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► **B**                      **RECOMMENDATION 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**  
**(ESRB/2015/2)**  
(2016/C 97/02)  
(OJ C 97, 12.3.2016, p. 9)

Amended by:

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► <b><u>M1</u></b>	Recommendation of the European Systemic Risk Board of 24 March 2016	C 153	1	29.4.2016
► <b><u>M2</u></b>	Recommendation of the European Systemic Risk Board of 24 June 2016	C 290	1	10.8.2016
► <b><u>M3</u></b>	Recommendation of the European Systemic Risk Board of 20 October 2017	C 431	1	15.12.2017
► <b><u>M4</u></b>	Recommendation of the European Systemic Risk Board of 8 January 2018	C 41	1	3.2.2018

**▼B****RECOMMENDATION 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****(ESRB/2015/2)**

(2016/C 97/02)

## SECTION 1

**RECOMMENDATIONS****Recommendation A – Assessment of cross-border effects of relevant authorities' own macroprudential policy measures**

1. The relevant activating authorities are recommended to assess, prior to their adoption, the cross-border effects of the implementation of their own macroprudential policy measures. At the very least, the spillover channels operating via risk adjustment and regulatory arbitrage should be assessed, using the methodology set out in Chapter 11 of the ESRB Handbook.
2. The relevant activating authorities are recommended to assess the possible:
  - (a) cross-border effects (leakages and regulatory arbitrage) of the implementation of macroprudential policy measures in their jurisdiction; and
  - (b) cross-border effects on other Member States and on the Single Market of any proposed macroprudential policy measures.
3. The relevant activating authorities are recommended to monitor at least once a year the materialisation and evolution of the cross-border effects of the macroprudential policy measures they have introduced.

**Recommendation B – Notification and reciprocation request with regard to relevant authorities' own macroprudential policy measures**

1. The relevant activating authorities are recommended to notify the ESRB of macroprudential policy measures as soon as they are adopted, and no later than two weeks after their adoption. Notifications should include an assessment of cross-border effects and of the necessity for reciprocation by other relevant authorities. The relevant activating authorities are requested to provide the information in English using the templates published on the ESRB's website.

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2. If reciprocation by other Member States is deemed necessary to ensure the effective functioning of the relevant measures, the relevant activating authorities are recommended to submit a request for reciprocation to the ESRB, together with the notification of the measure. The request should include a proposed materiality threshold.

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3. If macroprudential policy measures were activated prior to the adoption of this Recommendation, or if reciprocation was not considered necessary when the measures were first introduced, but the relevant activating authority has subsequently decided that such

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reciprocation has become necessary, the relevant activating authorities are recommended to submit a request for reciprocation to the ESRB.

**Recommendation C – Reciprocation of other relevant authorities' macroprudential policy measures****▼M4**

1. The relevant authorities are recommended to reciprocate the macroprudential policy measures adopted by other relevant authorities and recommended for reciprocation by the ESRB. It is recommended that the following measures, as further described in the Annex, be reciprocated:

Estonia:

- a 1-percent systemic risk buffer rate applied in accordance with Article 133 of Directive 2013/36/EU to the domestic exposures of all credit institutions authorised in Estonia;

Finland:

- a 15-percent floor for the average risk-weight on residential mortgage loans secured by a mortgage on housing units in Finland applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions, authorised in Finland, using the internal ratings-based (IRB) approach for calculating regulatory capital requirements.

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2. The relevant authorities are recommended to reciprocate the macroprudential policy measures listed in this Recommendation by implementing the same macroprudential policy measure as the one that has been implemented by the activating authority. If the same macroprudential policy measure is not available in national legislation, the relevant authorities are recommended to reciprocate, following consultation with the ESRB, by adopting a macroprudential policy measure available in its jurisdiction that has the most equivalent effect to the activated macroprudential policy measure.
3. Unless a specific deadline is recommended in relation to the reciprocation of a macroprudential policy measure, the relevant authorities are recommended to adopt reciprocating macroprudential policy measures no later than three months, following the publication of the latest amendment of this Recommendation in the *Official Journal of the European Union*. The adopted and reciprocating measures should have the same activation date insofar as possible.

**Recommendation D – Notification of the reciprocation of other relevant authorities' macroprudential policy measures**

The relevant authorities are recommended to notify the ESRB of their reciprocation of other relevant authorities' macroprudential policy measures. Notifications should be sent no later than one month after the reciprocating measure has been adopted. The notifying authorities are requested to provide the information in English, using the template published on the ESRB's website.



## SECTION 2

### IMPLEMENTATION

#### 1. Interpretation

For the purposes of this Recommendation, the following definitions apply:

- (a) ‘activation’ means the application of a macroprudential policy measure at national level;
- (b) ‘adoption’ means a decision taken by a relevant authority regarding the introduction, reciprocation or amendment of a macroprudential policy measure;
- (c) ‘financial service’ means any service of a banking, credit, insurance, personal pension, investment or payment nature;
- (d) ‘macroprudential policy measure’ means any measure that addresses the prevention and mitigation of systemic risk as defined in Article 2(c) of Regulation (EU) No 1092/2010 and is adopted or activated by a relevant authority subject to Union or national law;
- (e) ‘notification’ means a written notice in English to the ESRB from the relevant authorities, including the ECB pursuant to Article 9 of Regulation (EU) No 1024/2013, regarding a macroprudential policy measure in accordance with, but not limited to, Article 133 of Directive 2013/36/EU and Article 458 of Regulation (EU) No 575/2013, and which may be a reciprocation request from a Member State in accordance with, but not limited to, Article 134(4) of Directive 2013/36/EU and Article 458(8) of Regulation (EU) No 575/2013;
- (f) ‘reciprocity’ means an arrangement, whereby the relevant authority in one jurisdiction applies the same, or equivalent, macroprudential policy measure, as is set by the relevant activating authority in another jurisdiction, to any financial institutions under its jurisdiction, when they are exposed to the same risk in the latter jurisdiction;
- (g) ‘relevant activating authority’ means a relevant authority that is in charge of applying a macroprudential policy measure at national level;
- (h) ‘relevant authority’ means an authority entrusted with the adoption and/or activation of macroprudential policy measures, including but not limited to:
  - (i) a designated authority in accordance with Chapter 4 of Directive 2013/36/EU and Article 458 of Regulation (EU) No 575/2013, a competent authority as defined in Article 4(1)(40) of Regulation (EU) No 575/2013, the ECB in accordance with Article 9(1) of Regulation (EU) No 1024/2013; or
  - (ii) a macroprudential authority with the objectives, arrangements, powers, accountability requirements and other characteristics set out in Recommendation ESRB/2011/3 of the European Systemic Risk Board <sup>(1)</sup>;

<sup>(1)</sup> Recommendation of the European Systemic Risk Board of 22 December 2011 on the macro-prudential mandate of national authorities (ESRB/2011/3) (OJ C 41, 14.2.2012, p. 1).

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- (i) ‘materiality threshold’ means a quantitative threshold below which an individual financial service provider’s exposure to the identified macroprudential risk in the jurisdiction where the macroprudential policy measure is applied by the activating authority can be considered non-material.

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## 2. Exemptions

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1. The relevant authorities may exempt an individual financial service provider under their jurisdiction from applying a particular reciprocating macroprudential policy measure, if this financial service provider has non-material exposure to the identified macroprudential risk in the jurisdiction, where the relevant activating authority is applying the macroprudential policy measure in question (*de minimis* principle). The relevant authorities are requested to report to the ESRB on such exemptions, using the template for notifying reciprocating measures as published on the ESRB’s website.

For the purpose of applying the *de minimis* principle, the ESRB recommends a materiality threshold based on that proposed by the relevant activating authority pursuant to Section 1, sub-recommendation B(2). The threshold calibration should follow the best practices as established by the ESRB. The materiality threshold is a recommended maximum threshold level. Reciprocating relevant authorities may apply the recommended threshold, set a lower threshold for their jurisdiction where appropriate, or reciprocate the measure without any materiality threshold. When applying the *de minimis* principle, authorities should monitor whether leakages and regulatory arbitrage materialise and close the regulatory loophole where necessary.

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2. If the relevant authorities have already reciprocated and disclosed the measure before the measure is recommended for reciprocation in this Recommendation, the reciprocating measure does not need to be amended even if it differs from the one implemented by the activating authority.

## 3. Timeline and reporting

1. The relevant authorities are requested to report to the ESRB and the Council on the actions they take in response to this Recommendation, or adequately justify any inaction. Reports shall be sent every two years, with the first report due by 30 June 2017. The reports should contain as a minimum:
  - (a) information on the substance and timing of the actions taken;
  - (b) an assessment of the functioning of the actions taken, from the perspective of the objectives of this Recommendation;
  - (c) detailed justification of any exemptions granted pursuant to the *de minimis* principle, together with any inaction or departure from this Recommendation, including any delays.

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2. In the event of shared responsibilities, relevant authorities should coordinate with each other in order to provide the necessary information on time.
3. The relevant authorities are encouraged to inform the ESRB at the earliest opportunity of any proposed macroprudential policy measures.
4. A reciprocating macroprudential policy measure is deemed to be equivalent if it has, insofar as possible:
  - (a) the same economic impact;
  - (b) the same scope of application; and
  - (c) the same consequences (sanctions) for non-compliance.

**▼M3****4. Amendments to the Recommendation**

The General Board will decide when this Recommendation needs to be amended. Such amendments include in particular any additional or modified macroprudential policy measures to be reciprocated as set out in Recommendation C and the related annexes containing measure-specific information, including the materiality threshold provided by the ESRB. The General Board may also extend the deadlines set forth in the previous paragraphs where legislative initiatives are necessary to comply with one or more recommendations. In particular, the General Board may decide to amend this Recommendation following the European Commission's review of the mandatory recognition framework under Union law or on the basis of experience gained with the operation of the voluntary reciprocity arrangement established by this Recommendation.

**▼B****5. Monitoring and assessment**

1. The ESRB Secretariat:
  - (a) assists the relevant authorities by facilitating coordinated reporting, providing relevant templates and detailing where necessary the procedure and the timeline for compliance;
  - (b) verifies compliance by the relevant authorities, including by assisting them at their request, and submits compliance reports to the General Board.
2. The General Board assesses the actions and the justifications reported by the relevant authorities and, where appropriate, decides whether this Recommendation has not been followed and whether the relevant authorities have failed to adequately justify their inaction.

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## ANNEX

**Estonia****1-percent systemic risk buffer rate applied in accordance with Article 133 of Directive 2013/36/EU to the domestic exposures of all credit institutions authorised in Estonia**I. Description of the measure

1. The Estonian measure constitutes a 1-percent systemic risk buffer rate applied in accordance with Article 133 of Directive 2013/36/EU to the domestic exposures of all credit institutions authorised in Estonia.

II. Reciprocation

2. Where Member States have implemented Article 134 of Directive 2013/36/EU in national law, relevant authorities are recommended to reciprocate the Estonian measure for exposures located in Estonia of domestically authorised institutions in accordance with Article 134(1) of Directive 2013/36/EU. For the purposes of this paragraph, the deadline specified in sub-recommendation C(3) applies.
3. Where Member States have not implemented Article 134 of Directive 2013/36/EU in national law, relevant authorities are recommended to reciprocate the Estonian measure for exposures located in Estonia of domestically authorised institutions in accordance with sub-recommendation C(2). Relevant authorities are recommended to adopt the equivalent measure within six months.

**Finland****A credit institution-specific minimum level of 15 % for the average risk-weight on loans secured by a mortgage on housing units in Finland applicable to credit institutions using the internal ratings-based (IRB) approach (hereinafter 'IRB credit institutions') under Article 458(2)(d)(vi) of Regulation (EU) No 575/2013.**I. Description of the measure

1. The Finnish measure, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, consists of a credit institution-specific average risk-weight floor of 15 % for IRB credit institutions, at the portfolio level, for residential mortgage loans secured by housing units in Finland.
2. The measure is complemented by a materiality threshold of EUR 1 billion exposure to the residential mortgage lending market in Finland to steer the potential application of the *de minimis* principle by the reciprocating Member States.

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 Finnish measure and apply it to IRB credit institutions' portfolios of retail mortgage loans secured by housing units in Finland

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issued by domestically authorised branches located in Finland. For the purposes of this paragraph, the deadline specified in sub-recommendation C(3) applies.

4. Relevant authorities are also recommended to reciprocate the Finnish measure and apply it to IRB credit institutions' portfolios of retail mortgage loans secured by housing units in Finland issued directly across borders by credit institutions established in their respective jurisdictions. For the purposes of this paragraph, the deadline specified in sub-recommendation C(3) applies.
5. In accordance 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 effect most equivalent to the above reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU. The relevant authorities are recommended to adopt the equivalent measure within four months.
6. Where there are no IRB credit institutions authorised in other Member States concerned with branches located in Finland or providing financial services directly in Finland, that have exposures of EUR 1 billion or above to the Finnish mortgage market, relevant authorities of the Member States concerned may decide not to reciprocate as provided by Section 2.2.1 of Recommendation ESRB/2015/2. In this case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate when an IRB credit institution exceeds the threshold of EUR 1 billion.

**III. Materiality threshold**

7. In line with Section 2.2.1 of Recommendation ESRB/2015/2, relevant authorities of the Member State concerned may exempt individual IRB credit institutions with non-material portfolios of retail mortgage loans secured by housing units in Finland below the materiality threshold of EUR 1 billion. In this case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate when an IRB credit institution exceeds the threshold of EUR 1 billion.