ESRB
European Systemic Risk Board
European System of Financial Supervision

Assessment Team on national macroprudential measures

Assessment of a measure taken in Norway pursuant to Article 131 of the Capital Requirements Directive which is cumulative with an existing measure pursuant to Article 133

Introduction

On 4 October 2022 the Secretariat of the European Systemic Risk Board (ESRB) received a formal notification from the Norwegian Ministry of Finance of its intention to require certain institutions to maintain a buffer relating to other systemically important institutions (O-SIIs) in accordance with Article 131 of the Capital Requirements Directive (CRD)[1] (the "proposed measure"). More specifically, it is proposed to impose an O-SII buffer of 2% on one bank and 1% on two banks, which is unchanged from the previous setting.

As the sum of the existing systemic risk buffer (SyRB) of 4.5% and the respective O-SII buffers results in a combined rate of above 5% for all three banks, the ESRB is required to provide the EFTA Standing Committee with an opinion in accordance with Article 131(5a) and (15) CRD read in conjunction with Annex IX of the Agreement on the European Economic Area.[2] Following the issuance of the ESRB Opinion, the EFTA Standing Committee shall adopt a decision authorising the setting or resetting of the O-SII buffer rates if it is satisfied that the buffer does not entail disproportionate adverse effects on the whole or parts of the financial system of other European Economic Area (EEA) Contracting Parties, or of the EEA as a whole, forming or creating an obstacle to the proper functioning of the internal market.

On 4 December 2020 the ESRB issued a recommendation stating that the setting of the SyRB rate applicable in Norway was justified, suitable, proportionate, effective and efficient.[3] Given that CRD V was not incorporated into the EEA Agreement until 10 December 2021, the SyRB was set by the Ministry of Finance pursuant to Article 133(11) and (14) CRD IV.[4] The SyRB rate of 4.5% is applied to all domestic exposures in Norway. Banks not using the internal ratings-based (IRB) approach are subject to a reduced rate of 3% until 31 December 2022, as long as they are not systemically important institutions. Following a notification from the Norwegian Ministry of Finance asking for reciprocation of the SyRB, the ESRB recommended the reciprocation of the measure within 18 months following the

[1] **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)**.

[2] **Agreement on the European Economic Area (OJ L 1, 3.1.1994, p. 3)**.

[3] See the ESRB **Recommendation** and **assessment note** of 4 December 2020.

[4] The SyRB that was set provided for a change in the level and scope of an existing national buffer. However, the existing national buffer had not been formally notified pursuant to Article 133 CRD IV, as CRD IV was not made part of the EEA Agreement until 1 January 2020.

publication of the recommendation on 30 April 2021, with a materiality threshold corresponding to about 1% of credit institutions' total risk-weighted exposures in Norway.[5]

The role of the Assessment Team is to prepare a draft opinion on the appropriateness of the macroprudential policy measure of which the ESRB has been notified, with regard to relevant requirements under the CRD, from a macroprudential and financial stability perspective. Pursuant to Article 131(5a) CRD in conjunction with Article 131(15) CRD, taking into account that the O-SII buffers are cumulative with the existing SyRB, the O-SII buffer rate should not entail disproportionate adverse effects on financial stability in other EEA Contracting Parties, or the EEA as a whole, forming or creating an obstacle to the proper functioning of the internal market.

Description of the proposed measure

The proposed measure consists of setting O-SII buffer rates in Norway. It applies to three domestically established Norwegian banks, of which one is a subsidiary of an entity domiciled in Finland. Financial institutions in Norway are identified as O-SIIs when their assets exceed 10% of Norway's gross domestic product (GDP) and/or their total loans exceed 5% of total loans to the private non-financial sector in Norway. As a cross check, Norwegian authorities assessed whether further relevant entities could be designated as O-SIIs on a discretionary basis on the basis of scores calculated under the EBA Guidelines[6].

There is no change in the list of O-SIIs identified or the sizes of the buffers compared to the previous setting of O-SII buffers as notified on 1 June 2021. All three banks subject to O-SII buffers are also subject to the SyRB, which is applicable to all domestic exposures in Norway.

The level of the O-SII buffer is decided according to the following rule: it is set at 2% for institutions with total assets corresponding to at least 20% of Norway's GDP or with a share of total loans to the private non-financial sector of at least 10%. This was the case for DNB, with total assets equivalent to 89.4% of Norway's GDP and a 24.7% share of total loans to the private non-financial sector. The level of the buffer is set at 1% for institutions with total assets corresponding to at least 10% of Norway's GDP or with a share of total loans to the private non-financial sector of at least 5%. This was the case for Kommunalbanken and Nordea Eiendomskreditt, with assets-to-GDP ratios of 14.5% and 9.0%, respectively, and shares of total loans to the private non-financial sector of 5.4% and 5.2%, respectively.

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[5] See ESRB Recommendation of 30 April 2021 (**ESRB/2021/3**). .

[6] **Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10)**, EBA, December 2014. According to the accompanying compliance table, "The Norwegian Ministry of Finance adopted a regulation on the identification of systemically important financial institutions in Norway in May 2014… As a general rule, an institution shall be designated as systemically important if it has total assets corresponding to at least 10 per cent of Mainland Norway's GDP, or a share of the Norwegian lending market of at least 5 per cent… In addition to the two main criteria, the Regulation says that the FSA's advice also shall be based on an assessment of the institution's size, the institution's importance in Norway and other countries, the institution's complexity, the institution's role in the financial system infrastructure and to which degree the institution is interconnected with the rest of the financial system. To enlighten these criteria, the FSA will use the methodology in the EBA Guidelines".

Risks addressed through the proposed measure

The risks leading to the resetting of the O-SII buffers stem from the particularly important role played by systemically important institutions in the Norwegian economy. The aim of the O-SII buffer is to increase the loss-absorbing capacity of the most systemically important institutions in Norway, and thereby reduce financial stability risks stemming from such institutions running into difficulties. There is no change in the O-SIIs identified, the O-SII buffer rates and the resulting cumulative O-SII buffer and SyRB rates. However, at the time when the SyRB and the last O-SII buffer were set, CRD IV was still applicable in Norway. As a result, authorisation for setting the O-SII buffer was not required.

According to Article 133(8) CRD, the SyRB is not to be used to address risks that are covered by the O-SII buffers as detailed in Articles 130 and 131 CRD. Hence, the justifications for the SyRB should be different to those for the O-SII buffers. The risks leading to the activation of the SyRB were detailed in the corresponding notification by the Norwegian authorities. The main indicators used for activating the SyRB were the funding structure of credit institutions, credit institutions' outstanding bond funding by currency, ownership of bonds issued by mortgage companies, composition of credit institutions' lending, Norwegian households' debt burden, the share of Norwegian households with floating mortgage rates, the concentration of credit institutions' lending to the corporate sector by sector breakdown, sector concentration in Norway's GDP, the banking sector's share of domestic credit to the non-financial sector, and total banking sector assets as a percentage of GDP. The Norwegian authorities emphasised that institutions have similar and concentrated exposures, in particular towards Norwegian real estate markets with high real estate prices and high household debt. The institutions are also closely interconnected, inter alia through cross-holdings of covered bonds. While some of the criteria for setting the two buffer requirements are similar, the Assessment Team did not conclude that this could lead to disproportionate adverse effects on the whole or parts of the financial system of other EEA Contracting Parties, or the EEA as a whole, forming or creating an obstacle to the proper functioning of the internal market. In addition, the Norwegian authorities stressed that the calibration of the SyRB was such that the overlap in the methodologies used to set O-SII buffers and the SyRB was taken into account in the calibration of the SyRB.

Effectiveness and proportionality

The Assessment Team assesses the O-SII buffers, taking into account that they are cumulative with the SyRB, as effective and proportional. The aim of the O-SII buffers is to increase the loss-absorbing capacity of the most systemically important institutions in Norway, and thereby reduce financial stability risks stemming from such institutions running into difficulties. Systemically important institutions are particularly important in the Norwegian financial system given their size relative to the size of the Norwegian economy and their shares of the market in loans to the private non-financial sector. The differentiation of the buffer requirements on the basis of the degree of systemic importance of O-SII institutions ensures the proportionality of the measure.[7]

[7] Note that the Norwegian authorities have not (yet) observed any effect in terms of credit supply emanating from the banks affected by the implementation of CRD V (i.e. the three O-SIIs that saw their capital requirements mechanically increase by 1% or 2% with the implementation of CRD V). However, the implementation of CRD V is very recent and it remains to be seen whether this will be the case at a later stage.

The Assessment Team is, however, of the view that some of the risks addressed by the SyRB seem to overlap with the justification for setting the O-SII buffer according to the EBA Guidelines, in which O-SIIs are identified on the basis of mandatory quantitative indicators related to size, interconnectedness, relevance for the economy and complexity.[8] In contrast to the Norwegian application of the EBA Guidelines, the latter include other indicators in addition to those related to size. This could have implications for the reciprocation of the SyRB.

Conclusions

The ESRB is of the view that the proposed measure is appropriate to address the identified risks. It does not entail disproportionate adverse effects on financial stability in Norway or the EU. It is not expected to form or create an obstacle to the proper functioning of the internal market. Nonetheless, the differences between Norway and other jurisdictions in applying the EBA Guidelines on criteria for assessing O-SIIs could have implications for the reciprocation of the SyRB.

[8] See the EBA Guidelines (EBA/GL/2014/10) for more details.