels, 29.9.2022

For the Commission
Mairead McGUINNESS
Member of the Commission