RECOMMENDATION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 16 February 2022

amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures

(ESRB/2022/1)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

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

Having regard to the Agreement on the European Economic Area[1], in particular Annex IX thereof,

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[2], and in particular Articles 3 and 16 to 18 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 amending Regulation (EU) No 648/2012[3], and in particular Article 458 thereof,

Having regard to Directive (EU) No 2013/36 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[4], and in particular Section II of Chapter 4 of Title VII thereof,

Having regard to Decision ESRB/2011/1 of the European Systemic Risk Board of 20 January 2011 adopting the Rules of Procedure of the European Systemic Risk Board[5], and in particular Articles 18 to 20 thereof,

Whereas:

(1) In order to ensure effective and consistent national macroprudential policy measures, it is important to complement the mandatory reciprocity required under Union law with voluntary reciprocity.

(2) The framework on voluntary reciprocity for macroprudential policy measures set out in Recommendation ESRB/2015/2 of the European Systemic Risk Board[6] aims to ensure that all exposure-based macroprudential policy measures activated in one Member State are reciprocated in other Member States.

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1 OJ L 1, 3.1.1994, p. 3.

2 OJ L 331, 15.12.2010, p. 1.

3 OJ L 176, 27.6.2013, p. 1.

4 OJ L 176, 27.6.2013, p. 338.

5 OJ C 58, 24.2.2011, p. 4.

6 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).

(3) Following Commission Decision C(2020) 1214 final[7], De Nederlandsche Bank (DNB), acting as a designated authority for the purposes of Article 458 of Regulation (EU) No 575/2013, introduced a stricter national measure, thus imposing a minimum average risk weight for credit institutions authorised in the Netherlands and using the internal ratings-based (IRB) approach in relation to their portfolios of exposures to natural persons secured by residential property located in the Netherlands to apply. The measure entered into force on 1 January 2022.

(4) On 23 November 2021, DNB submitted to the European Systemic Risk Board (ESRB) a request for reciprocation of the stricter national measure under Article 458(8) of Regulation (EU) No 575/2013.

(5) Following the request by DNB to the ESRB, and in order to prevent the materialisation of negative cross-border effects in the form of leakages and regulatory arbitrage that could result from the implementation of the macroprudential policy measure that will become applicable in the Netherlands in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, the General Board of the ESRB has decided to include this measure in the list of macroprudential policy measures which are recommended to be reciprocated under Recommendation ESRB/2015/2.

(6) On 26 October 2021, Lietuvos bankas, acting as a designated authority for the purposes of Article 133(9) of Directive 2013/36/EU, notified the ESRB of its intention to set a systemic risk buffer rate for all retail exposures to natural persons in Lithuania that are secured by residential property. The systemic risk buffer will be applicable to banks authorised in Lithuania at the highest level of consolidation in the country. In parallel, the intended systemic risk buffer will apply to central credit union groups that fall outside the scope of Regulation (EU) No 575/2013 on a consolidated basis. The measure is expected to enter into force on 1 July 2022.

(7) On 1 December 2021, Lietuvos bankas submitted to the ESRB a request for reciprocation of the systemic risk buffer rate under Article 134(5) of Directive 2013/36/EU.

(8) Following the request submitted by Lietuvos bankas, and in order to prevent the materialisation of negative cross-border effects in the form of leakages and regulatory arbitrage that could result from the implementation of the macroprudential policy measure that will become applicable in Lithuania, the General Board of the ESRB has also decided to include this measure in the list of macroprudential policy measures which are recommended to be reciprocated under Recommendation ESRB/2015/2.

(9) Therefore, Recommendation ESRB/2015/2 should be amended accordingly,

HAS ADOPTED THIS RECOMMENDATION

Amendments

Recommendation ESRB/2015/2 is amended as follows:

1. in Section 1, sub-recommendation C(1) is replaced by the following:

‘1. The relevant authorities are recommended to reciprocate the macroprudential policy measures adopted by other relevant authorities and recommended for reciprocation by the

7 Commission Decision C(2020) 1214 final of 5.3.2020 not to propose an implementing act to reject the draft national measure notified on 8 January 2020 by the Netherlands under Article 458(4) of Regulation (EU) No 575/2013 of the European Parliament and of the Council.

ESRB. It is recommended that the following measures, as further described in the Annex, be reciprocated:

Belgium:

— a risk-weight add-on for retail exposures secured by residential immovable property located in Belgium, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions authorised in Belgium, using the IRB Approach for calculating regulatory capital requirements and composed of:
  - (a) a flat risk-weight add-on of 5 percentage points; and
  - (b) a proportionate risk-weight add-on consisting of 33 per cent of the exposure-weighted average of the risk-weights applied to the portfolio of retail exposures secured by residential immovable property located in Belgium;

France:

— a tightening of the large exposure limit provided for in Article 395(1) of Regulation (EU) No 575/2013, applicable to exposures to highly-indebted large non-financial corporations having their registered office in France to 5 per cent of Tier 1 capital, applied in accordance with Article 458(2)(d)(ii) of Regulation (EU) No 575/2013 to global systemically important institutions (G-SIIs) and other systemically important institutions (O-SIIs) at the highest level of consolidation of their banking prudential perimeter;

Lithuania

— a 2 % systemic risk buffer rate for all retail exposures to natural persons resident in the Republic of Lithuania that are secured by residential property.

Luxembourg:

— legally binding loan-to-value (LTV) limits for new mortgage loans on residential real estate located in Luxembourg, with different LTV limits applicable to different categories of borrowers:

(a) LTV limit of 100% for first-time buyers acquiring their primary residence;

(b) LTV limit of 90% for other buyers i.e. non first-time buyers acquiring their primary residence. This limit is implemented in a proportional way via a portfolio allowance. Specifically, lenders may issue 15% of the portfolio of new mortgages granted to these borrowers with an LTV above 90% but below the maximum LTV of 100%;

— (c) LTV limit of 80% for other mortgage loans (including the buy-to-let segment).

Netherlands:

— a minimum average risk weight applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions authorised in the Netherlands, using the IRB approach for calculating regulatory capital requirements in relation to their portfolios of exposures to natural persons secured by residential property located in the Netherlands. For each individual exposure item that falls within the scope of the measure, a 12 % risk weight is assigned to the portion of the loan not exceeding 55 % of the market value of the property that serves to secure the loan, and a 45 % risk weight is assigned to the remaining portion of the loan. The minimum average risk weight of the portfolio is the exposure-weighted average of the risk weights of the individual loans.

Norway:

— a 4.5% systemic risk buffer rate for exposures in Norway, applied in accordance with Article 133 of Directive 2013/36/EU, as applied to and in Norway on 1 January 2020 pursuant to the terms of the Agreement on the European Economic Area(*) (EEA Agreement) (hereinafter the ‘CRD as applicable to and in Norway on 1 January 2020’), to all credit institutions authorised in Norway;

— a 20% average risk weight floor for residential real estate exposures in Norway, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, as applied to and in Norway on 1 January 2020 pursuant to the terms of the EEA Agreement (hereinafter the ‘CRR as applicable to and in Norway on 1 January 2020’), to credit institutions, authorised in Norway, using the internal ratings-based (IRB) approach for calculating regulatory capital requirements;

— a 35% average risk weight floor for commercial real estate exposures in Norway, applied in accordance with Article 458(2)(d)(vi) of the CRR as applicable to and in Norway on 1 January 2020 to credit institutions authorised in Norway, using the IRB approach for calculating regulatory capital requirements.

Sweden:

— a credit institution-specific floor of 25 per cent for the exposure-weighted average of the risk weights applied to the portfolio of retail exposures to obligors residing in Sweden secured by immovable property in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions authorised in Sweden using the IRB Approach for calculating regulatory capital requirements.’

(*) OJ L 1 3.1.1994, p. 3.’;

2. The Annex is replaced by the Annex to this Recommendation.

Done at Frankfurt am Main, 16 February 2022

Francesco Mazzaferro

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

Francesco MAZZAFERRO

ANNEX

The Annex to Recommendation ESRB/2015/2 is replaced by the following:

‘Annex

Belgium

A risk weight add-on for retail exposures secured by residential immovable property located in Belgium, imposed on credit institutions authorised in Belgium using the IRB Approach and applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013. The add-on is composed of two components:

(a) a flat risk weight add-on of 5 percentage points; and

(b) a proportionate risk weight add-on consisting of 33 per cent of the exposure-weighted average of the risk weights applied to the portfolio of retail exposures secured by residential immovable property located in Belgium.

I. Description of the measure

1. The Belgian measure, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 and imposed on credit institutions authorised in Belgium using the IRB Approach, consists of a risk weight add-on for retail exposures secured by residential immovable property located in Belgium, which is composed of two components:

   (a) The first component consists of a 5 percentage point increase to the risk weight for retail exposures secured by residential immovable property located in Belgium obtained after computing the second part of the risk-weight add-on in accordance with point (b).

   (b) The second component consists of a risk-weight increase of 33 per cent of the exposure-weighted average of the risk-weights applied to the portfolio of retail exposures secured by residential immovable property located in Belgium. The exposure-weighted average is the average of the risk-weights of the individual loans calculated in accordance with Article 154 of Regulation (EU) No 575/2013, weighted by the relevant exposure value.

II. Reciprocation

2. In accordance with Article 458(5) of Regulation (EU) No 575/2013, relevant authorities of the Member States concerned are recommended to reciprocate the Belgian measure by applying it to branches located in Belgium of domestically authorised credit institutions using the IRB Approach within the deadline specified in sub-recommendation C(3).

3. Relevant authorities are recommended to reciprocate the Belgian measure by applying it to domestically authorised credit institutions using the IRB Approach that have direct retail exposures secured by residential immovable property located in Belgium. In accordance with sub-recommendation C(2), the relevant authorities are recommended to apply the same measure as the one that has been implemented in Belgium by the activating authority within the deadline specified in sub-recommendation C(3).
4. If the same macroprudential policy measure is not available in their jurisdiction, the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the above measure recommended for reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU. Relevant authorities are recommended to adopt the equivalent measure by no later than four months following the publication of this Recommendation in the *Official Journal of the European Union*.

III. <u>Materiality threshold</u>

5. The measure is complemented by an institution-specific materiality threshold of EUR 2 billion to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure.
6. In line with Section 2.2.1 of Recommendation ESRB/2015/2, relevant authorities of the Member State concerned may exempt individual domestically authorised credit institutions using the IRB Approach having non-material retail exposures secured by residential immovable property in Belgium which are below the materiality threshold of EUR 2 billion. When applying the materiality threshold, the relevant authorities should monitor the materiality of exposures and are recommended to apply the Belgian measure to previously exempted individual domestically authorised credit institutions when the materiality threshold of EUR 2 billion is breached.
7. Where there are no credit institutions authorised in the Member States concerned with branches located in Belgium or which have direct retail exposures secured by residential immovable property in Belgium, which use the IRB Approach and which have exposures of EUR 2 billion or above to the Belgian residential immovable property market, relevant authorities of the Member States concerned may, pursuant to Section 2.2.1 of Recommendation ESRB/2015/2, decide not to reciprocate the Belgian measure. In this case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate the Belgian measure when a credit institution using the IRB Approach exceeds the threshold of EUR 2 billion.
8. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality threshold of EUR 2 billion is a recommended maximum threshold level. Reciprocating relevant authorities may therefore instead of applying the recommended threshold set a lower threshold for their jurisdictions where appropriate, or reciprocate the measure without any materiality threshold.

France

A tightening of the large exposure limit provided for in Article 395(1) of Regulation (EU) No 575/2013, applicable to exposures to highly-indebted large non-financial corporations having their registered office in France to 5 per cent of Tier 1 capital, applied in accordance with Article 458(2)(d)(ii) of Regulation (EU) No 575/2013 to global systemically important institutions (G-SIIs) and other systemically important institutions (O-SIIs) at the highest level of consolidation of their banking prudential perimeter.

I. Description of the measure

1. The French measure, applied in accordance with Article 458(2)(d)(ii) of Regulation (EU) No 575/2013 and imposed on G-SIIs and O-SIIs at the highest level of consolidation of their banking prudential perimeter (not at a sub-consolidated level), consists of a tightening of the large exposure limit to 5 per cent of their Tier 1 capital, applicable to exposures to highly-indebted large non-financial corporations having their registered office in France.
2. A non-financial corporation is defined as a natural or legal person under private law having its registered office in France, and which, at its level and at the highest level of consolidation, belongs to the non-financial corporations sector as defined in point 2.45 of Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council(*).
3. The measure applies to exposures to non-financial corporations having their registered office in France and to exposures to groups of connected non-financial corporations as follows:
   (a) For non-financial corporations which are part of a group of connected non-financial corporations having its registered office at the highest level of consolidation in France, the measure applies to the sum of the net exposures towards the group and all its connected entities within the meaning of point (39) of Article 4(1) of Regulation (EU) No 575/2013;
   (b) For non-financial corporations which are part of a group of connected non-financial corporations having its registered office at the highest level of consolidation outside France, the measure applies to the sum of:
      (i) the exposures to those non-financial corporations having their registered office in France;
      (ii) the exposures to the entities in France or abroad over which the non-financial corporations referred to in (i) have direct or indirect control within the meaning of point (39) of Article 4(1) of Regulation (EU) No 575/2013; and
      (iii) the exposures to the entities in France or abroad which are economically dependent on the non-financial corporations referred to in (i) within the meaning of point (39) of Article 4(1) of Regulation (EU) No 575/2013.

   Non-financial corporations which do not have their registered office in France and which are not a subsidiary or an economically dependent entity of, and which are not directly or indirectly controlled by, a non-financial corporation having its registered office in France, therefore fall outside the scope of the measure.

In accordance with Article 395(1) of Regulation (EU) No 575/2013, the measure is applicable after taking into account the effect of the credit risk mitigation techniques and exemptions in accordance with Articles 399 to 403 of Regulation (EU) No 575/2013.

4. A G-SII or an O-SII must consider a non-financial corporation having its registered office in France as large if its original exposure to the non-financial corporation, or to the group of connected non-financial corporations within the meaning of paragraph 3, is equal to or larger than EUR 300 million. The original exposure value is calculated in accordance with Articles 389 and 390 of Regulation (EU) No 575/2013 before taking into account the effect of credit risk mitigation techniques and exemptions set out in Articles 399 to 403 of Regulation (EU) No 575/2013, as reported in accordance with Article 9 of Commission Implementing Regulation (EU) No 680/2014(**).

5. A non-financial corporation is considered highly-indebted if it has a leverage ratio that is greater than 100 per cent and a financial charges coverage ratio that is below three, calculated at the highest level of group consolidation as follows:

   (a) The leverage ratio is the ratio between total debt net of cash and equity; and

   (b) The financial charges coverage ratio is the ratio between, on the one hand, the value added plus operating subsidies less: (i) payroll; (ii) operating taxes and duties; (iii) other net ordinary operating expenses excluding net interest and similar charges; and (iv) depreciation and amortisation, and, on the other hand, interest and similar charges.

   The ratios are calculated based on accounting aggregates defined in accordance with the applicable standards, as presented in the non-financial corporation's financial statements, certified where appropriate by a chartered accountant.

II. Reciprocation

6. Relevant authorities are recommended to reciprocate the French measure by applying it to domestically authorised G-SIIs and O-SIIs at the highest level of consolidation within the jurisdiction of their banking prudential perimeter.

7. If the same macroprudential policy measure is not available in their jurisdiction, in line with sub-recommendation C(2), the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the above measure recommended for reciprocation. The relevant authorities are recommended to adopt the equivalent measure by no later than six months following the publication of this Recommendation in the *Official Journal of the European Union*.

III. Materiality threshold

8. The measure is complemented by a combined materiality threshold to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure, which is composed of:

(a) A threshold of EUR 2 billion for the total original exposures of domestically authorised G-SIIs and O-SIIs at the highest level of consolidation of the banking prudential perimeter to the French non-financial corporations sector;

(b) A threshold of EUR 300 million applicable to domestically authorised G-SIIs and O-SIIs equalling or exceeding the threshold mentioned in (a) for:

(i) a single original exposure to a non-financial corporation having its registered office in France;

(ii) the sum of original exposures to a group of connected non-financial corporations, which has its registered office at the highest level of consolidation in France, calculated in accordance with paragraph 3(a);

(iii) the sum of original exposures to non-financial corporations having their registered office in France which are part of a group of connected non-financial corporations having its registered office at the highest level of consolidation outside France as reported in templates C 28.00 and C 29.00 of Annex VIII to Implementing Regulation (EU) No 680/2014;

(c) A threshold of 5 per cent of the G-SII's or O-SII's Tier 1 capital at the highest level of consolidation, for exposures identified in (b) after taking into account the effect of the credit risk mitigation techniques and exemptions in accordance with Articles 399 to 403 of Regulation (EU) No 575/2013.

The thresholds referred to in paragraphs (b) and (c) are to be applied irrespective of whether the relevant entity or non-financial corporation is highly-indebted or not.

The original exposure value referred to in paragraphs (a) and (b) is to be calculated in accordance with Articles 389 and 390 of Regulation (EU) No 575/2013 before taking into account the effect of credit risk mitigation techniques and exemptions set out in Articles 399 to 403 of Regulation (EU) No 575/2013 as reported in accordance with Article 9 of Implementing Regulation (EU) No 680/2014.

9. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the relevant authorities of the Member State concerned may exempt domestically authorised G-SIIs or O-SIIs at the highest level of consolidation of their banking prudential perimeter which do not breach the combined materiality threshold referred to in paragraph 8. When applying the materiality threshold, the relevant authorities should monitor the materiality of the exposures of domestically authorised G-SIIs and O-SIIs to the French non-financial corporations sector as well as the exposure concentration of domestically authorised G-SIIs and O-SIIs to large non-financial corporations having their registered office in France, and are recommended to apply the French measure to previously exempted domestically authorised G-SIIs or O-SIIs at the highest level of consolidation of their banking prudential perimeter when the combined materiality threshold referred to in paragraph 8 is breached. Relevant authorities are also encouraged to signal the systemic risks associated with the increased leverage of large non-financial corporations having their registered office in France to other market participants in their jurisdiction.

10. Where there are no G-SIIs or O-SIIs at the highest level of consolidation of their banking prudential perimeter authorised in the Member States concerned and having exposures to the

French non-financial corporations sector above the materiality threshold referred to in paragraph 8, the relevant authorities of the Member States concerned may, pursuant to Section 2.2.1 of Recommendation ESRB/2015/2, decide not to reciprocate the French measure. In this case the relevant authorities should monitor the materiality of the exposures of domestically authorised G-SIIs and O-SIIs to the French non-financial corporations sector as well as the exposure concentration of domestically authorised G-SIIs and O-SIIs to large non-financial corporations having their registered office in France, and are recommended to reciprocate the French measure when a G-SII or O-SII at the highest level of consolidation of its banking prudential perimeter exceeds the combined materiality threshold referred to in paragraph 8. Relevant authorities are also encouraged to signal the systemic risks associated with the increased leverage of large non-financial corporations having their registered office in France to other market participants in their jurisdiction.

11. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the combined materiality threshold referred to in paragraph 8 is a recommended maximum threshold level. Reciprocating relevant authorities may therefore instead of applying the recommended threshold set a lower threshold for their jurisdictions where appropriate, or reciprocate the measure without any materiality threshold.

Lithuania:

A 2 % systemic risk buffer rate for all retail exposures to natural persons resident in the Republic of Lithuania that are secured by residential property.

I. Description of the measure

1. The Lithuanian measure, applied in accordance with Article 133 of Directive 2013/36/EU imposes a 2 % systemic risk buffer rate for all retail exposures to natural persons in Lithuania that are secured by residential property.

II. Reciprocation

2. Relevant authorities are recommended to reciprocate the Lithuanian measure by applying it to branches located in Lithuania of domestically authorised banks and direct cross-border exposures to natural persons in Lithuania that are secured by residential property. A significant share of total mortgage positions is held by foreign bank branches operating in Lithuania, therefore, reciprocity of the measure by other Member States would help foster a level playing field and ensure that all significant market participants take into account the increased residential real estate risk in Lithuania and increase their resilience.
3. If the same macroprudential policy measure is not available in their jurisdiction, the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the above measure recommended for reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU. Relevant

authorities are recommended to adopt the equivalent measure by no later than four months following the publication of this Recommendation in the *Official Journal of the European Union*.

III. Materiality threshold

4. The measure is complemented by an institution-specific materiality threshold to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure. Institutions may be exempted from the systemic risk buffer requirement if their relevant sectoral exposures do not exceed EUR 50 million, which is approximately 0.5 % of the relevant exposures of the total credit institution sector in Lithuania. Therefore, reciprocation is only requested when the institution-specific threshold is exceeded.
5. Justification for such a threshold:
   a. The minimisation of the potential for regulatory fragmentation is necessary, as the same materiality threshold will also apply to credit institutions authorised in Lithuania;
   b. The application of such a materiality threshold would help to ensure a level playing field in the sense that institutions with exposures of similar size are subject to the systemic risk buffer requirement;
   c. The threshold is relevant for financial stability, as the further development of the residential real estate risk will mainly depend on housing market activity, which partly depends on the amount of new loans issued for house purchase. Therefore, the measure should apply to market participants who are active in this market even though their mortgage loan portfolios are not as large as those of the largest loan providers.
6. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality threshold of EUR 50 million is a recommended maximum threshold level. Reciprocating relevant authorities may therefore, instead of applying the recommended threshold, set a lower threshold for their jurisdictions where appropriate, or reciprocate the measure without any materiality threshold.

Luxembourg:

Legally binding loan-to-value (LTV) limits for new mortgage loans on residential real estate located in Luxembourg, with different LTV limits applicable to different categories of borrowers:

(a) LTV limit of 100% for first-time buyers acquiring their primary residence;

(b) LTV limit of 90% for other buyers i.e. non first-time buyers acquiring their primary residence. This limit is implemented in a proportional way via a portfolio allowance. Specifically, lenders may issue 15% of the portfolio of new mortgages granted to these borrowers with an LTV above 90% but below the maximum LTV of 100%;

(c) LTV limit of 80% for other mortgage loans (including the buy-to-let segment).

I. Description of the measure

1. The Luxembourg authorities activated legally binding LTV limits for new mortgage loans on residential immovable property located in Luxembourg. Following the Recommendation of the *Comité du Risque Systémique* (Systemic Risk Committee)(***), the *Commission de Surveillance du Secteur Financier* (Financial Sector Supervisory Commission)(****) acting in concert with the Banque centrale du Luxembourg has activated LTV limits that differ across three categories of borrowers. The LTV limits for each of the three categories are as follows:
   (a) LTV limit of 100% for first-time buyers acquiring their primary residence;
   (b) LTV limit of 90% for other buyers i.e. non first-time buyers acquiring their primary residence. This limit is implemented in a proportional way via a portfolio allowance. Specifically, lenders may issue 15% of the portfolio of new mortgages granted to these borrowers with an LTV above 90% but below the maximum LTV of 100%;
   (c) LTV limit of 80% for other mortgage loans (including the buy-to-let segment).
2. LTV is the ratio between the sum of all loans or tranches of loans backed by the borrower with residential property at the time when the loan is granted and the value of the property at the same time.
3. The LTV limits apply independently from the type of ownership (e.g. full ownership, usufruct, bare ownership).
4. The measure applies to any private borrower taking out a mortgage loan to purchase residential real estate in Luxembourg for non-commercial purposes. The measure also applies if the borrower uses a legal structure like a real estate investment company to complete this transaction, and in the case of joint applications. ‘Residential real estate’ includes construction land, whether the construction work takes place immediately after the purchase or years after. The measure also applies if a loan is granted to a borrower for purchasing a property with a long-term lease agreement. The real estate property may be for owner occupation or buy to let.

II. <u>Reciprocation</u>

5. Member States whose credit institutions, insurance corporations and professionals carrying out lending activities (mortgage lenders) have relevant material Luxembourg credit exposures through direct cross-border credit are recommended to reciprocate the Luxembourg measure in their jurisdiction. If the same measure is not available in their jurisdiction for all relevant cross-border exposures, the relevant authorities should apply available measures that have the most equivalent effect to the activated macroprudential policy measure.
6. Member States should notify the ESRB that they reciprocated the Luxembourg measure or used *de minimis* exemptions in accordance with Recommendation D of Recommendation ESRB/2015/2. The notification should be provided no later than one month after the reciprocating measure has been adopted, using the respective template published on the ESRB’s website. The ESRB will publish the notifications on the ESRB’s website, thereby communicating the national reciprocation decisions to the public. This publication will include any exemptions made by reciprocating Member States and their commitment to monitor leakages and act if needed.
7. Member States are recommended to reciprocate a measure within three months from the publication of this Recommendation in the *Official Journal of the European Union*.

III. Materiality threshold

8. The measure is complemented by two materiality thresholds to steer the potential application of the *de minimis* principle by the reciprocating Member States: a country-specific materiality threshold and an institution-specific materiality threshold. The country-specific materiality threshold for the total cross-border mortgage lending to Luxembourg is EUR 350 million which corresponds to approximately 1% of the total domestic residential real estate mortgage market in December 2020. The institution-specific materiality threshold for the total cross-border mortgage lending to Luxembourg is EUR 35 million which corresponds to approximately 0.1% of the total domestic residential real estate mortgage market in Luxembourg in December 2020. Reciprocation is only requested when both the country-specific threshold and the institution-specific threshold are exceeded.

Netherlands:

A minimum average risk weight 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. For each individual exposure item that falls within the scope of the measure, a 12 % risk weight is assigned to a portion of the loan not exceeding 55 % of the market value of the property that serves to secure the loan, and a 45 % risk weight is assigned to the remaining portion of the loan. The minimum average risk weight of the portfolio is the exposure-weighted average of the risk weights of the individual loans.

I. Description of the measure

1. The Dutch measure applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 imposes a minimum average risk weight for IRB credit institutions' portfolio of exposures to natural persons secured by mortgages on residential property located in the Netherlands. Loans covered by the National Mortgage Guarantee scheme are exempted from the measure.
2. The minimum average risk weight is to be calculated as follows:
   (a) For each individual exposure item that falls within the scope of the measure, a 12 % risk weight is assigned to the portion of the loan not exceeding 55 % of the market value of the property that serves to secure the loan, and a 45 % risk weight is assigned to the remaining portion of the loan. The LTV ratio to be used in this calculation should be determined in accordance with the applicable provisions of Regulation (EU) No 575/2013.
   (b) The minimum average risk weight of the portfolio is the exposure-weighted average of the risk weights of the individual loans, calculated as explained above. Individual loans that are exempt from the measure are disregarded when calculating the minimum average risk weight.
3. This measure does not replace the existing capital requirements set out in and arising from Regulation (EU) No 575/2013. Banks to which the measure applies must calculate the average

risk weight of the part of the mortgage portfolio that falls within the scope of this measure on the basis of both the regular applicable provisions contained in Regulation (EU) No 575/2013 and the method as set out in the measure. In calculating their capital requirements, they must subsequently apply the higher of the two average risk weights.

II. <u>Reciprocation</u>

4. Relevant authorities are recommended to reciprocate the Dutch measure by applying it to domestically authorised credit institutions using the IRB approach that have exposures to natural persons secured by residential property located in the Netherlands, as their banking sector may, through their branches, be or become exposed to the systemic risk in the Dutch housing market directly or indirectly.
5. In accordance with sub-recommendation C(2), the relevant authorities are recommended to apply the same measure as the one that has been implemented in the Netherlands by the activating authority within the deadline specified in sub-recommendation C(3).
6. If the same macroprudential policy measure is not available in their jurisdiction, the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the above measure recommended for reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU. Relevant authorities are recommended to adopt the equivalent measure by no later than four months following the publication of this Recommendation in the *Official Journal of the European Union*.

III. <u>Materiality threshold</u>

7. The measure is complemented by an institution-specific materiality threshold to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure. Institutions may be exempted from the minimum average risk weight for the IRB credit institutions' portfolio of exposures to natural persons secured by mortgages on residential property located in the Netherlands if this value does not exceed EUR 5 billion. Loans covered by the National Mortgage Guarantee scheme will not be calculated towards the materiality threshold.
8. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality threshold of EUR 5 billion is a recommended maximum threshold level. Reciprocating relevant authorities may, therefore, instead of applying the recommended threshold set a lower threshold for their jurisdictions where appropriate, or reciprocate the measure without any materiality threshold.

Norway:

— <u>**a 4.5 % systemic risk buffer rate for exposures in Norway applied in accordance with Article 133 of Directive 2013/36/EU, as applied to and in Norway on 1 January 2020 pursuant to the terms of the Agreement on the European Economic Area (EEA Agreement') (hereinafter the**</u>

‘CRD as applicable to and in Norway on 1 January 2020’), to all credit institutions authorised in Norway;

— **a 20 % average risk weight floor for residential real estate exposures in Norway, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, as applied to and in Norway on 1 January 2020 pursuant to the terms of the EEA Agreement (hereinafter the ‘CRR as applicable to and in Norway on 1 January 2020’) to credit institutions, authorised in Norway, using the internal ratings-based (IRB) approach for calculating regulatory capital requirements;**

— **a 35% average risk weight floor for commercial real estate exposures in Norway, applied in accordance with Article 458(2)(d)(vi) of the CRR as applicable to and in Norway on 1 January 2020 to credit institutions, authorised in Norway, using the IRB approach for calculating regulatory capital requirements.**

I. Description of the measures

1. Since 31 December 2020, Finansdepartementet (the Norwegian Ministry of Finance) introduced three measures, namely (i) a systemic risk buffer requirement for exposures in Norway, pursuant to Article 133 of the CRD as applicable to and in Norway on 1 January 2020; (ii) an average risk weight floor for residential real estate exposures in Norway, pursuant to Article 458(2)(d)(vi) of the CRR as applicable to and in Norway on 1 January 2020; and (iii) an average risk weight floor for commercial real estate exposures in Norway, pursuant to Article 458(2)(d)(vi) of the CRR as applicable to and in Norway on 1 January 2020.

2. The systemic risk buffer rate is set at 4.5% and applies to the domestic exposures of all credit institutions authorised in Norway. However, for credit institutions that do not use the advanced IRB approach, the systemic risk buffer rate applicable to all exposures is set at 3% until 31 December 2022; thereafter, the systemic risk buffer rate applicable to domestic exposures is set at 4.5%.

3. The residential real estate risk weight floor measure is an institution-specific average risk weights floor for residential real estate exposures in Norway, applicable to credit institutions using the IRB approach. The real estate risk weight floor concerns the exposure-weighted average risk weight in the residential real estate portfolio. Norwegian residential real estate exposures should be understood as retail exposures collateralised by immovable property in Norway.

4. The commercial real estate risk weight floor measure is an institution-specific average risk weights floor for commercial real estate exposures in Norway, applicable to credit institutions using the IRB approach. The real estate risk weight floor concerns the exposure-weighted average risk weight in the commercial real estate portfolio. Norwegian commercial real estate exposures should be understood as corporate exposures collateralised by immovable property in Norway.

II. Reciprocation

5. Relevant authorities are recommended to reciprocate the Norwegian measures for exposures located in Norway in accordance with Article 134(1) of Directive 2013/36/EU and with Article 458(5) of Regulation (EU) No 575/2013, respectively. Relevant authorities are recommended to reciprocate the systemic risk buffer rate within 18 months following the publication of this Recommendation, as amended by Recommendation ESRB/2021/3 of the European Systemic Risk Board(*****) in the *Official Journal of the European Union*, except as otherwise provided for under paragraph 7 below. The average risk weight floors for residential and commercial real estate exposures in Norway should be reciprocated within the standard three months transition period provided for by Recommendation ESRB/2015/2.

6. If the same macroprudential policy measures are not available in their jurisdiction, in line with sub-recommendation C(2), the relevant authorities are recommended to apply, following consultation with the ESRB, macroprudential policy measures available in their jurisdiction that have the most equivalent effect to the above measures recommended for reciprocation. The relevant authorities are recommended to adopt the equivalent measures for the reciprocation of average risk weight floors for residential and commercial real estate exposures within 12 months and for the reciprocation of the systemic risk buffer rate within 18 months, respectively, following the publication of this Recommendation in the *Official Journal of the European Union*, except as otherwise provided for under paragraph 7 below for the systemic risk buffer.

7. Until Directive (EU) 2019/878 becomes applicable to and in Norway in accordance with the terms of the EEA Agreement, relevant authorities may reciprocate the Norwegian systemic risk buffer measure in a way and at a level that takes account of any overlap or difference in the capital requirements applicable in their Member State and Norway, provided that they adhere to following principles:

   (a) coverage of risk: relevant authorities should ensure that the systemic risk that the Norwegian measure seeks to mitigate is addressed in an adequate way;

   (b) avoidance of regulatory arbitrage and ensuring a level playing field: relevant authorities should minimise the possibility for leakages and regulatory arbitrage and promptly close any regulatory loophole if needed; relevant authorities should ensure a level playing field between credit institutions.

   This paragraph does not apply to the average risk weight floor measures for residential and commercial real estate exposures.

III. Materiality threshold

8. The measures are complemented by institution-specific materiality thresholds based on exposures located in Norway to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure as follows:

   (a) for the systemic risk buffer rate, the materiality threshold is set at a risk-weighted exposure amount of NOK 32 billion, which corresponds to about 1% of credit institutions' total risk-weighted exposures amount in Norway;

(b) for the residential real estate risk weight floor, the materiality threshold is set at a gross lending of NOK 32.3 billion, corresponding to about 1% of gross collateralised residential real estate lending to Norwegian customers;

(c) for the commercial real estate risk weight floor, the materiality threshold is set at a gross lending of NOK 7.6 billion, corresponding to about 1% of gross collateralised commercial real estate lending to Norwegian customers.

9. In line with Section 2.2.1 of Recommendation ESRB/2015/2, relevant authorities of the Member State concerned may exempt individual domestically authorised credit institutions having non-material exposures in Norway. Exposures are deemed non-material if they are below the institution-specific materiality thresholds set under paragraph 8 above. When applying the materiality thresholds, the relevant authorities should monitor the materiality of exposures and are recommended to apply the Norwegian measures to previously exempted individual domestically authorised credit institutions when the materiality thresholds set under paragraph 8 above are exceeded.

10. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality thresholds set under paragraph 8 above are recommended maximum threshold levels. Reciprocating relevant authorities may therefore, instead of applying the recommended thresholds, set lower thresholds for their jurisdictions where appropriate, or reciprocate the measures without any materiality threshold.

11. Where there are no credit institutions authorised in the Member States having material exposures in Norway, relevant authorities of the Member States concerned may, pursuant to Section 2.2.1 of Recommendation ESRB/2015/2, decide not to reciprocate the Norwegian measures. In this case, the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate the Norwegian measures when a credit institution exceeds the respective materiality thresholds.

Sweden

A credit institution-specific floor of 25 per cent for the exposure-weighted average of the risk weights applied to the portfolio of retail exposures to obligors residing in Sweden secured by immovable property in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions authorised in Sweden, using the IRB Approach for calculating regulatory capital requirements.

I. Description of the measure

1. The Swedish measure, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 and imposed on credit institutions authorised in Sweden using the IRB Approach, consists of a credit institution-specific floor of 25 per cent for exposure-weighted average of the risk weights applied to the portfolio of retail exposures to obligors residing in Sweden secured by immovable property.

2. The exposure-weighted average is the average of the risk weights of the individual exposures calculated in accordance with Article 154 of Regulation (EU) No 575/2013, weighted by the relevant exposure value.

II. Reciprocation

3. In accordance with Article 458(5) of Regulation (EU) No 575/2013, relevant authorities of the Member States concerned are recommended to reciprocate the Swedish measure by applying it to branches located in Sweden of domestically authorised credit institutions using the IRB Approach within the deadline specified in sub-recommendation C(3).
4. Relevant authorities are recommended to reciprocate the Swedish measure by applying it to domestically authorised credit institutions using the IRB Approach that have direct retail exposures to obligors residing in Sweden secured by immovable property. In accordance with sub-recommendation C(2), the relevant authorities are recommended to apply the same measure as the one that has been implemented in Sweden by the activating authority within the deadline specified in sub-recommendation C(3).
5. If the same macroprudential policy measure is not available in their jurisdiction, the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the above measure recommended for reciprocation. Relevant authorities are recommended to adopt the equivalent measure by no later than four months following the publication of this Recommendation in the *Official Journal of the European Union*.

III. Materiality threshold

6. The measure is complemented by an institution-specific materiality threshold of SEK 5 billion to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure.
7. In line with Section 2.2.1 of Recommendation ESRB/2015/2, relevant authorities of the Member State concerned may exempt individual domestically authorised credit institutions using the IRB Approach having non-material retail exposures to obligors residing in Sweden secured by immovable property which are below the materiality threshold of SEK 5 billion. When applying the materiality threshold, the relevant authorities should monitor the materiality of exposures and are recommended to apply the Swedish measure to previously exempted individual domestically authorised credit institutions when the materiality threshold of SEK 5 billion is exceeded.
8. Where there are no credit institutions authorised in the Member States concerned with branches located in Sweden or which have direct retail exposures to obligors residing in Sweden, secured by immovable property, which use the IRB Approach and which have retail exposures of SEK 5 billion or above to obligors residing in Sweden, secured by immovable property, relevant authorities of the Member States concerned may, pursuant to Section 2.2.1 of Recommendation ESRB/2015/2, decide not to reciprocate the Swedish measure. In this

case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate the Swedish measure when a credit institution using the IRB Approach exceeds the threshold of SEK 5 billion.

9. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality threshold of SEK 5 billion is a recommended maximum threshold level. Reciprocating relevant authorities may therefore, instead of applying the recommended threshold, set a lower threshold for their jurisdictions where appropriate, or reciprocate the measure without any materiality threshold.

(*) Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ L 174, 26.6.2013, p. 1).

(**) Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p.1).

(***) Recommandation du comité du risque systémique du 09 novembre 2020 relative aux crédits portant sur des biens immobiliers à usage résidentiel situés sur le territoire du Luxembourg (CRS/2020/005).

(****) CSSF Régulation N.20-08 du 3 décembre 2020 fixant des conditions pour l’octroi de crédits relatifs à des biens immobiliers à usage résidentiel situés sur le territoire du Luxembourg.

(*****) Recommendation ESRB/2021/3 of the European Systemic Risk Board of 30 April 2021 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 222, 11.6.2021, p.1).’.