EUROPEAN
COMMISSION

Brussels, 6.10.2022
C(2022) 7012 final

COMMISSION DECISION

of 6.10.2022

not to propose an implementing act to reject the intended extension of the period of application of the national measure notified on 8 August 2022 by the Netherlands under Article 458(9) in conjunction with Article 458(4) of Regulation (EU) No 575/2013 of the European Parliament and of the Council

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THE EUROPEAN COMMISSION,

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

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 amending Regulation (EU) No 648/2012[1], and in particular Article 458(4) thereof,

Having regard to the opinions of the European Systemic Risk Board[2] and of the European Banking Authority[3],

Whereas:

(1) On 8 August 2022, De Nederlandsche Bank ('DNB'), which is the national designated authority in charge of the application of Article 458 of Regulation (EU) No 575/2013, notified the Commission of its intention to extend for two years the period of application of a national measure concerning risk weights for targeting asset bubbles in the residential property and commercial immovable property sector as referred to in Article 458(2)(d), point (vi), of Regulation (EU) No 575/2013 ('the current measure'). The current measure applies from 1 January 2022 and is due to expire on 30 November 2022.

(2) The current measure was notified to the Commission on 8 January 2020. On 5 March 2020, the Comission adopted Decision C(2020)1214 not to propose to the Council an implementing act rejecting it. The current measure addresses a systemic risk originating from the domestic market for residential mortgage loans and consists of higher risk weights for domestic residential real estate exposures of credit institutions located in the Netherlands that use internal ratings based (IRB) models. According to DNB, the extension of the period of application of the current measure is necessary considering the continuing and increasing vulnerabilities in the Dutch residential real estate sector. With the extension of the current measure, DNB does not intend to change its design.

1 OJ L 176, 27.6.2013, p.1.

2 Opinion of the European Systemic Risk Board of 6 September 2022 regarding Dutch 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 (ESRB/2022/6).

3 Opinion of the European Banking Authority of 6 September 2022 on measures in accordance with Article 458 Regulation (EU) No 575/2013 (EBA/Op/2022/09).

(3) According to Article 458(9) of Regulation (EU) No 575/2013, a Member State is required, in consultation with the European Systemic Risk Board (ESRB) and the European Banking Authority (EBA), to review the situation that led to the notification of a national measure as referred to in Article 458(2), point (d), of Regulation (EU) No 575/2013. That Member State may adopt, in accordance with the procedure referred to in Article 458(4) of that Regulation, a new decision for the extension of the period of application of a national measure for two additional years each time.

(4) According to Article 458(4), second subparagraph, of Regulation (EU) No 575/2013, the EBA and the ESRB are to provide the Council, the Commission and the Member State concerned with their opinions on the intended extension of the period of application of a national measure within one month of receiving a notification as referred to in paragraph 2 of that Article. On 6 September 2022, the ESRB adopted its opinion on the proposed extension of the period of application of the current measure ('ESRB opinion'). The opinion from EBA ('EBA opinion') was also adopted on 6 September 2022. The ESRB and EBA do not object to the intended extension of the period of application of the current measure.

(5) Article 458(2) of Regulation (EU) No 575/2013 requires that a national authority that wishes to apply a national measure as referred to in Article 458(2), point (d), of that Regulation submits to the Commission, the ESRB and EBA relevant quantitative and qualitative evidence showing that the criteria set out in paragraph 2 of that Article are fulfilled. The Commission has to consider that evidence before proposing to the Council an implementing act to reject the intended national measures. The Commission has thus to ascertain whether there is sufficient evidence of a continued heightened systemic risk and that such risk poses a threat to the financial system and the real economy of the Member State concerned. The Commission has also to consider the suitability, effectiveness and proportionality of the intended measure, as well as the availability of alternative measures. Pursuant to Article 458(4) of Regulation (EU) No 575/2013, the Commission may only propose to the Council an implementing act to reject the intended national measure where, taking utmost account of the opinions of EBA and the ESRB, there is robust, strong and detailed evidence that the intended measure will have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction of the macro-prudential or systemic risk identified.

(6) With the current measure, DNB aims to ensure that credit institutions using the IRB approach for calculating regulatory capital requirements for exposures to loans to natural persons secured by mortgages on residential property located in the Netherlands are resilient against a potential severe downturn in the Dutch housing market. DNB has identified developments in the residential real estate market that point to an increase in the intensity of systemic risk. DNB argues that the systemic risk inherent in the Dutch housing market has increased over the past two years and that certain risk indicators have deteriorated further since the initial introduction of the measure. House prices have gone up sharply for several years in a row and growth rates have been above 15% (year-on-year) since July 2021. The price growth trend was initially limited to big cities, but has more recently extended to the whole housing market in the Netherlands. The average national transaction price has more than doubled since the middle of 2013 with 80% of houses being sold above the asking price with the average transaction period being 23 days. These developments have been fuelled by low interest rates, which were declining over the past years, as well as structural factors, such as supply constraints and tax deductibility of interests paid on

mortgages, which may incentivise households to over-borrow. There are signs of overvaluation, according to DNB and the ESRB. DNB points to the latest ESRB report on vulnerabilities in the residential real estate sector[4], which notes that the vulnerabilities have remained elevated in the Netherlands. Furthermore, DNB observes signs of increasing risk-taking by buyers, including overbidding, in a context of very high household indebtedness (see recitals 8 to11). As house price increases have significantly outpaced income growth in recent years, price-to-income ratios in the major cities exceed the peak of the previous housing market boom.

(7) Loan-to-value (LTV) ratios of new loans are very high in international comparison. 47% of new loans to first-time buyers have an LTV ratio at or above 90%. Moreover, the declining trend in LTV ratios has partially been the result of collateral revaluations and equity gains of home movers, on the account of possibly increasing house price overvaluation. Dutch household indebtedness as a percentage of GDP is among the highest in the Union. The Commission and the Council voiced their concerns about this in past country-specific recommendations.[5] DNB reports that loan-to-income (LTI) ratios of new loans to both first-time buyers and home-movers gradually increased. The share of new loans with an LTI-ratio close to the regulatory limit has increased over the past few years: more than half of the first-time buyers and 40% of home-movers at the end of 2021. DNB also notes that credit institutions reported a loosening of mortgage lending standards in past years. Finally, DNB observes that households are facing increasing financial pressures due to the current high inflation and higher energy costs. A further vulnerability is the large share of interest-only loans (around 44% of outstanding mortgage loans are interest-only). In combination with the high household debt level in the Netherlands, with over 100 percent of GDP (of which 95% mortgage debt) among the highest in Europe, these developments pose a financial risk to households and a systemic risk to the Dutch financial sector.

(8) DNB argues that Dutch credit institutions can be hit both directly and indirectly by a house price correction. Dutch credit institutions are highly exposed to the domestic housing market, also relative to credit institutions in other Member States. Dutch mortgage loans make up 21% of credit institutions' assets on average in 2021, exposing Dutch credit institutions to the risk of relatively large losses on these exposures. Furthermore, the credit institutions could also be hit indirectly through reduced consumption of the borrowers and second-round effects on the real economy financial system. High indebtedness of households, pockets of house price overvaluation and relaxed lending standards for mortgage loans are the main vulnerabilities which could materialise in credit losses in the Dutch banking system. IRB credit institutions' risk weights for mortgage loans declined from 13% in the first quarter of 2014 to 9.7% in the third quarter of 2019, among the lowest in the Union. Average risk weights have further declined to 8.3% in the first quarter of 2022, despite the perceived increase in systemic risk. To some extent, the risk weights could be decreasing owing to the declining LTV ratios. DNB performed several analyses to assess the potential impact of a severe housing market correction on credit institutions before the initial introduction of the measure and estimated that credit institutions would need to increase their capital by around EUR 3 billion to maintain their current capital levels in such a scenario.

[4] ESRB, *Vulnerabilities in the residential real estate sectors of the EEA countries*, February 2022.

[5] For example: OJ C 247, 29.7.2014, p. 88; OJ C 272, 18.8.2015, p. 83; OJ C 299, 18.8.2016, p. 41; OJ C 261, 9.8.2017, p. 79; OJ C 320, 10.9.2018, p. 80; OJ C 301, 5.9.2019, p. 112.

(9) The medium-term financial stability risk emanating from the Dutch residential real estate sector is also highlighted in the ESRB Warning of 22 September 2016[6] and the ESRB Recommendation of 27 June 2019 ('ESRB Recommendation').[7] The ESRB considers that the Dutch housing market exhibits a high level of risk. It points to the high indebtedness of households, elevated house price growth – further fuelled by incentives like mortgage tax deductibility and the low interest rate environment –, to loose lending standards for new and outstanding loans, including a very high LTV limit, and to the low risk weights on mortgage exposures of IRB credit institutions. The ESRB Recommendation considers '*that the macroprudential measures that are in place in the Netherlands are partially appropriate and partially sufficient to address the vulnerabilities related to household indebtedness in the medium term.'* It concludes that further policy action is necessary to address those vulnerabilities. In 2021, the ESRB assessed the compliance of the Netherlands with the ESRB recommendation from 2019.[8] The ESRB concluded that the Netherlands was fully compliant with the sub-recommendation concerning capital-based measures, taking into account the current risk-weight measure which was about to enter into force on 1 January 2022. In its opinion, the EBA also acknowledges the concerns of DNB as regards the build-up of risk in the residential real estate sector.

(10) The risks related to high household indebtedness in the Netherlands have also been highlighted by the Commission in its macroeconomic imbalance procedure and by the Commission and the Council in recent country-specific recommendations. In particular, the Council recommended to the Netherlands *'to reduce the debt bias for households and reduce distortions in the housing market [...]'*.[9] In recent reports, the IMF and the OECD also signalled the risks of high household indebtedness and recommended that the Netherlands reform the taxation regime for housing and tighten macro-prudential policies, in particular by lowering the LTV limit, while the IMF and OECD also welcomed the current measure.[10] So far, the Dutch government has not decided to reduce the LTV limit further below 100%.

(11) The Commission has carefully considered the evidence provided by DNB and the ESRB, including the latter's recommendation to activate capital-based macro-prudential measures, as well as assessments by the IMF, the OECD and its own, and has taken utmost account of the ESRB opinion and the EBA opinion. The Commission agrees that the intensity of systemic risk related to the housing market in the Netherlands remains elevated and could pose a threat to the financial system in the Netherlands and its real economy. The Commission recalls that recent national experiences, both in and outside the Union, have illustrated how the materialisation of residential real estate risks can result in significant costs to the real economy – as happened also in the past in the Netherlands – and can give rise to adverse spill-over effects to other Member States when left unaddressed. The intensity of that systemic

6 ESRB Warning 2016/10 on medium-term vulnerabilities in the residential real estate sector of the Netherlands (OJ C 31, 31.1.2017, p. 53).

7 ESRB Recommendation 2019/7 on medium-term vulnerabilities in the residential real estate sector in the Netherlands (OJ C 366, 30.10.2019, p. 22).

8 ERSB Compliance Report, Country-specific Recommendations of the European Systemic Risk Board of 27 June 2019 on medium-term vulnerabilities in the residential real estate sector, February 2022.

9 Council Recommendation of 9 July 2019 on the 2019 National Reform Programme of the Netherlands and delivering a Council opinion on the 2019 Stability Programme of the Netherlands (OJ C 301, 5.9.2019, p. 112).

10 IMF (2021), Report on the 2021 Article IV Consultation with the Netherlands, IMF Country Report No. 21/243; OECD (2018), OECD Economic Surveys: Netherlands 2021.

risk is still such that it justifies the extension of the period of application of the current measure for two years.

(12) DNB considers that the extension of the period of application of the current measure is necessary to continue to ensure the resilience of Dutch credit institutions using the IRB approach to the identified systemic risk. The extension of the current measure thereby also responds to the ESRB Recommendation. IRB credit institutions jointly represent about 92% of the total market for mortgage loans in the Netherlands. Mortgage loans wholly or partly covered by the national mortgage guarantee scheme (NHG), accounting for 20-25% of the credit institutions' mortgage portfolios, are exempted from the measure. Given the additional protection through the NHG, DNB considers that there is no contribution to systemic risk resulting from this portfolio of mortgages.

(13) The measure proposed for extension is an institution-specific risk-sensitive risk-weight floor, which depends on a credit institution's exposure-weighted average LTV ratio of the mortgage portfolio. In order to calculate the portfolio average minimum risk weight, for each individual exposure within the scope of the measure, a 12% risk weight is assigned to the portion of the loan up to 55% of the market value of the property that serves to secure the loan, and a 45% risk weight to the remaining portion of the loan. The extension of the current measure, based on 2021 Q4 data, is expected to retain the increased total capital requirement for the IRB banks of EUR 4.5 billion, of which more than EUR 3 billion is common equity Tier 1 (CET1) capital, which has been accumulated through the current measure and helps to secure the resilience of the banking sector in a severe downturn scenario. The increased capital impact of the measure in nominal amounts, compared to the situation without a measure, from around EUR 3 billion at introduction to EUR 4.5 billion currently, is a result of the decline of average model-based risk-weights. The impact on the current measure of the risk-weight decline is stronger than the moderating impact of the lower average LTV ratios in the outstanding portfolio due to the collateral revaluations. DNB estimates the proposed measure to increase the average risk weight of IRB banks' mortgage portfolios from 8% if the current measure were not in place to between 13% and 14%. DNB assesses that the increase in the total capital requirement is still above the increase needed to ensure a minimum level of resilience. As the proposed extension does not alter the calibration of the current measure, which is fully phased-in, no immediate capital shortfall is expected when the measure extension enters into force.

(14) The measure proposed for extension aims to strengthen credit institutions' resilience and is not meant to influence house price developments. Insurance firms and pension funds in the Netherlands are not subject to the current measure. The current measure affects credit institutions only, for whom resilience to the indirect effect of a housing bust is likely to be more of a concern than for the insurers and the pension funds. The Commission accepts that ensuring resilience against the potential materialisation of systemic risks in the housing market is most important for credit institutions. In this regard, the Commission also considers that model-based risk weights for residential real estate exposures of Dutch credit institutions declined during the past years, whereas capital requirements of Dutch insurance firms and pension funds for these type of exposures did not similarly decline during the past years.

(15) The Commission has considered the suitability, effectiveness and proportionality of the intended extension of the period of application of the current measure in accordance with Article 458(2), point (e), of Regulation (EU) No 575/2013. The Commission considers the extension of the current measure to be suitable and

effective as it will countinue to strengthen credit institutions' resilience vis-à-vis financial stability risks arising from a severe downturn in the Dutch housing market in a context of highly indebted households and rapid house price increases in the past years. Those elements, together with the relatively low risk weights of real estate exposures by Dutch credit institutions using internal ratings based models, justify the extension of the current measure.

(16) The Commission considers the extension of the measure to be proportionate, in so far as its design does not go beyond what is necessary to address the identified systemic risk. The current measure is temporary and has been calibrated on the basis of a stress scenario. By introducing a floor that is dependent on the LTV ratio, the measure incorporates an indicator of credit risk and of systemic risk. Loans with high LTV ratios expose households more to the risk of having negative equity following a contraction in the housing market. In the past, this led households to reduce consumption and contributed to a prolonged housing market contraction. Consequently, the impact of a housing market contraction on the economy is expected to be larger if the share of high LTV loans is larger. The design of the measures reflects this externality, as the amount of required capital increases with the exposure-weighted average LTV ratio of the mortgage portfolio.

(17) The Commission takes note of the EBA’s observation that the measure could give rise to greater pro-cyclicality due to the use of current market values for calculating LTV ratios, as movements in the current market value of the underlying property affect the calibration of the measure and had a downward impact on the calibration of the measure during the past years, albeit smaller than the impact of the reduction of the relevant IRB risk-weights. The Commission recalls that Article 208(3) of Regulation (EU) No 575/2013 requires the recurring monitoring of property values, based on which upwards or downwards adjustments of the property value are to be made. Therefore, the use of current market values for calculating LTV ratios is in line with the requirements of Regulation (EU) No 575/2013. Nevertheless, the Commission invites DNB to carefully monitor any potential pro-cyclicality during the period of extension of the current measure. The Commission also notes that the ESRB considers that keeping the calibration of the current measure unchanged is suitable, despite the pro-cyclical effects of using current market values for calculating LTV ratios, as tightening the measure in the current deteriorating economic outlook could be pro-cyclical. The fact that the current measure makes the risk weight floor dependent on the exposure-weighted average LTV ratio reduces the risk that credit institutions would rebalance their portfolio towards mortgages with high LTV ratios due to the introduction of the measure. It could also reduce incentives to offer these mortgages. Finally, the Commission welcomes the signalling effect of the measure, as it contributes to raise the awareness of credit institutions, households and public authorities of the existing risk in the Dutch housing market.

(18) After examining the arguments and evidence put forward by DNB and giving consideration to the ESRB and EBA opinions, the Commission considers that the current measure remains suitable, effective and proportionate in view of addressing the identified systemic risk.

(19) Article 458(2), point (c), of Regulation (EU) No 575/2013 requires a justification as to why the macroprudential tools set out in Articles 124 and 164 of that Regulation would be less suitable and effective to deal with the macroprudential or systemic risk identified. Article 124 of Regulation (EU) No 575/2013 allows competent authorities to set higher values for risk weights of real estate exposures of credit institutions that

use the standardised approach. Its use would not adequately address the identified systemic risk, since credit institutions using the internal ratings based approach dominate the market for mortgage loans by providing about 92% of all mortgage credit provided by credit institutions, and risk weights under the standardised approach are considered sufficiently high in relation to the systemic risk.

(20) Under Article 164 of Regulation (EU) No 575/2013, competent authorities may, where appropriate on the basis of financial stability considerations, set higher minimum values of exposure-weighted average LGD for exposures secured by immovable property in their territory. DNB considers that using Article 164 of Regulation (EU) No 575/2013 would not be adequate. First, increasing the minimum average LGD floor would predominantly affect loans with a low LGD. Within a bank's mortgage portfolio, those loans are usually the loans with a lower LTV ratio, and hence a lower contribution to systemic risks. Second, DNB argues that credit institutions with conservative lending standards, implying lower LGDs, would be affected relatively more than credit institutions with less conservative lending standards, and could thus be incentivised to align their risk-taking with the higher LGD floor. Third, DNB argues that the use of Article 164 would lead to a change in the micro-prudential internal models of credit institutions. This would also affect other micro-prudential parameters, such as the calculation of expected loss amounts under Articles 158 and 159 of Regulation (EU) No 575/2013. In its opinion, the ESRB concludes that, given the narrower focus of Article 164 of Regulation (EU) No 575/2013, which only targets LGD, such a measure would not be sufficient to achieve the intended purpose of the current measure.

(21) After examining the arguments and evidence put forward by DNB, and giving careful consideration to the opinions provided by the ESRB and EBA, the Commission considers that measures pursuant to Articles 124 and 164 of Regulation (EU) No 575/2013 appear less suitable than the extension of the current measure in addressing the identified specific systemic risk. Measures under Article 164 of Regulation (EU) No 575/2013 would imply changes to micro-prudential internal models that could potentially have unintended effects going beyond the intended changes to the risk-weighted exposure amounts, and they cannot be expected to affect those exposures that contribute the most to the identified systemic risk.

(22) Article 458(2), point (c), of Regulation (EU) No 575/2013 also requires a justification as to why the macroprudential tools set out in Articles 133 and 136 of Directive 2013/36/EU would be less suitable and effective to deal with the macroprudential or systemic risk identified.

(23) According to Article 133 of Directive 2013/36/EU of the European Parliament and of the Council[11], Member States may introduce a systemic risk buffer (SyRB) to address systemic or macro-prudential risks not covered by Regulation (EU) No 575/2013, nor by Articles 130 and 131 of Directive 2013/36/EU. DNB argues that the SyRB is imposed on all credit exposures within the Netherlands, and is thus not targeted at the main source of the increase in systemic risk, the housing market. Additionally, DNB contends that the risk-sensitive approach of the current measure, which prices-in the negative externality of high-LTV loans, cannot be achieved by using the SyRB. DNB

[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).

acknowledges the addition of the sectoral SyRB to the macro-prudential toolkit, which has become applicable since 29 December 2020. Still, given the observed systemic risk, DNB sees the sectoral SyRB as less efficient and effective than the currently active measure, because the risk weight floor is more risk-sensitive as it better prices the negative externality of high-LTV loans and in this way better enhances the resilience of the banking sector. Further, DNB notes that the current measure ensures that each bank maintains a minimum level of capital for their mortgage portfolios, regardless of the risk weights that the bank currently applies. The current measure results in a different risk weight for each loan depending on their LTV which allows for a better targeting of risk compared to what could be achieved with the sectoral SyRB. DNB also highlights that a sectoral SyRB would be based on the risk weights on the relevant exposures, which have further decreased since the introduction of the current measure. In the absence of the current measure, this would have resulted in a lower capital requirement for the affected IRB banks, whereas the risks on a macro level have increased. This shows, according to DNB, that the way in which banks are affected by the currently applied risk-sensitive floor differs from the sectoral SyRB, and as such the floor measure better addresses the risks in the real estate sector. The ESRB and the EBA are also of the opinion that a sectoral SyRB would be less effective and efficient to address the systemic risks concerning the RRE market in the Netherlands than the current measure.

(24) The countercyclical capital buffer (CCyB) referred to in Article 136 of Directive 2013/36/EU applies to all non-financial private sector exposures located in a jurisdiction. DNB's current analytical framework aims at setting the CCyB at 2% in a standard risk environment. DNB announced on 25 May 2022 an increase in the countercyclical buffer rate from 0% to 1%.[12] DNB notes that, while the CCyB promotes resilience of the banking sector, it does not aim to specifically address the clearly elevated systemic risk levels now present in the housing market deemed as less efficient and effective than the current measure. Additionally, DNB argues that the CCyB would apply to all credit institutions, and that it cannot be targeted only at credit institutions using the internal ratings based approach, as is the case with the current measure. Further, the risk-sensitive approach of the current measure, which prices the negative externality of high-LTV loans, cannot be achieved by using the CCyB, which applies equally to all domestic non-financial private sector exposures.

(25) After examining the arguments and evidence put forward by DNB and giving careful consideration to the ESRB and EBA opinions, the Commission agrees with DNB that Articles 133 and 136 of Directive 2013/36/EU would both be relatively less suitable and effective in adequately addressing the identified systemic risk.

(26) After carefully considering the favourable opinions of the ESRB and the EBA, the Commission concludes that the extension of the current measure is justified, proportionate, effective and efficient in addressing the systemic risk that DNB is targeting and that the alternative measures to be considered in accordance with Article 458(2), point (c), of Regulation (EU) No 575/2013 cannot adequately address the systemic risk identified, taking into account their relative effectiveness and possible undesirable effects.

(27) The EBA opinion notes that the initial calibration of the measure was based on a top-down stress test that relied on the adverse scenario of the 2018 Union-wide stress test exercise. Even though this scenario foresaw a severe decline in Dutch house prices, it

[12] https://www.dnb.nl/en/sector-news/2022/dnb-increases-countercyclical-capital-buffer-to-1-may-2022/

did not consider the potential impact of higher inflation and a sharp increase of interest rates, which both can affect the capacity of households to service their debt. Therefore, the EBA encourages DNB to monitor the appropriate calibration of the measure. On the other hand, the EBA opinion also notes that the use of stress tests to change risk weights can, in certain situations, lead to double-counting of risks. Against that background, the EBA has called for close monitoring of the impact of the current measure and its interaction with the Pillar 2 guidance already set following the finalisation of the 2021 Union-wide stress test and any Pillar 2 guidance that could be set following the finalisation of the 2023 Union-wide stress test. The Commission agrees with the EBA that a double-counting of risks should be avoided, and notes in this regard that the EBA Guidelines on Supervisory Review and Evaluation Process[13] (SREP) and stress testing ask micro-prudential supervisors not to set capital requirements under Pillar 2 for risks already covered by macro-prudential requirements.

(28) The Commission welcomes DNB's intention to continue reviewing the appropriateness of the measure on a yearly basis. The Commission continues to invite DNB to consider to what extent the EBA Guidelines on PD estimation, LGD estimation and treatment of defaulted exposures[14], as well as the relevant reforms to reduce the debt bias for households and the distortions in the housing markets, as recommended in the context of the European Semester, once applied, mitigate the concerns that motivated the activation of the measure.

(29) Article 458(2), point (f), of Regulation (EU) No 575/2013 requires the Commission to assess whether there is the likely positive or negative impact of the current measure on the internal market that outweights the financial stability benefits. DNB claims not to have observed any signs of a negative impact on the internal market that would outweigh the financial stability benefits resulting from a reduction of the systemic risk since the implementation of the current measure, and it sees no reason to expect this to change during the intended extension of the period of application of the current measure. In its decision on the current measure, the Commission also expected the potential negative impact on the internal market to be limited. The Commission also notes that foreign branches only account for a small share of the Dutch market for bank mortgage lending to households. Moreover, improved financial stability in the domestic banking sector reduces the likelihood of negative spill-over effects to other Member States.

(30) The Commission acknowledges that the expected impact on the internal market will be limited and notes that there is little cross-border lending into the Dutch mortgage market. DNB requested the ESRB, in accordance with Article 458(8) of Regulation (EU) No 575/2013, to issue a recommendation so that other Member States recognise the current measure. In response, the ESRB decided, by means of Recommendation ESRB/2022/1[15], to add the current measure to the list of macro-prudential policy measures recommended for reciprocation under Recommendation ESRB/2015/2, which remains relevant in the context of this extension. DNB also requests the ESRB

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[13] EBA Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing EBA/GL/2022/03.

[14] EBA Guidelines on PD estimation, LGD estimation and the treatment of defaulted exposures EBA/GL/2017/16, 20 November 2017.

[15] ESRB Recommendation amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (ESRB/2022/1) 2022/C 174/01/2022/671967635 (OJ C 174, 28.4.2022, p. 1).

to recommend that other Member States continue to reciprocate the measure as their banking sector might be or become exposed to the systemic risk in the Dutch housing market directly or indirectly through their branches. This could further reduce the risk of negative spill-overs to other Member States and would limit the scope for regulatory arbitrage which could undermine the effectiveness of the measure in terms of discouraging the provision of mortgage loans with high LTV ratios. The EBA continues to note some operational challenges to the reciprocation of the measure due to its reliance on a non-harmonised LTV metric. The definition of the LTV metric may differ between the Netherlands and other Member States. Therefore, some comparability issues may arise.

(31) The Commission, after taking utmost account of the opinions of the ESRB and the EBA, concludes, on the basis of its assessment, that there is no robust, strong and detailed evidence that the intended extension of the period of application of the current measure will have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction of the systemic risk identified,

HAS DECIDED AS FOLLOWS:

Sole Article

The Commission does not propose to the Council an implementing act to reject the intended extension of the period of application of the national measure, notified on 8 August 2022 by the Netherlands in accordance with Article 458(4) of Regulation (EU) No 575/2013, from 1 December 2022 until 30 November 2024.

Done at Brussels, 6.10.2022

For the Commission
Mairead McGUINNESS
Member of the Commission