



Assessment Team on national macroprudential measures

# Background note on a measure taken in Belgium pursuant to Article 131 in combination with an existing measure pursuant to Article 133 of the Capital Requirements Directive

## Introduction

On 28 April 2022 the European Systemic Risk Board (ESRB) Secretariat received a formal notification from the Nationale Bank van België/Banque Nationale de Belgique (NBB/BNB) on its decision (hereafter referred to as “the proposed measure”) to require certain institutions to maintain a buffer applicable to other systemically important institutions (O-SIIs), in accordance with Article 131 of the Capital Requirements Directive (CRD)<sup>1</sup>. The O-SII buffer will be applied to eight domestically established Belgian banks, with buffer rates ranging from 0.75% to 1.50%.

As the sum of the O-SII buffer rate and the sectoral systemic risk buffer (SyRB) rate (the latter applicable in Belgium since 1 May 2022) exceeds 5% for a number of institutions and a group of exposures, the ESRB must issue an opinion as to whether the combined buffer is deemed appropriate, pursuant to Article 131(15) of the CRD. Following the issuance of the ESRB opinion, the European Commission must adopt an act authorising the setting or resetting of the O-SII buffer rates if it is satisfied that the combined buffer does not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States, or of the European Union as a whole, forming or creating an obstacle to the proper functioning of the Internal Market.

On 16 February 2022 the ESRB issued an opinion stating that the setting of the SyRB rate applicable in Belgium was justified, proportionate, effective and efficient. In addition, the combined SyRB and O-SII buffer rates in place at that time were assessed as proportionate and effective for all credit institutions falling within the scope of these two measures.

The role of the Assessment Team is to prepare a draft opinion, from a macroprudential and financial stability perspective, on the appropriateness of the proposed measure, with regard to relevant requirements under the CRD and the Capital Requirements Regulation (CRR)<sup>2</sup>. Pursuant to Article 131(15) in conjunction with Article 131(5a) of the CRD, the O-SII buffer in combination with the existing SyRB rate should not entail disproportionate

---

<sup>1</sup> Directive No 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/EC (OJ L 176, 27.6.2013, p. 338).

<sup>2</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p.1).

adverse effects on financial stability in other Member States, or in the European Union as a whole, forming or creating an obstacle to the proper functioning of the Internal Market.

## Description of the proposed measure

**The proposed measure consists of the setting of the O-SII buffer rates in Belgium.** It applies to eight domestically established Belgian banks, of which two are subsidiaries of entities established in another EU Member State. The identification of the O-SII buffers is based on the size of the institution, its importance to the Belgium economy, its complexity, its cross-border activity and its interconnectedness with the financial system. The identification of O-SIIs follows the European Banking Authority (EBA) guidelines EBA/GL/2014/10<sup>3</sup>. Following this methodology, six institutions had a score automatically designating them as O-SIIs. Two additional institutions were included in the list of O-SIIs on the basis of additional indicators. The new O-SII buffers will be published on 1 December 2022 and will be applicable from 1 January 2023.

**Compared to the previous setting of O-SII buffers applicable since 1 January 2022, the situation has changed only marginally.** Following the takeover of AXA Bank Belgium SA by Crelan SA and the planned merger of these institutions, Crelan SA will now also be subject to an O-SII buffer of the same magnitude as that applied to AXA Bank Belgium SA. In addition, as Euroclear Bank is now consolidated at the Euroclear Holding level, Euroclear Holding has been identified as an O-SII. However, Euroclear is not subject to a sectoral SyRB as it has no residential real estate exposures and does therefore not have a combined buffer rate larger than 5% for its exposures. The other O-SII buffers remain unchanged. Of the eight banks subject to an O-SII buffer, two banks are not subject to a sectoral SyRB.<sup>4</sup>

**As the NBB/BNB set a sectoral SyRB at 9% as of 1 May 2022,<sup>5</sup> the combined buffer requirement of those institutions identified as O-SIIs and subject to the sectoral SyRB is above the threshold of 5% for the exposures subject to the sectoral SyRB.** The ESRB must therefore issue an opinion as to whether the combined buffer is deemed appropriate, pursuant to Article 131(15) in conjunction with Article 131(5a) of the CRD. The European Commission must adopt an act authorising the setting or resetting of the O-SII buffer rates if it is satisfied that the combined buffer does not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States, or of the European Union as a whole, forming or creating an obstacle to the proper functioning of the Internal Market. The ESRB assessed the cumulative buffer rate as proportionate and effective for each of the institutions that falls within the scope of the two measures and also recommended reciprocation of the sectoral SyRB in order to avoid leakages and regulatory arbitrage.

---

<sup>3</sup> Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10, p.1).

<sup>4</sup> The banks affected by a combined O-SII buffer and sectoral SyRB requirement are KBC Bank NV, BNP Paribas Fortis SA/NV, ING Belgium NV, Belfius Bank SA/NV, Argenta Spaarbank SA/NV and Crelan SA.

<sup>5</sup> See the **Opinion** of the ESRB of 16 February 2022 regarding the existing O-SII buffer pursuant to Article 131 and the Belgian notification of the setting of a systemic buffer rate pursuant to Article 133 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/2022/2). See also the **Background note** of 21 February 2022 on a measure taken in Belgium pursuant to Articles 133 and 134(5) of the Capital Requirements Directive.

## Risks addressed through the proposed measure

The changes in the O-SIIs identified, in the O-SII buffers applied to these institutions and in the resulting combined O-SII and sectoral SyRB rates are relatively minor and reflect the takeover of AXA Bank Belgium SA by Crelan SA. The assessment therefore remains the same as identified in the background note<sup>6</sup> related to the activation of the sectoral SyRB. In particular, the sectoral SyRB covers risks of exposures to the Belgian residential real estate market only, whereas the O-SII buffer addresses the systemic footprint of specific banks in the domestic market. The objectives of the two buffers are clearly different and there is no meaningful overlap between them.

## Effectiveness and proportionality

The assessment of the effectiveness and proportionality of the combined buffer remains the same as identified in the background note<sup>7</sup> related to the activation of the sectoral SyRB, as this assessment is not affected by the marginal changes in the O-SIIs identified and the O-SII buffers applied to these institutions.

## Conclusions

The ESRB is of the view that the proposed combined buffer consisting of the existing sectoral SyRB and the O-SII buffers for the institutions concerned being set is appropriate for addressing the identified risks. It does not entail disproportionate adverse effects on financial stability in Belgium or in the European Union, nor is it expected to form or create an obstacle to the proper functioning of the Internal Market. This conclusion was also reached when the sectoral SyRB was activated.

---

<sup>6</sup> See footnote 5.

<sup>7</sup> See footnote 5.