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Targeted consultation on improving the EU's macroprudential framework for the banking sector

Fields marked with * are mandatory.

Introduction

Background of this targeted consultation

With this targeted consultation, the European Commission wishes to consult on the EU's macroprudential framework for the banking sector in view of the legislative review mandated by Article 513 of Regulation (EU) No 575/2013, as amended by Regulation (EU) 2019/876 (hereinafter 'CRR'). The information obtained will feed into the impact assessment for a possible legislative proposal.

The Commission is interested in evidence and substantiated views from a wide range of stakeholders. Contributions are particularly sought from non-governmental organisations representing notably users of financial services, think tanks and academics, national regulators and supervisors, banks and other financial institutions, and EU institutions.

Context and scope of the targeted consultation

The Commission is launching this targeted consultation to gather evidence in the form of relevant stakeholders' views and experience with the current macroprudential rules for banks in line with the better regulation principles and in view of the forthcoming legislative review mandated by Article 513 CRR.

Article 513 CRR requires the Commission to complete a review of the macroprudential provisions in CRR and in Directive 2013/36/EU (hereinafter 'CRD') by June 2022 and, if appropriate, to submit a legislative proposal to the European Parliament and to the Council by December 2022.

Macroprudential policy is the use of primarily prudential tools to limit systemic risk and safeguard financial stability. Systemic risk refers to the risk of a widespread disruption to the provision of financial services caused by an impairment of the financial system or parts of it, and which can have serious negative consequences for the real economy. Macroprudential policy complements microprudential policy, which focuses on the soundness of individual financial institutions. By providing a systemic perspective, it aims to correct externalities that are not tackled by microprudential supervisors who address risks at the level of a single institution. It has clearly defined financial stability objectives, specific instruments and dedicated institutions. Macroprudential policy has been established in the wake of the 2008 Global Financial Crisis.

The macroprudential toolkit for credit institutions (referred to as 'banks' in the remainder of this document), introduced in the Capital Requirements Regulation and Directive (CRR/CRD), is applicable since 2014. The macroprudential framework implements and expands international standards agreed by the Basel Committee on Banking Supervision (BCBS). The main tools are capital buffers, i.e. Common equity Tier 1 (CET1) capital requirements on top of minimum (Pillar 1) and additional (Pillar 2) capital requirements. Capital buffers hence reduce the risk that unexpected losses will result in banks breaching their minimum and additional capital requirements.

The mandate in Article 513 CRR offers the opportunity to review and improve the EU macroprudential provisions applicable to banks. Article 513 CRR envisages a broad scope for the review, requiring the Commission to assess the effectiveness, efficiency and transparency of the macroprudential framework, and listing a number of specific issues to be considered in view of a possible legislative proposal. These issues must be analysed taking into account ongoing discussions at the international level. It is also necessary to take into account the Covid-19 crisis experience, the first time many macroprudential instruments were utilised during a crisis. The Covid-19 shock affected banks' balance sheets far less than typical stress test scenarios, thanks (in part) to the swift and determined fiscal and monetary policy responses to the pandemic, the progress made over the past decade in strengthening the (micro and macro) prudential requirements for banks and the progress made in setting up the Banking Union. However, the crisis did highlight some important macroprudential issues that have been subject to international debate, such as the releasability of buffers and banks' willingness to use them during a crisis. While, the full lessons and consequences of the Covid-19 crisis are still uncertain, the macroprudential review provides a good opportunity to start addressing any gaps or weaknesses in the current framework and reflect on ways to make macroprudential policy more effective in the post-pandemic period and beyond.

The review of the macroprudential provisions in CRR and CRD pursues goals that are distinct from those of the banking package proposed by the Commission on 27 October 2021 to finalise the implementation of the Basel III agreement in the EU. This consultation is being launched after the publication of the banking package proposal, allowing respondents to take into account the likely implications of the package for the macroprudential framework in banking, and in particular the Output Floor, which sets a lower limit ("floor") on the capital requirements ("output") that banks calculate when using their internal models.

Responding to this consultation and follow-up

The Commission has decided to launch a targeted consultation designed to gather evidence on improving on the EU macroprudential framework for the banking sector.

The targeted consultation is divided into four sections:

- Section 1: Overall design and functioning of the buffer framework (Questions 1-4)
- Section 2: Missing or obsolete instruments, reducing complexity (Questions 5-8)
- Section 3: Internal market considerations (Questions 9-13)
- Section 4: Global and emerging risks (Questions 14-16)

Each question focuses on a particular aspect of the macroprudential framework. Respondents are invited to indicate the extent to which they consider that change is necessary regarding this particular aspect and to present their reasoning, as far as possible supported by evidence. If the space for responding is not sufficient, respondents may use links or upload background documents with the required evidence. Respondents are also invited to raise any general or specific observations they have on improving the EU macroprudential framework for banks which were not covered in other sections (Question 17).

The targeted consultation is available in English only and will be open until 18 March 2022.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-macropru@ec.europa.eu.

More information on

- this consultation
- the consultation document
- prudential requirements
- the protection of personal data regime for this consultation

About you

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* Language of my contribution

- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ● English
- ○ Estonian
- ○ Finnish
- ○ French
- ○ German
- ○ Greek
- ○ Hungarian
- ○ Irish
- ○ Italian
- ○ Latvian
- ○ Lithuanian
- ○ Maltese
- ○ Polish

- ( ) Portuguese
- ( ) Romanian
- ( ) Slovak
- ( ) Slovenian
- ( ) Spanish
- ( ) Swedish

* I am giving my contribution as

- ( ) Academic/research institution
- (•) Business association
- ( ) Company/business organisation
- ( ) Consumer organisation
- ( ) EU citizen
- ( ) Environmental organisation
- ( ) Non-EU citizen
- ( ) Non-governmental organisation (NGO)
- ( ) Public authority
- ( ) Trade union
- ( ) Other

* First name

Dag Henning

* Surname

Jacobsen

* Email (this won't be published)

dag.henning.jacobsen@finansnorge.no

* Organisation name

255 character(s) maximum

Finance Norway

* Organisation size

- [ ] Micro (1 to 9 employees)
- [ ] Small (10 to 49 employees)
- [x] Medium (50 to 249 employees)
- [ ] Large (250 or more)

Transparency register number

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Check if your organisation is on the [transparency register](). It's a voluntary database for organisations seeking to influence EU decision-making.

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* Country of origin

Please add your country of origin, or that of your organisation.

- [ ] Afghanistan
- [ ] Åland Islands
- [ ] Albania
- [ ] Algeria
- [ ] American Samoa
- [ ] Andorra
- [ ] Angola
- [ ] Anguilla
- [ ] Antarctica
- [ ] Antigua and Barbuda
- [ ] Argentina
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- [ ] El Salvador
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- [ ] Samoa
- [ ] San Marino
- [ ] São Tomé and Príncipe
- [ ] Saudi Arabia
- [ ] Senegal
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- [ ] Seychelles
- [ ] Sierra Leone
- [ ] Singapore
- [ ] Sint Maarten
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- [ ] Somalia
- [ ] South Africa

Bangladesh	French Southern and Antarctic Lands	Moldova	South Georgia and the South Sandwich Islands
Barbados	Gabon	Monaco	South Korea
Belarus	Georgia	Mongolia	South Sudan
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Benin	Gibraltar	Morocco	Sudan
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Brunei	Haiti	Nigeria	Timor-Leste
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Burkina Faso	Honduras	Norfolk Island	Tokelau
Burundi	Hong Kong	Northern Mariana Islands	Tonga
Cambodia	Hungary	North Korea	Trinidad and Tobago
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- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
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- Lesotho
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- Oman
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- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

* Field of activity or sector (if applicable)

- Accounting

- [ ] Auditing
- [x] Banking
- [ ] Credit rating agencies
- [x] Insurance
- [ ] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [ ] Other
- [ ] Not applicable

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **Fo r the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- ( ) **Anonymous**
  Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
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1. Overall design and functioning of the buffer framework

The comprehensive macroprudential toolkit for banks, introduced following the Global Financial Crisis, is applicable since 2014. The macroprudential framework implements, and expands on international standards agreed by the BCBS. The main tools are capital buffers, i.e. additional Common equity Tier 1 (CET1) capital requirements on top of the Pillar 1 and Pillar 2 requirements that banks need to fulfil to remain a going concern. Capital buffers hence reduce the risk that unexpected losses will result in banks having to be declared failing or likely to fail. They enable banks to absorb losses while maintaining the provision of key services to the economy.

The CRD sets out five capital buffers, which together form the combined buffer requirement (CBR). Four buffers are based on the Basel agreements, while one is EU-specific. The four Basel-defined buffers are:

- capital conservation buffer (CCoB, Art 129 CRD), which is calibrated at 2.5% of the total amount of assets adjusted by the riskiness of these assets (Risk Weighted Assets, RWA), to ensure that banks have an additional layer of usable capital that can be drawn down when losses are incurred;
- countercyclical capital buffer (CCyB, Art 130 CRD), which aims to protect the banking sector from periods of excess aggregate credit growth that have often been associated with the build-up of system-wide risks;
- global systemically important institutions (G-SII) buffer (Art 131 CRD), which aims to reduce the probability of failure of a global systemically important bank by increasing their going-concern loss absorbency capital requirement;
- other systemically important institutions (O-SII) buffer (Art 131 CRD), which aims to reduce the probability of failure of banks that are deemed systemically important at the national level by increasing their going-concern loss absorbency capital requirement.

The EU-specific buffer is the systemic risk buffer (Art 133 CRD), which can be used to address a broad range of systemic risks, which may also stem from exposures to specific sectors, as long as they are not already addressed by the other buffers above.

Each bank has to meet a specific CBR. Unlike a breach of minimum capital requirements, breaching the CBR does not prevent banks from operating as a going concern, but banks breaching their CBR have to restrict distributions in the form of dividends, share buy-backs, coupon payments on additional Tier 1 (AT1) instruments, and discretionary bonus payments, and they will have to submit a capital conservation plan to supervisors.

When faced with a shock, buffers should avoid excessive deleveraging by banks, which could amplify the initial shock to the economy. In the Covid-19 crisis (the first crisis with a macroprudential framework in place), banks have indirectly benefited from unprecedented public support measures to their household and corporate customers; therefore, the shock-absorbing feature of capital buffers has not been tested.

The crisis has triggered a discussion on whether the capital buffer framework is optimally designed not only to provide additional resilience, but also to act counter-cyclically when necessary, including by encouraging banks to maintain their supply of credit during an economic downturn. The review of the macroprudential framework should therefore focus on the best use of buffers in a crisis, covering various aspects:

- Stigma related to Maximum Distributable Amount (MDA) restrictions: Using capital buffers during a crisis (i.e. breaching the combined buffer requirement (CBR)) does not prevent banks from continuing to operate as a going concern, unlike a breach of Pillar 1 minimum capital requirements. However, when operating below their CBR, banks face automatic and graduated (depending on the buffer shortfall) restrictions on distributions, including dividends, bonus payments and coupon payments on Additional Tier 1 instruments. While these payout restrictions are designed to prevent imprudent depletion of capital, they may also incentivise banks to deleverage to avoid such restrictions and market stigma.

- Capital buffer usability: Unlike minimum requirements, capital buffers that have been built-up can in principle be drawn down or released when losses have to be absorbed during times of stress. Capital buffers are only fully usable if they can be depleted without breaching parallel minimum requirements, i.e. the Leverage Ratio (LR) and the Minimum Requirement for own funds and Eligible Liabilities (MREL), including the MREL subordination requirement for certain banks. In practice, parallel prudential and resolution minimum requirements may become binding before capital buffers are fully used and hence may limit banks' ability to sustain lending in situations of economic distress. However, it is also important to bear in mind that the leverage ratio is precisely intended to prevent banks from becoming excessively leveraged. Moreover, reducing overlaps between buffers and other requirements may not be possible without implications for the calibration of overall capital requirements and of requirements in the resolution framework (Bank Recovery and Resolution Directive (BRRD), Single Resolution Mechanism Regulation (SRMR)).

- Balance between structural and releasable buffers: In response to the Covid-19 crisis, responsible authorities reduced and relaxed capital requirements for banks (notably certain buffers) and Pillar-2 Guidance to enhance their lending capacity in the face of a steep rise in liquidity needs of households and businesses. The scope for capital releases from macroprudential buffers was quite limited, though, as only one macroprudential buffer, the CCyB, is explicitly designed to be released in a crisis. The bulk of the capital buffers (i.e. CCoB, G-SII and O-SII buffers and, to a lesser extent, SyRBs) are of a structural nature and should be in place at all times or for as long as a particular type of risk is present. As there are concerns that banks might prefer to deleverage rather than allow their capital to fall below the CBR, there are calls for making a larger share of buffers releasable in a crisis. One option that is being widely discussed is a positive neutral CCyB rate, i.e. a CCyB calibration that would be above zero even in the absence of a credit boom. A key question in that regard is whether a positive CCyB rate over the cycle should (and could) be achieved without an increase in the overall level of capital requirements.

- Procyclicality in risk weights: Capital buffer requirements are expressed in percentages of risk-weighted assets, so the amount of capital needed to meet a given combined buffer requirement depends on the level of risk weights. This is an issue for banks using internal models to calculate risk weights for their various exposures, but it may also affect banks using the standardised approach to the extent that they rely on external ratings. Rising credit losses caused by an economic shock may drive up risk weights (or lower external ratings), increasing the amount of risk-weighted assets held by banks and, hence, the amount of capital they need to meet their buffer requirements, which are expressed as percentages of risk-weighted assets. This phenomenon has not been observed in the current crisis as public support measures have kept loan defaults at a low level. However, in a different crisis with rapidly rising loan defaults, rising risk weights could accelerate the depletion of capital buffers and cause banks to behave pro-cyclically. This could also be an important aspect of how the buffer framework operates in a crisis, although the impact of risk weight variations over the cycle can be expected to be mitigated by the Output Floor.

- Banks' willingness to use their buffers will also depend on their expectations as regards the restoration and replenishment of buffers after a shock. They will be more reluctant to lend if they know that their capital requirements will quickly increase. This depends on how MDA restrictions and capital conservation rules as laid down in Art. 141 to 142 CRD are applied and how soon released/reduced buffers are restored to their previous levels

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Apart from the operation of the buffer framework over the cycle, its suitability for dealing with structural risks should also be reviewed. Particular attention should be given to the appropriateness of capital buffers for systemically important institutions, global (G-SIIs) and other (O-SIIs). Together, these institutions are the main providers of credit to households and firms in Member States and, as such, vital to economic performance. At the same time, the integration of G-SIIs and O-SIIs in increasingly complex financial systems makes them vulnerable to financial shocks occurring outside the banking sector and may create potential contagion channels for financial instability (see section 4 for the global contagion risks). In addition to specific buffer requirements (G-SII buffer), G-SIIs have to comply with tighter limits on their leverage ratio, the leverage ratio buffer. Such a leverage ratio buffer requirement does not exist for O-SIIs. Art. 513(e) CRR requires the Commission to consider whether the leverage ratio buffer requirement should also apply to O-SIIs.

Another primarily structural buffer is the SyRB. Its use has been made much more flexible recently (through the 2019 amendments to CRD, which became applicable at the end of 2020), allowing its application to sectoral exposures (or subsets thereof); at the same time, the restriction to apply it only to structural risks was removed. SyRBs, in particular sectoral SyRBs, are not yet widely used. They have been considered as a possible substitute for risk weight measures in accordance with Art. 458 CRR, which exist in several Member States. The calibration of a sectoral SyRB would have to be very high to address macroprudential risks that are not fully reflected in risk weights, as those low risk weights would also imply lower capital requirements for a given buffer rate. High calibrations would also imply more complex authorization procedures.

Having several different types of buffers introduces a degree of complexity in the macroprudential framework. This complexity may be unavoidable in the EU in view of (i) the flexibility that is needed to address a wide range of different systemic risks across different Member States, and, (ii) the existing decentralised governance of the EU macroprudential framework in banking. However, it may be useful to consider whether this complexity could be reduced or whether clearer guidance would be needed to ensure a consistent use of the buffer framework across Member States.

1.1. Assessment of the buffer framework

Question 1. Has the capital buffer framework been effective so far in providing sufficient resilience against all types of systemic risks in Member States and for different types of banks and exposures?

- ○ 1 - Highly ineffective
- ● 2 - Ineffective
- ○ 3 - Neutral
- ○ 4 - Effective
- ○ 5 - Highly effective
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 1, considering not only overall resilience, but also the interactions of the individual components of the capital buffer framework (i.e. CCoB, CCyB, G-SII, O-SII and SyRB buffers); is it sufficiently clear which buffer is to be used to address which risk?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our answer to the question above reflects an assessment in which the overall framework provides more than sufficient resilience but also an excess flexibility where risks can be counted more than once resulting in a lack of transparency.

Although the purpose of each capital buffer apparently seems clear, the distinction between structural systemic risks and cyclical systemic risks is in practice not always straightforward or possible to identify. This could lead to an overlapping coverage of the same risk.

In order to highlight the (excess) flexibility in the macroprudential framework, Finance Norway here provides an overview of applied measures in Norway, which will also be referred to in the answers to subsequent questions. An overview of the various applied measures intended to mitigate financial system vulnerabilities has also been displayed in the latest report on financial stability from the Norges Bank (central bank), cf. pages 64-65 in the report.

In Norway, the general SyRB requirement will be 4.5 percent (domestic exposures) from year-end 2022 (already implemented for systemically important institutions and A-IRB banks) and the designated authority has stated that the CCyB will return to 2.5 percent. The sum of the two buffers will thus be a requirement at 7 percent that covers cyclical and structural systemic risks, and the buffers various justifications are to a large extent the same or at least closely related, with references to trends in real estate prices (residential and commercial), the household debt burden and banks' overall exposures to real estate.

Norwegian banks' (for their domestic exposures) will therefore be imposed a general combined buffer requirement (CBR) at 9.5 percent, with the addition of O-SII buffer requirements for a few institutions identified as systemically important. The largest Norwegian bank will for instance have to fulfill a CBR at 11.5 percent (for domestic exposures). Although not part of the macroprudential toolkit, Pillar 2 requirements are also important for overall requirements, and both the P2R and the P2G can have justifications adjacent to or partly overlapping with macroprudential tools. The former can partly reflect concentration risk related to real estate exposures and the latter will (largely) be based on macroeconomic stress tests that typically comprises scenarios with falling real estate prices as an important driver for test results.

Moreover, in Norway one has also made use of CRR art. 124, implying that the risk weight for SA banks' exposures on commercial immovable property is 100 percent, and also CRR art. 164, implying that the exposure weighted average LGD for all retail exposures secured by residential property (and not benefiting from guarantees from central governments) shall not be lower than 20 percent. In addition, and based on CRR art. 458, floors for average IRB risk weights have been imposed, at 20 percent for exposures secured by mortgages on residential property and 35 percent for exposures secured by mortgages on commercial immovable property.

On top of the comprehensive use of national discretions in CRR regarding risk parameters and risk weights, the Norwegian FSA has recently, in a circular, put forward several requirements to the IRB approach that Finance Norway views as inconsistent with certain CRR provisions and relevant guidelines and standards developed by the EBA. As an illustrative example, CRR art. 163 states that for retail exposures the probability of default (PD) of individual exposures shall be at least 0.03 percent while the circular states that for exposures secured by residential real estate the PD shall be at least 0.2 percent.

Furthermore, there is also an extensive application of borrower-based measures. The measures include, inter alia, requirements to borrowers' LTV (cannot exceed 85%), loan amortisation requirements, stress test of debt-servicing capacity (one needs to make allowance for an interest rate increase of 5 percentage points) and a debt-to-income requirement (total debt cannot exceed five times gross income).

In conclusion, the Norwegian application of macroprudential tools both demonstrates the significant amount of national discretion in the overall macroprudential framework and highlights the regulatory risk of a multiple counting of the same type of (mainly credit) risk.

The Norwegian application can hardly be characterised as an "inaction bias", which the Commission points to as a general concern, and it also directs attention to the question whether the sum of requirements correctly reflects actual risk. Finance Norway is of the view that relative to other jurisdictions in the EU/EEA, the sum of measures in Norway is calibrated at a higher or stricter level for comparable risk. Accordingly, the Norwegian case illustrates the need for developing the macroprudential framework in a way that ensures a more harmonised approac across the EU/EEA.

Question 2. Has the capital buffer framework been effective in dampening financial or economic cycles in Member States?

- 1 - Highly ineffective
- 2 - Ineffective
- [x] 3 - Neutral
- 4 - Effective
- 5 - Highly effective
- Don’t know / no opinion / not applicable

Please explain your answer to question 2, considering in particular the experience to date with the calibration of buffers during phases of economic growth and rising vulnerabilities, and the use of buffers after an economic /financial shock; do you see any impediments to the intended use of buffers both during upswing and downswing phases?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Norwegian data, and research applying Norwegian data, indicate that the quite rapid and substantial increase in capital requirements, following the first part of the Basel III reform, and which by Norwegian authorities was to a large extent justified by high real estate prices and an elevated household debt burden (cf. answer to question 1), contributed to effects by and large the exact opposite of national regulators' desired purpose.

Juelsrud and Getz Wold (Journal of Financial Intermediation, 2020) have documented that the Basel III capital requirements increase caused a portfolio rebalancing effect in Norwegian banks with a substantial decline in lending to the corporate sector relative to the household sector. The results suggest that lending to households was generally unaffected by the increase in capital requirements while the corresponding reduction in corporate credit supply was found to reduce employment growth for affected firms. Firms which borrowed from low-capitalised banks prior to the reform had lower employment growth than other firms following the reform, and the employment effect was driven by small firms.

That said, it is Finance Norway's view that the reduction of the CBR (by 1.5 percentage points, as the CCyB was lowered from 2.5% to 1%), at the outset of the pandemic, was a more successful policy, although the mechanism in which banks dip into the CBR, and draw on CET1 that fulfils the CBR, was not tested. Norwegian banks had in general a positive profitability during the crisis, so the first line of defence turned out to be (more than) sufficient even in this crisis which caused the most pronounced economic downturn in the Norwegian economy since WW2.

Still, the uncertainty at the onset of the crisis was massive, and the CBR reduction served as an important signal to banks, as it provided confidence in the government’s willingness to act. This perception was also underpinned by expansionary fiscal and monetary policy which contributed to stabilise lending practices and to avoid a sharp credit contraction. More specifically, the regulatory change that increased the distance to the MDA trigger had in our view a very positive effect in a situation with enormous uncertainty, and that was probably well understood by the designated authority, while the competent authority (Norwegian FSA) argued against a reduction in the CBR (CCyB) at that point in time.

If the crisis had become even more severe, the CCyB could have been released entirely and hence the CBR would have been further lowered. Moreover, in the spring of 2020, all Norwegian banks had to fulfil a SyRB requirement (all exposures) at 3%. Hence, there was also scope for a further reduction in the CBR through a lowered SyRB although the latter has not as such been designed as time varying.

The Commission points to the fact that capital buffers are only fully usable if they can be depleted without breaching parallel minimum requirements, i.e. the Leverage Ratio (LR) and the Minimum Requirement for own funds and Eligible Liabilities (MREL), including the MREL subordination requirement for certain banks.

The central bank (Norges Bank) has recently performed calculations for the largest Norwegian banks, which highlight that a number of banks only to a certain extent can breach the CBR without breaching MREL, implying that, in this regard, it is primarily the MREL that could pose a challenge (for Norwegian banks) and not the LR. Moreover, if the CCyB and other buffer requirements (cf. the SyRB) are reduced, the MREL will be reduced correspondingly. In other words, the analysis can indicate that if buffer capital shall function as intended in a severe downturn, a significant reduction in the CBR could be a necessary precondition.

Hence, Finance Norway is of the view that the balance between the structural and time-varying buffers should be reconsidered, with increased weight on the latter. That would likely significantly curb the challenge in which the MREL prevent the CBR from functioning as intended. It could also, in this regard, be useful with clarification on how the flexibility to dip into the CBR shall be viewed in the context of the subordination requirements of the BRRD2, ref. art. 45b (4) and 45b (7).

Question 3. How well is the systemic importance of banks addressed by G-SII and O-SII capital buffer requirements?

- ○ 1 - Very poorly
- ○ 2 - Poorly
- ● 3 - Neutral
- ○ 4 - Well
- ○ 5 - Very well
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 3, considering in particular whether G-SII and O-SII buffer requirements are appropriate and coherent, also across countries, in view of their market shares, activities, market conditions, advances in setting up the Banking Union, and the risk their failure would pose to financial stability.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Three Norwegian institutions are currently identified as systemically important at a national level, in which the relevant O-SII buffer requirement for two of them is 1% and for one the requirement is 2%. Finance Norway is of the view that these requirements are definitively sufficient with respect to the affiliated risk, and at high level when compared to buffer requirements for European banks that are globally systemically important, in which the G-SII buffer range is 1-1.5%.

As pointed out in the answer to question 1, Norwegian banks must also fulfil a SyRB for structural systemic risks at 4.5%, so the subset of the CBR that is directed towards structural risks for systemically important banks in Norway is very high compared to both European peers (O-SIIs) and those who are globally systemically important.

For a more harmonised and consistent calibration of buffer requirements for systemic importance, a development of binding standards should be considered.

1.2. Possible improvements of the buffer framework

Question 4. What changes would improve the current buffer framework and what would be, in your view, the pros and cons of these changes?

Question 4.1 Enhanced clarity of the buffer framework:

Consider whether there is scope for simplifying/streamlining the buffer framework or providing better guidance on how to use it.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The amount of national flexibility is overly extensive and enables an excessive use of macroprudential measures causing unjustified differences between countries. The current buffer framework is also too complex, and when combined with significant national discretion the outcome is an opaque buffer application across jurisdictions with undue disparities. Nordic experiences indicate that this has complicated the matter of reciprocity (when this is voluntary). Therefore, amendments should be implemented with the objective of a tighter and simpler framework that promotes a Single Rulebook, supports a level playing field and preserves the integrity of the internal market.

Although the macroprudential framework should maintain leeway as risk will vary, both over time and across jurisdictions, more constricted ranges for some of the buffer requirements should be put in place, particularly for those aimed at structural systemic risks (SyRB and O-SII). Also, the calibration of buffers should rely on firmer criteria. A clear reduction in the range of structural buffers can be offset by a certain increase in the CCyB range (subject to mandatory reciprocity), which could improve the functioning of buffer capital in severe downturns.

In situations in which a regulator considers it necessary to raise a requirement above a normal range /threshold, this should trigger strict procedural requirements and rely on approval from an EU body, possibly the Commission based on opinions from both the EBA and the ESRB. Moreover, reciprocity should in general be mandatory (not voluntary) and the general principle should be full reciprocity (not based on materiality thresholds).

Furthermore, removing measures that target risk weights and parameters from the macroprudential toolbox would reduce the problem of overlapping requirements, cf. the answer to question 4.4. And notwithstanding the fact that macroprudential Pillar 1 requirements and Pillar 2 requirements should not overlap, the introduction of the Pillar 2 Guidance (P2G) could entail such challenges. The Competent Authority’s significant discretion to set the P2G, generally based on stress tests, imply that it could in practise become a macroprudential tool. The leeway surrounding the P2G should be narrowed, and tighter guidelines or standards should be developed to ensure a harmonised approach across the EU/EEA. The flexibility that follows from current EBA guidelines is too extensive and likely provides an unintended leeway in which the P2G can be used to raise general capital requirements. Moreover, the P2G should be a sufficiently soft requirement so that banks do not have to hold a buffer on top of the P2G.

Another issue is the automatic restrictions that apply when a bank does not fulfil the CBR (cf. CRD art. 141). In particular, Finance Norway considers that restrictions on coupons related to Additional Tier 1 (AT1) instruments should be reconsidered. We believe the much discussed market stigma of breaching the CBR (and consequently MDA trigger) is unproportionally impacted by this restriction. One reason may be that coupons, if not allowed to be paid, are lost indefinitely whereas dividend can be paid at a later stage when the capitalisation is strengthened. While the AT1 is a relatively small slice of the capital stack, not being able to pay coupons can have long-lasting consequences for banks standing in the capital markets. Alternative MDA mechanisms for AT1s or more releasable buffers (lowering the CBR) are possible options to mitigate this issue.

In conclusion, Finance Norway is of the view that there is abundant scope for streamlining the framework and improving the guidance, and we would particularly point to the current risk of an overlap between instruments. The application of various macroprudential measures should be more constricted by control mechanisms (stricter procedural requirements) at EU/EEA level while also the application of the P2G should be monitored by an EU body.

Question 4.2 Releasable buffers:

Consider in particular whether an increase of releasable buffers could be achieved in a capital-neutral way over the cycle, the circumstances and conditions under which buffers should be released and what coordination/governance arrangements should be in place.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A capital-neutral increase of releasable buffers could be achieved by explicitly defining structural buffers as releasable/decreasable, and the CCyB range (subject to mandatory reciprocity) could be increased provided a corresponding reduction in the range of structural buffers.

Predefining the exact circumstances and conditions for a release or reduction in buffers could involve unintentional rigidity and consequences as the cause and nature of adverse shocks can vary substantially. As an example, the Covid 19 pandemic was associated with extreme uncertainty at the outset, and a reduction in the CBR was expedient, even though defaults and losses turned out to be quite modest or low in several economies. Predefining certain trigger variables and thresholds for a reduction in buffer requirements may therefore not in general be appropriate. If such variables/indicators and thresholds are defined, then they should be part of a non-binding guideline.

Question 4.3 Buffer management after a capital depletion:

How can capital buffers be restored/replenished after an adverse shock in such a way that banks will provide sufficient lending in the recovery? In that regard, is there scope for optimising the MDA restrictions and capital conservation rules as laid down in Articles 141 to 142 CRD?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

An increase of the CBR must be assessed on the background of both the pace and strength of the general recovery and banks' capital adequacy following an adverse shock. A slow recovery and capital adequacies close to requirements (before an increase in the CBR) should warrant a careful and very gradual rise in the CBR.

Naturally, banks are forward looking, and if, at the outset of a crisis, it is broadly expected that buffer requirements will be rapidly increased when the outlook improves, then banks will also be more inclined to cut back on lending as a response to the crisis even if the CBR is significantly reduced. The regulator's communication of (and actual) determination of the buffer requirements, in a recovery after a pronounced downturn, is therefore crucial as to whether buffer capital will generally function as intended. In other words, the regulator's own (communicated) behavior can influence whether the buffer framework will curb or amplify shocks.

Question 4.4 Overlap between capital buffers and minimum requirements:
How important is it to reduce the overlap between capital buffers and other requirements, and how could this be achieved without unduly raising overall capital requirements and having to re-open the composition of the leverage-ratio based "capital stack" and the calibration of the MREL based on the total exposure measure and the MREL subordination requirement?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It is important to reduce or preferably eliminate the overlap between requirements. Finance Norway will especially highlight the problematic issue that follows from macroprudential tools affecting the risk exposure amount, cf. CRR art. 124, art. 164 and art. 458, that raises both minimum requirements and capital buffers in nominal terms, and the separate capital buffer requirements that can overlap with these measures. Hence, if the macroprudential toolkit only comprised buffer requirements the potential and problematic overlap would be greatly reduced.

Moreover, with the introduction of the output floor (and tightened input floors) implemented as a backstop to the IRB-measured REA, current macroprudential tools that target certain IRB risk weights and parameters become redundant. The Leverage ratio also serves as a backstop to risk-based requirements, and the current complexity in the framework should be reduced.

Hence, a macroprudential toolbox that consists of buffer requirements in combination with fully harmonised measures of the risk exposure amount would significantly curb the problem of overlapping requirements. Additionally, the comparability of banks' capital adequacy would be highly improved and strengthen investors' ability to price risk relatively and consequently also enhance allocation of capital.

Question 4.5 Consistent treatment of G-SIIs and O-SIIs within and across countries:
Should there be more EU-level guidance or binding rules on the identification of O-SIIs and the calibration of O-SII buffers? Should the leverage ratio buffer requirement for G-SIIs also apply to O-SIIs?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Finance Norway supports developments of binding rules that promote a consistent treatment of G-SIIs and O-SIIs, in which the relevant buffer requirements are calibrated correctly according to actual risk, both within and across jurisdictions. Guidelines are in general insufficient to ensure a level playing field and a consistent application across jurisdictions in line with the Single Rulebook.

Question 4.6 Application of the SyRB to sectoral exposures:

Are the thresholds for opinions and authorisations appropriate for sectoral SyRB rates (and for the sum of G/O-SII and SyRB rates)? Should the combined SyRB rate be calculated as a percentage of total risk exposure amounts and not sectoral risk exposure amounts? How should sectoral risk exposure amounts be calculated after the introduction of the output floor?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Finance Norway will here direct attention towards the general need for a harmonised approach regarding the calculation and reporting of an institution-specific SyRB, which is relevant in the case of reciprocity, cf. the current method for calculating the institution-specific CCyB. A method for the calculation of an institution-specific SyRB must not only reflect the variation of SyRB rates across jurisdictions but also that the exposures subject to the requirement can vary across states (cf. the increased SyRB flexibility following CRD5).

2. Missing or obsolete instruments, reducing complexity

The EU has a broad and complex range of macroprudential tools. One of the questions to be assessed in the review is whether certain existing tools have become obsolete, whether some need to be strengthened and whether certain tools are missing. The scope for reducing unwarranted complexity should also be explored.

The Commission is required to assess in particular whether Borrower-Based Measures (BBM) should be added to the EU macroprudential toolkit to complement capital-based instruments and to allow for the harmonised use of these instruments in the internal market, assessing also whether harmonised definitions of those instruments and the reporting of respective data at Union level are a prerequisite for the introduction of such instruments (Article 513(1)(d) CRR). BBM could complement the existing toolset to address and mitigate systemic risks, especially those related to real estate, and to prevent the potential negative spill-overs to the broader financial system and the economy. While several Member States are already using BBM based on national law, a complete set of BBM is not available in all Member States. This could affect the ability to address systemic risk and create cross-country inconsistencies and difficulties with reciprocity, where this is necessary to ensure the effectiveness of BBM in the internal market.

The review should also seek to identify instruments that may be obsolete. The finalisation of the Basel III reforms and the introduction of an output floor has implications for macroprudential instruments that directly or indirectly affect risk weights such as those provided under Articles 124, 164 and 458 CRR, which concern exposures secured by mortgages. Furthermore, having multiple prudential tools that can target similar risks creates unwarranted complexity and may contribute to a more fragmented internal market. The powers to set floors for, or raise, certain risk weights and parameters (as set out in Articles 124 and 164 CRR) have not been widely used since their introduction in the EU framework. In particular, Article 164 CRR has never been used by an EU Member States. Some of the shortcomings of the two articles have been addressed in CRRII, with the aim of improving their usability. While the very short time span since the improved articles have been applicable does not allow to conclude on their actual usability, it does make sense to reassess their suitability in view of the introduction of the output floor with the finalisation of the Basel III reforms.

With Article 458 CRR, the CRR and CRD package contains a last-resort measure to flexibly address a number of systemic risks that cannot be adequately and effectively addressed by other macroprudential tools in the package. The use of the tool is subject to various safeguards, aimed at avoiding that such measures create disproportionate obstacles to the functioning of the internal market. During the past years, Article 458 CRR has been used by some Member States to adjust risk weights for exposures to residential real estate markets. The need for such measures may diminish, given that the SyRB can be used for sectoral exposures and due to the phasing-in of the output floor.

Article 459 CRR empowers the Commission under very restrictive conditions to impose stricter prudential requirements for a period of one year in response to changes in the intensity of micro- or macroprudential risks. However, scenarios where the conditions for using this article would be met are very unlikely. Moreover, the Article could become more symmetric and allow for the temporary relaxation of certain requirements, notably to support the recovery after an adverse shock.

One measure that could have made sense in the context of the Covid crisis would be the temporary imposition of system-wide restrictions on the distribution of capital to investors and staff in the face of exceptional uncertainty. However, such a measure would not have been covered by Article 459. During the Covid-19 pandemic, authorities in the EU asked banks to refrain from capital distributions, through dividends, share repurchases and bonuses, to ensure the stability and resilience of the banking system and to support the flow of credit to the real economy. Those recommendations aimed at retaining capital in the banking system, including capital released from buffers and from Pillar 2. The recommendations were observed by banks. EU legislation currently only allows supervisors to impose legally binding distribution restrictions on banks on a case-by-case basis but does not provide for legally binding supervisory powers to temporarily prohibit distributions on a system-wide basis under exceptional circumstances. Microprudential supervisors consider that they had sufficient powers to enforce the recommendation on distribution restrictions in the Covid-19 crisis. However, in the context of the macroprudential review, the role of macroprudential authorities in imposing restrictions on distributions in exceptional circumstances should also be considered, as well as their coordination at the European level.

2.1 Assessment of the current macroprudential toolkit and its use

Question 5. Based on the experience so far, have you observed any major gaps in the EU macroprudential toolkit (also beyond the buffer framework)?

- ○ 1 - Major gaps
- ○ 2 - Minor gaps
- ○ 3 - Neutral
- ● 4 - Comprehensive
- ○ 5 - Fully comprehensive
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 5, indicating which gaps you perceived and what consequences these gaps have or might have had:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As outlined in the answer to question 1, the primary challenge is not a lack of macroprudential instruments but that the framework enables an excessive application of measures resulting in unjustified disparities across EU/EEA states. The amount of national flexibility should be more limited, and the most major gap is the lack of mandatory reciprocity surrounding many of the instruments, see also the answer to question 11.

Question 6. Has the experience with the macroprudential toolkit so far revealed any redundant instruments or instruments that need to be redesigned to make them fit for purpose?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not applicable

Please explain your answer to question 6, specifying which instruments could be redundant or would need to be redesigned, as well as the expected benefits thereof:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See the various answers to questions in section 1.2 and in particular to question 4.4. See also the answer to question 8.4. Macroprudential tools that target certain risk weights or underlying parameters are redundant due to the increased flexibility surrounding the SyRB (cf. CRD5) and the forthcoming output floor and input floors (cf. finalised Basel III standards).

Question 7. How effective has the macroprudential toolkit and EU governance framework been in managing a crisis?

- ( ) 1 - Highly ineffective
- ( ) 2 - Ineffective
- ( ) 3 - Neutral
- (x) 4 - Effective
- ( ) 5 - Highly effective
- ( ) Don’t know / no opinion / not applicable

Please explain your answer to question 7, notably in light of the experience gained during the Covid-19 crisis:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See the answer to question 2 where Finance Norway provides some assessments of the crisis management following outbreak of the pandemic. The mechanism of automatic distribution restrictions when banks dip into the CBR was not tested in Norway, but the reduction of the CBR and a transitory relaxation of BBM-requirements, in combination with expansionary monetary and fiscal policy, contributed to restrain adverse effects.

2.2 Possible improvements of the buffer framework

Question 8. What changes to the current set of instruments would improve the macroprudential toolkit and what would be, in your view, the pros and cons of these changes?

Question 8.1 Borrower-based measures:

Should all Member States have a common minimum set of borrower-based measures to target more directly potentially unsustainable borrowing by households and corporates, particularly in a low-interest-rate environment? Which tools should Member States have and what role should EU bodies play in fostering their effective use?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In general, Finance Norway supports a harmonised regulation that preserves the integrity of the internal market and ensures a level playing field. Still, concerning borrower-based measures several quite deep and structural credit market differences exist across EU/EEA-states, even amid the Nordics, comprising among other household real income levels, compensation levels in the case of unemployment, loan maturities, the prevalence of principal repayments and shares of floating vs. fixed interest rates.

A common set of borrower-based measures can hardly reflect the various structural differences, and if applied would likely entail unintended consequences. Nevertheless, it is of utmost importance that such measures, when implemented in a jurisdiction, apply equally to both domestic banks and foreign branches in the same market. An EU body could have a role in fostering and overseeing a level playing field in such cases.

Question 8.2 System-wide distributions restrictions:

Should EU and/or national authorities have the power to restrict distributions for the entire banking system to conserve capital in a severe crisis situation? Under which conditions and how should such system-wide restrictions be used, taking also into account the role of European bodies?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Distributions during (part of) the pandemic were effectively restricted and in Norway communicated as an expectation to banks from the designated authority. Such a restriction is not unproblematic as it undermines the mechanism of automatic distribution restrictions (MDA) if banks dip into the CBR. Maintaining a certain level of distributions can also be an important measure for banks to inform investors and markets.

Yet, in extraordinary crisis situations, in which capital buffers are released, one can likely expect an approach from regulators similar to the application of distribution restrictions during the pandemic. In such cases, an attempt to restrict distributions through regulators' expectations to banks could entail a somewhat varying degree of compliance, that weakens a level playing field, implying that a restriction implemented through a regulation may be preferable.

Question 8.3 Temporary relaxation of prudential requirements to support the recovery after a shock:

Should EU and/or national authorities have more powers to relax prudential requirements after banks have suffered a shock, to avoid pro-cyclical behaviour and enhance banks' capacity to support the recovery? What elements of the prudential framework could be addressed using such powers (e.g. unwarranted risk weight hikes after a shock)? Could Art. 459 CRR be adapted for this purpose?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated in the answer to question 4.2, one should consider to explicitly define structural buffers such as the SyRB as releasable/reducible. See also answer to question 4.3 regarding the setting of buffers in a recovery.

Question 8.4 Instruments targeting risk weights and internal model parameters:

How will the forthcoming application of the input and output floors under the Basel III agreements affect the need for tools that adjust risk weights or the parameters of internal models (Art. 124, 164 and 458 CRR)? Are such tools still necessary and, if yes, how should they be adapted to the new regulatory environment?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As pointed out in the answer to question 4.4, risk weights and underlying parameters should only be based on fully harmonised methods that promotes comparability of banks' risk exposure amounts across jurisdictions. Hence, measures such as those currently embedded in CRR art. 124, art. 164 and art. 458 should be entirely removed from the macroprudential toolkit, and the latter should merely comprise buffer requirements. Both the increased SyRB flexibility and the forthcoming output floor and input floors (cf. finalised Basel III) facilitate such an amendment. Model weaknesses and unwarranted risk weight disparities should be addressed through other means than macroprudential tools.

3. Internal market considerations

The EU macroprudential framework also seeks to preserve the integrity of the internal market while leaving it mostly to Member State authorities to adequately address systemic risks, which tend to be specific to individual Member States (although this may change with deeper economic and financial integration). The largely decentralised use of macroprudential instruments is therefore framed by provisions in CRR and CRD, which require an EU-level surveillance and, in some cases, authorisations for measures that could create obstacles to the functioning of the internal market. The complexity of procedures and of the interactions between different instruments may, however, prevent authorities from making an effective use of the instrument and possibly cause an inaction bias, especially in the case of sectoral SyRBs that may need to be calibrated at very high rates to be effective.

Moreover, the effectiveness of national macroprudential measures in the internal market depends on being able to prevent, through reciprocation by other Member States, circumvention and regulatory arbitrage. This issue may arise not only in relation to other Member States, but possibly also for other parts of the financial sector to the extent that they can provide similar services as banks. It is important to assess, also in light of the recent crisis experience, whether the current framework offers not only the appropriate macroprudential tools to national authorities, but also ensures their effectiveness in the internal market, and whether it provides for adequate safeguards for the integrity of the internal market and avoids market fragmentation especially within the Banking Union. The review should therefore also consider whether provisions related to the internal market achieve their goals, and whether they do so without undue complexity or whether there is scope for simplifying and streamlining procedures while maintaining necessary safeguards.

Art. 513(1)(f) CRR requires an assessment as to whether the current voluntary reciprocation of certain macroprudential measures should be made mandatory and whether the current ESRB framework for voluntary reciprocity is an appropriate basis for that. Reciprocity is currently voluntary for a CCyB above 2.5%, SyRBs and measures taken under Article 458 CRR.

3.1 Assessment of the current macroprudential framework's functioning in the internal market

Question 9. Are macroprudential measures as used by national authorities generally commensurate with systemic risks in a given country, or do you consider that there are unjustified disparities across countries?

- (x) 1 - Highly disparate
- ( ) 2 - Disparate
- ( ) 3 - Neutral
- ( ) 4 - Commensurate
- ( ) 5 - Highly commensurate
- ( ) Don't know / no opinion / not applicable

Please explain your answer to question 9, providing supportive evidence on possible disparities and their likely impact on the internal market:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The (forthcoming) combination of a SyRB at 4.5 percent and a CCyB at 2.5 percent in Norway, with the addition of several other implemented macroprudential measures (cf. answer to question 1), should theoretically imply a substantially higher risk level in Norway compared to other EU/EEA states if the sum of the measures were to be commensurate with actual cyclical and structural systemic and macro risks.

Although central risk factors, such as high real estate prices and a high household debt burden, indicate elevated risk, both the Norwegian economy and the financial industry have been quite robust to the various substantial shocks that have occurred during the past 15 years, i.e., the global financial crisis, the oil price fall in 2014 and the recent pandemic. The financial crisis posed for instance primarily a liquidity challenge for Norwegian banks due to global disturbances. During these crises, Norwegian banks' loan losses have been moderate and price reductions in real estate markets have been limited. Overall, the negative consequences of various adverse shocks have been quite restrained when compared to the general outcome in several other states in the EU/EEA.

Finance Norway is not of the view that the Norwegian economy and financial system is absent of systemic and macro risks, but questions that the sum of macroprudential measures corresponds to actual risks when compared to experiences in other countries and the macroprudential policy stance throughout the EU/EEA. Obviously, substantial discrepancies in the policy stance across jurisdictions for comparable risk («risk-adjusted policy») contributes to a fragmentation of the internal market.

Question 10. Has the oversight of national macroprudential policies through notification, assessment and authorisation procedures been proportionate and effective in preventing an excessive use of macroprudential tools and undue market fragmentation?

- ○ 1 - Highly ineffective
- ● 2 - Ineffective
- ○ 3 - Neutral
- ○ 4 - Effective
- ○ 5 - Highly effective
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 10, taking also into account the complexity of procedures and related administrative burdens for authorities and the industry and whether you see scope for streamlining and simplifying the procedures, while retaining necessary safeguards:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As pointed to above (cf. inter alia the answer to question 9), it is Finance Norway’s assessment that there are examples of an excessive application of measures, and procedural requirements have therefore not prevented undue market fragmentation. Hence, further streamlining and amendments of procedural requirements should be implemented to enforce a harmonised approach and a level playing field (cf. answer to question 4).

Question 11. Have the provisions on reciprocation been effective in maintaining a level playing field in the banking sector and preventing the circumvention of national macroprudential measures through regulatory arbitrage?

- ○ 1 - Highly ineffective
- ● 2 - Ineffective
- ○ 3 - Neutral

- 4 - Effective
- 5 - Highly effective
- Don’t know / no opinion / not applicable

Please explain your answer to question 11, indicating notably whether you would see merit in extending the mandatory reciprocation framework to the instruments not currently covered by it:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The general principle should be mandatory and full reciprocation, i.e., without threshold values. For the same risk a given macroprudential measure should concurrently take effect for both domestic banks and foreign branches, in line with the existing mandatory reciprocity arrangement for the CCyB (for a rate up to 2.5%). Moreover, the Norwegian case demonstrates that a materiality threshold for reciprocation is problematic as it incentivises regulatory arbitrage.

Question 12. Has the current allocation of responsibilities for macroprudential policy between the national and European level been effective in ensuring that sufficient and appropriate action is taken to limit systemic risks and manage crises?

- 1 - Highly ineffective
- (selected) 2 - Ineffective
- 3 - Neutral
- 4 - Effective
- 5 - Highly effective
- Don’t know / no opinion / not applicable

Please explain your answer to question 12, taking notably into account the roles of the ESRB, the ECB and the Commission (which may impose stricter prudential requirements in accordance with Article 459):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Based on the experiences of Finance Norway, the pressing issue is not a regulatory inaction bias but a macroprudential policy stance that overcompensates the overall risk level. EU/EEA bodies should ensure an implementation of macroprudential measures in line with actual risk levels. The current excessive national leeway contributes to undermine the Single Rulebook and a level playing field.

3.2 Possible improvements relating to the functioning of the macroprudential framework in the internal market

Question 13. What changes to the current governance arrangements and oversight procedures would improve the compatibility of macroprudential policy making with the internal market, and how could the complexity of procedures be reduced?

Question 13.1 Monitoring of the macroprudential stance:
Should there be regular overall assessments of the macroprudential requirements (or stance) in each Member State in addition to, or as a substitute of, the EU-level monitoring and vetting of individual macroprudential measures? What measures should be available to which bodies in case the national macroprudential stance is deemed disproportionate to the level of risk (too low or too high)?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Overall and thorough assessments of the policy stance at the national level is appropriate and important but should not be a substitute for EU-level monitoring. The legal framework (at EU-level) should entail mechanisms that empower an EU body to intervene if a national macroprudential stance is deemed evidently disproportionate and detrimental to the integrity of the internal market. An alternative is that the (calibration of) measures at the national level is decided by an EU body.

Question 13.2 Reciprocation of national macroprudential measures:
Should there be mandatory reciprocation for a wider range of macroprudential measures and how could this be implemented (role of the ESRB, materiality thresholds, etc.)?

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The general principle should be mandatory reciprocation without materiality thresholds (cf. answer to question 11). Reciprocations that only comprises the largest (branches of foreign) banks could imply a significant market fragmentation.

Full reciprocation is a precondition for the compatibility between the application of macroprudential tools and a well-functioning internal market. A limitation of national discretions and clear definitions of the discretionary scope would also support the compatibility between macroprudential policy and the internal market, and so would more streamlined procedural requirements which implies that they are basically the same across instruments. A narrowed scope for macroprudential measures should also make the question of mandatory reciprocation less controversial.

Based on more effective and comparable procedures, EU bodies should ensure that measures are calibrated according to risk and that a double (or a multiple) counting of risk is avoided. The ESRB should have (and provide to the public) an overview of all applied macroprudential instruments and justifications mapped against unbiassed measures of national risks. The set of risk variables and indicators should be the same across EU/EEA states, and the ESRB (or at least an EU body) should be responsible for the calculations.

4. Global and emerging risks

Financial stability in the EU does not only depend on limiting systemic risks and vulnerabilities within the EU banking sector. There are contagion risks originating outside the EU, possibly involving non-bank financial intermediation, that also need to be addressed. While financial intermediation through non-banks is growing in importance, banks continue to play a pivotal role in the global financial system. Large banks provide crucial services for non-bank financial intermediaries. At the same time, some increasingly significant developments, and in particular cyber security breaches, the entry of big tech firms into financial services and crypto assets, all take place at a global scale and can represent growing threats to financial stability. Also, the Covid-19 crisis has shown how events originating outside the financial sector can affect financial stability. In the future, climate risks are likely to materialise more suddenly, more frequently, more severely and with greater cross-border implications. In the recent consultation on the renewed sustainable finance strategy, most respondents highlighted the importance of having a robust macroprudential framework that incorporates climate risks. The suitability of the existing macroprudential toolkit will have to be assessed in view of the above-mentioned global risks.

Exposures to third countries can also represent a threat to financial stability. Articles 138 and 139 CRD foresee powers to address risks arising from excessive credit growth in third countries and to ensure a coherent approach for the buffer setting for third country exposures. These powers have never been used since their introduction in the EU framework, raising the question whether these provisions represent the most appropriate way of dealing with systemic risks stemming from third countries.

From a financial stability perspective, a growing non-bank financial sector brings benefits in terms of increased risk-sharing across the financial system, but it can also result in new risks and vulnerabilities. In particular, the expansion of the non-bank financial sector in recent years has been accompanied by an increase in the riskiness of some asset portfolios, rising liquidity transformation and increased leverage. Such risk-taking has created vulnerabilities which need to be monitored and assessed, taking into account interconnectedness within the financial system and the banking sector in particular, as well as the role of non-bank financial institutions in funding the real economy more broadly. Art 513(1)(g) CRR mandates the Commission to consider tools to address new emerging systemic risks arising from banks' exposures to the non-banking sector, in particular from derivatives and securities financing transactions markets, the asset management sector and the insurance sector.

The banking sector is exposed to growing cyber-threats, and its reliance on critical infrastructure offered by third-party providers may create new vulnerabilities. Financial stability can be disrupted when cyber incidents spread across banks through their financial and information technology connections, as well as their common dependence third-party service providers.

Finally, crypto-assets are a new, rapidly expanding but high-risk and largely unregulated asset class that also spawns a large industry of service providers. Banks can become exposed to crypto-assets through an increasing variety of channels, direct and indirect, financial or operational. It should therefore also be assessed whether adjustments to the macroprudential framework are needed in response to the rise of the crypto economy.

4.1 Assessment of the current macroprudential framework's suitability for addressing cross-border and cross-sectoral risks

Question 14. Have macroprudential tools been appropriate and sufficient to limit the systemic risk arising from EU banks' exposures to third countries?

- ○ 1 - Not at all appropriate and sufficient
- ○ 2 - Not really appropriate and sufficient
- ○ 3 - Neutral
- ● 4 - Appropriate and sufficient
- ○ 5 - Fully appropriate and sufficient

- Don’t know / no opinion / not applicable

Please explain your answer to question 14, also in light of the experience gathered so far, considering in particular whether the EU’s existing macroprudential tools and capital requirements (notably Articles 138 and 139 CRD) are sufficient to limit systemic risks emanating from EU banks’ third country exposures:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Finance Norway does not consider it necessary to expand the macroprudential framework on the background of EU/EEA banks’ exposures in third countries.

However, CRD articles 138 and 139 should be amended to safeguard that whenever a designated authority considers it necessary to either set a CCyB rate on exposures in a particular third country or recognise a CCyB rate set by a third-country authority, the same rate should apply for all EU/EEA banks’ exposures in the relevant third country. Different capital requirements within the Union for the same type of exposures to the same third country undermine a level playing field and stimulate regulatory arbitrage. Binding requirements, and not just a recommendation from the ESRB, will ensure that the same buffer rate for exposures to a particular third country would apply across the EU/EEA. An EU body must coordinate and implement such a measure.

Question 15. Is the EU macroprudential toolkit adequate for monitoring and mitigating banks’ systemic risks related to global market-based finance, securities and derivatives trading as well as exposures to other financial institutions?

- 1 - Not at all adequate
- 2 - Not really adequate
- 3 - Neutral
- 4 - Adequate
- 5 - Fully adequate
- (selected) Don’t know / no opinion / not applicable

Please explain your answer to question 15, in light of the experience gathered so far, identifying in particular gaps related to derivatives, margin debt and securities financing transactions:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No opinion.

4.2 Possible enhancements of the capacity of the macroprudential framework to respond to new global challenges

Question 16. How do you expect systemic risks to evolve over the coming years and what enhancements of the EU macroprudential monitoring framework and toolkit (notably capital buffers, rules on risk weights and exposure limits), would be necessary to address global threats to financial stability?

Question 16.1 Financial innovation:

What risks to financial stability could result from banks' new competitors (FinTech and BigTech) and the arrival of new products (notably crypto-based)? Is there a need to enhance banks' resilience in view of such changes? If so, how could this be achieved while maintaining a level playing field?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Finance Norway is doubtful of whether an enhancement of the macroprudential framework is the best way of dealing with emerging risks such as cybersecurity threats and effects due to climate changes and other ESG-risks, or markets disruptions due to financial innovation.

ESG-risks and cybersecurity threats will result in bank losses in the coming years. That said, these sources of risk are not fundamentally different from other risks, and emerging risks do not imply an equivalent and automatic increase of the total risk in the financial system. Historically, new sources of risk have arisen while others have become less relevant. The current framework should therefore be sufficient to deal with these risk factors as a subset of factors that make up the systemic risk level in the financial system.

Banking activity from new competitors (fintech/bigtech) should in general be encompassed by the same regulatory framework that applies for the existing banking sector so that the same activity is subject to the same requirements. Finance Norway does not consider this issue as limited to or especially relevant for macroprudential measures but as relevant for the overall regulation of institutions.

Question 16.2 Cybersecurity:

Is there a need to enhance the macroprudential framework to deal with systemic cybersecurity threats? If not, how should the existing tools be used to mitigate threats and/or build resilience?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Cf. answer to question 16.1.

Question 16.3 Climate risks:

Should the macroprudential toolkit evolve to ensure its effectiveness in limiting systemic risks arising from climate transition and from physical climate change, also considering the current degree of methodological and data uncertainty? And if so, how?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Should the transition to a green economy result in significantly greater transition risks than what has been experienced historically (e.g., the digitalization and globalization of production and supply chains, establishing a common market in the EU, The EU expansion, establishing a common currency etc.), the heightened total risk could be considered in conjunction with either the systemic risk buffer or the countercyclical buffer, like any other source of systemic risk.

Moreover, to the extent that amendments to capital requirements should be considered due to ESG-risks, it should be considered whether these issues are not more appropriately dealt with as institution-specific assessments, i.e. Pillar 2 requirements. While it has not been justified that e.g. ESG-risks have led to a substantial increase in systemic risk, the case can be made that different loan portfolio segments contain different levels of ESG-risks. These differences in ESG-risk can effectively be dealt with in Pillar 2. Still, such risk assessments in Pillar 2 must be based on common guidelines and methodologies to avoid undue disparities across EU/EEA-states.

Question 16.4 Other ESG risks:

Should the macroprudential toolkit further evolve to address financial stability risks stemming from unsustainable developments in the broader environmental, social and governance spheres? How could macroprudential tools be designed and used for this purpose?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Cf. answer to question 16.1 and 16.3.

Other observations

Please indicate any other issues that you consider relevant in the context of review of the macroprudential framework. You may also use this section to express your views on priorities and the desirable overall outcome of the review.

Question 17. Do you have any general observations or specific observations on issues not covered in the previous sections?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous**.

The maximum file size is 1 MB.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2021-banking-macroprudential-framework_en)

Consultation document (https://ec.europa.eu/info/files/2021-banking-macroprudential-framework-consultation-document_en)

More on prudential requirements (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financia supervision-and-risk-management/managing-risks-banks-and-financial-institutions/prudential-requirements_en)

Specific privacy statement (https://ec.europa.eu/info/files/2021-banking-macroprudential-framework-specific-priva statement_en)

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

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