ABI response to the European Commission Targeted Consultation

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

March 2022

POSITION PAPER

2022

General remarks

The Italian Banking Association (ABI) welcomes the opportunity to provide views to contribute to the European Commission's assessment of the EU macroprudential framework for the banking sector.

Indeed, a review of the macroprudential framework seems appropriate, in order to improve its efficiency by addressing the shortcomings observed in several years of application, in which the macroprudential framework itself has been proven under the pandemic crisis, and in which many changes affected the prudential framework overall.

In this regard, ABI would highlight some key principles that should be kept in mind in the design of the new framework.

First, evidence from the pandemic crisis showed that the overall level of capitalisation of EU banks is more than adequate. In addition, an increase in minimum capital requirements is expected for EU banks, following to the implementation of the Basel 3 finalisation package (with the forthcoming CRR3). Therefore, the review of the macroprudential framework shall not result in an increase in overall capital requirements. It has not to be assumed that a further increase in capital requirements would correspond to enhanced financial stability. On the contrary, capital requirements beyond a certain level would only constrain banks' financing to the economy and affect banks' revenue generation capacity.

Therefore, while maintaining the Basel layering approach and avoiding, as said, an increase in the overall capital requirements, the reform should be aimed at achieving simplification and greater transparency of the framework. Providing clarity as regards the risk addressed by each macroprudential tool is essential. The distinction should be clear amongst micro prudential tools which should be aimed at addressing micro specific risks only and macroprudential measures which should be applied at industry level (with the exception of the O-SII and G-SII buffers).
The current design leaves room for uncertainties and for overlapping of measures to address the same risk. Areas of overlapping are also present between macroprudential tools and prudential measures such as the Pillar 2 Requirements (P2R) and the Pillar 2 Guidance (P2G). Hence, the assessment of the current framework and its review should be conducted having regard to the full picture of the prudential framework, and not only the measures labelled as macroprudential. With particular regard to the P2R, the supervisors should apply a holistic approach on the Buffers' requirement in the EU countries, by taking into account the designated authority's decision on other buffers, when introducing the requirements at the legal entity level.

In the same vein, while the intervention of both national and EU Authorities (depending on the specificities of each tool) should be maintained, the review should ensure clear allocation of powers and responsibilities, as well as coordination, among the Authorities involved, and between the EU and national level. This will ensure consistency in the macroprudential framework and avoid overlap of decisions addressing the same risks coming from different authorities (i.e. double counting) and decision of an Authority being less effective due to interaction with other measures.

While, as said, the current framework has proven successful in ensuring adequate capitalisation of banks, on the other hand its effectiveness to provide relief in times of stress was very limited. Consequently, the enhancement of the so called "usability" of buffers is expected to be one of the main goals of the review. For this purpose, ABI would highlight that at least the following issues should be addressed:

- the Maximum Distributable Amounts mechanism, imposing automatic consequences on distributions and hence de facto posing constraints to the usage of buffers in times of stress, should be reconsidered;
- the usage of buffers should not be left to the initiative of each single banks (as this would determine a "stigma effect" on the bank), assigning an active role in this regard to the Authorities. For this purpose, in the response to question 4.2 a concrete proposal is put forward (in brief, intervening at EU level by temporarily releasing the Capital Conservation Buffer for all EU institutions equally in case of severe stress);
- clarity should be provided ex ante on the timing for the replenishment of buffers, and such timing should be conveniently defined based on realistic assumptions on banks' internal generation of capital in the period immediately following to a crisis.

Not less important, discussions on the design and calibration of the buffer framework should be performed at global level and changes should, to the maximum extent possible, be agreed on at the Basel level. This would ensure level playing field considerations are properly assessed, including EU banks' competitiveness vis-à-vis their peers.

Besides, in ABI's view emerging risks (climate and cyber risks in particular), should not be addressed by a macroprudential tool. In this regard, ABI would guard against the temptation to establish an endless list of risks that banks could hypothetically be exposed to, to justify the introduction of additional layers of capital. Such risks need to be addressed at a broader level (i.e. beyond the banking industry), otherwise severe distortions on level playing field among economic sectors arise.

FEEDBACK TO THE CONSULTATION QUESTIONS

1. OVERALL DESIGN AND FUNCTIONING OF THE BUFFER FRAMEWORK

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, 5 = highly effective)

ABI response: 4

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?

As regards the effectiveness of the capital buffer framework in providing resilience against risks, evidence shows that the overall level of capitalisation of EU banks was strong enough to ensure resilience even in a severe shock as the economic crisis caused by the COVID pandemic.

Instead, when referring to the individual components of the capital buffers framework and their respective role in covering specific risks, better clarity would be beneficial in identifying which risks each component of the framework is meant to address. This would be particularly needed in order to avoid overlapping, which might occur not only within the macroprudential framework but also across the different prudential frameworks.

It should indeed be taken into account that Pillar 1 requirements already cover unexpected losses (which might be consequence of particularly severe economic cycles or stress events), that Pillar 2 requirements are meant to address risks not covered by Pillar 1, and that the Pillar 2 Guidance is aimed at ensuring that the level of capital is adequate to facing stress.
On the other hand, for the macroprudential buffers very broad definition of the risk covered is provided; moreover, it is not always linked to a specific area of risk, as is the case for example for the capital conservation buffer (CCoB), which does not address any specific risk but aims to avoid a breach of the minimum requirements. This is why such buffer should be releasable by EU authorities, acting on all EU banks, in order to boost lending in cases of severe stress and avoid any stigma deriving from individual banks' decisions on buffer release (see also our response to Q 4.2)

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

(1 = highly ineffective, 5 = highly effective)

ABI response: 2

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?

The macroprudential tools envisaged in the current framework are mainly fixed ones, being the Countercyclical buffer (CCyB) and the Systemic Risk Buffer (SyRB) the only flexible measures.

As to the effectiveness of the buffer framework in fostering credit supply in times of stress, it was very limited, due to various reasons and more precisely:

- The restrictions on distribution (Maximum Distributable Amount framework), which would automatically apply in case banks use capital buffers, even in times of stress. Banks refrain from using buffers as they would suffer a stigma associated with limitations to distributions and, more generally, even in case their capitalization declines to levels close to the combined buffer requirements. For this reason, a review of the MDA framework is needed, together with a more active role for Authorities in order not to leave banks alone in deciding on the use of buffers (which could expose them to the risk of a market stigma).
- The uncertainty about the time available for replenishment of the buffers, also in light of the fact that, after a period of downturn or stress, the timing and strength of economic recovery are uncertain. Information should be available ex ante of a sufficient period for banks to replenish buffers, in order to avoid unwarranted counter cyclical-effects that may stem particularly at times of low to nascent profitability or impaired access to markets. This should take into account the "passive" increase of RWAs driven by downturn effects. On the contrary, temporary relaxation of capital constraints, if too short, would not be fit for the purpose of encouraging banks to use capital buffers, as it would not be considered as an actual capital relief by investors (the market would price in a possible "equity shortfall" shortly after).
- The concurrent application of other requirements, in the absence of proper coordination (e.g. MREL or Leverage Ratio requirements)

As to the application of macroprudential tools to smoothen economic cycles during upswing phases, we cannot provide evidence on the use of this kind of measures for this purpose in Italy so far.

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

(1 = very poorly, 5 = very well)

ABI response: 2

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.

First, it has to be noted that, since the time when the G-SII / O-SII buffers were introduced, other measures have been adopted to reduce the impact of failure of large banking groups: banks are now much better capitalized and resolvable, risky business models and funding sources are less prominent, and bank resolution schemes have substantially progressed. Among these measures, the introduction of specific capital requirements - the Total Loss-Absorbing Capacity (TLAC)/Minimum Requirements of

Eligible Liabilities (MREL) -, the application of Liquidity ratios, but also the reforms in the field of OTC derivatives market and central clearing obligations.

As regards the methodology, in our view the definition of cross-jurisdictional indicator should take into account the specificity of the Eurozone supervisory and resolution framework. It should be recognized at the BCBS level, introducing a specific exemption for intra Euro-zone exposures in the cross-jurisdictional score. When the application of the EU methodology would result in the reallocation to a subcategory below bucket 1, a G-SII should be allowed not to be considered as such any longer.

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.

As said above in the response to question 1, clarification would be essential on which risk/risks each component of the framework is meant to address, notably in order to avoid overlapping. Macroprudential policy instruments should be clearly identified, and their purpose made clear and explicit in the policy framework. Possibly, there should be a limited number (ideally one or maximum two) of instruments addressing each type of risk (structural; cyclical) and each domain where this risk might emerge (system-wide; activity based; institution based). The distinction should be clear between microprudential tools to address individual specific risks and macroprudential measures.

In addition, for the reasons clarified in our response to question 2, clarifications and refinements are deemed necessary as regards the usage of buffers and namely:

- a review of the MDA framework, in order to avoid automatic limitations to distributions following to the use of buffers for countercyclical purposes (to mark a difference with the case of idiosyncratic weaknesses of the bank)
- a more active role for Authorities, in order not to leave banks alone in deciding on the use of buffers (which could expose them to the risk of a market stigma)
- clarity about the time available for the replenishment of the buffers, which should be known ex ante and should be sufficient (i.e. long enough for the market to consider the relief as effective and for banks not to jeopardise the economic recovery with premature deleveraging).

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.

As said, the macroprudential tools currently in place are flexible only to a relatively limited extent. Therefore, for the buffer framework to strike a better balance between its objectives to (i) absorb losses and (ii) support lending, more buffers – or a larger proportion of some buffers – should be made "releasable".

Keeping in mind the general principle that the review of the macroprudential framework shall not result in an increase in overall capital requirements, the abovementioned objective can be achieved by a centralised decision at EU level in case of an ascertained macro-economic or exogenous shock, decreasing the level of the CCoB (partially and equally for all EU institutions).

The decision on lowering the buffer levels and the MDA threshold - to a level that effectively frees up capital resources while safeguarding financial stability - shall indeed be taken by a public authority with application to all banks, thus avoiding the risk of stigma and adverse market reactions towards banks. The eventual increase of the CCoB when the economy recovers should be gradual and follow a predetermined path, predictable both for banks and investors.

In the proposed approach, the CCyB, consistently with its nature, remains set at 0% in normal times and can be activated at national level based on the local situation.

The above approach seems the most efficient way to increase the usability of buffers while minimizing the changes to the Basel framework.

Should instead the regulator consider the introduction of a "positive neutral" CCyB to have higher releasable capital buffer, a corresponding reduction in the CCoB should be applied, to ensure that the change does not result in an overall increase of the capital requirements for banks.

It is important to note that, to preserve the level playing field, discussions on the design and calibration of the buffer framework should be performed at global level and changes should, to the maximum extent possible, be agreed on at the Basel level. This would ensure level playing field considerations are properly assessed, including EU banks' competitiveness vis-à-vis their peers. In this regard, our expectation is for the outcome of the European Commission assessment to feed into the debate on the design of the buffers that is taking place in the Basel Committee.

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 optimizing the MDA restrictions and capital conservation rules as laid down in Articles 141 to 142 CRD?

As already mentioned in our response to question 2, uncertainty about timing and strength of economic recovery coupled with time constrained measures contribute to the industry concerns on the usability of buffers. In this respect, authorities should allow for a sufficient period for banks to replenish buffers, to avoid unwarranted counter cyclical-effects that may stem particularly at times of low to nascent profitability or impaired access to markets. This period should be known ex-ante to allow banks to take informed decisions.

<u>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?</u>

Reducing the overlap between capital buffers and other requirements is essential to avoid double counting of risk, to simplify and enhance the transparency of the framework and ultimately to reduce the risk of different measures to hinder each other. As an example, for a capital relief on risk-based capital requirement to be effective, institutions should not be otherwise constrained by MREL or LR requirements.

In this respect, not only clear definition of the scope and functioning of each measure, but also coordination among the Authorities is key.

<u>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?</u>

<u>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?</u>

Due to the fact that a calibration of SyRB remains challenging, we recommend a removal of the SyRB within CRD. SyRB is used only in exceptional cases in practice, and may conflict with other requirements (e.g. double counting of risks because of overlapping of sectoral risks and other dependencies as used within the business model analysis for the determination of P2R).

In general, we believe national actions with regards to SyRB should be taken with a sense of proportion: especially with regards to materiality (e.g. volume of exposures concerned), the costs for implementation of any macroprudeantial tool should be considered and adoption take place only if strictly necessary in the Member state.

<u>2. MISSING OR OBSOLETE INSTRUMENTS, REDUCING COMPLEXITY</u>

2.1. ASSESSMENT OF THE CURRENT MACROPRUDENTIAL TOOLKIT AND ITS USE

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

(1 = major gaps, 5 = fully comprehensive)
ABI response: 3

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

We have not identified gaps or areas not covered in the EU macroprudential toolkit. In this regard, the review should be aimed at simplification of the framework and clarification on the exact scope (and need for) existing tools.

More precisely, we want to highlight that not any possible risk, "risk driver" or "source of risk" should be addressed by a specific layer of capital. Without entering into considerations as to what exactly should be the "optimal level" of capital held by banks, the prudential framework should ensure that, in addition to specific coverage for the main risks – which are already covered under Pillar 1 requirements - the level of capital can provide reasonable assurance that losses incurred in times of severe stress - whichever its origin, systemic or exogenous - could be absorbed, while preserving banks' ability to provide funding to the economy. This should not be achieved through a "building block" approach of additional capital requirements for any possible existing or future source of risk.

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?

Yes

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:

Under the premise that, as said above, the exact role of each buffer is not very clear, which makes punctual identification of overlap complex, areas of overlaps might be found between P2G and the combined buffer requirements, being the former intended to ensure that banks hold enough capital to face stress periods.

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

ABI response: no opinion

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

Evidence from the Covid-19 crisis showed an overall positive landscape, given that the EU banking sector proved resilient and the EU political and banking Authorities took appropriate measures, such as public support measures which avoided significant asset quality deterioration and regulatory relief to alleviate the burden of the crisis for banks. However, due to the complexity of EU governance, adoption of such measures took time and, as regards regulatory reliefs, were sometimes limited in scope.

Anyway, rooms for improvements can be found in terms of coordination among EU authorities, as, for example, while some capital relief was provided, MREL requirements have been left unchanged. This shows how important it is that all relevant authorities be coordinated in periods of stress, so that relief can be granted in a harmonized way across the different dimensions (leverage, risk-based, resolution).

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?

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?

We do not support providing EU and/or national authorities with the power to restrict distributions in cases of system-wide stress. The regulation already provides for limitations to be applied based on the situation of each single bank. On the contrary, general recommendations on dividends distributions during the Covid-19 crisis also led to drawbacks (in terms of impact on banks' share prices).

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 procyclical 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?

During a crisis, and in order to allow banks to both absorb losses and provide sufficient lending, relaxation of prudential requirements would be welcome. In order to avoid the risk of deleveraging, it is indeed important that decisions on relaxation on requirements came from Authorities.

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?

3. INTERNAL MARKET CONSIDERATIONS

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?

(1 = highly disparate, 5 = fully commensurate)

1 2 3 4 5 Don't know/no opinion

Please explain your answer to question 9, providing supportive evidence on possible disparities and their likely impact on 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, 5 = highly effective)

1 2 3 4 5 Don't know/no opinion

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:

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, 5 = highly effective) 1 2 3 4 5 Don't know/no opinion

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:

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, 5 = highly effective)

1 2 3 4 5 Don't know/no opinion

ABI response: 3

<u>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):</u>

The current allocation of responsibilities for macroprudential policy between the national and European level is considered correct. Indeed, there is a case for individual countries to retain macroprudential authority to consider regional specificities and systemic risks at local or regional levels (especially when it comes to loosening certain macroprudential requirements). However, it is important to avoid overlaps by different NCAs in cooperation with other relevant micro and macro prudential authorities. Additionally, all macroprudential recommendations stemming from EU authorities should always take into account level playing field concerns and internal market specificities.

3.2 POSSIBLE IMPROVEMENTS RELATING TO THE FUNCTIONING OF THE MACROPRUDENTIAL FRAMEWORK IN THE INTERNAL MARKET

<u>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?</u>

<u>Question 13.2 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)?</u>

<u>4. GLOBAL AND EMERGING RISKS</u>

4.1 ASSESSMENT OF THE CURRENT MACROPRUDENTIAL FRAMEWORK'S SUITABILITY FOR ADDRESSING CROSS-BORDER AND CROSS-SECTORAL RISKS

<u>Question 14: Have macroprudential tools been appropriate and sufficient to limit the systemic risk arising from EU banks' exposures to third-countries?</u>

<u>(1 = not at all appropriate and sufficient, 5 = fully appropriate and sufficient)</u>

<u>1 2 3 4 5 Don't know/no opinion</u>

<u>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:</u>

In our view, banks' exposures to third countries are not a source of systemic risk, but something that has to be addressed i) at individual level as part of the SREP and, as the case may be, ii) by the CCyB. The existing regulatory toolkit is sufficient to address this risk.

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, 5 = fully adequate)

1 2 3 4 5 Don't know/no opinion

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:

We believe there should not be a specific macroprudential buffer that would specifically tackle banks' risks arising from exposure to global market-based finance, securities, derivatives trading and "other financial institutions".

They are already addressed within the Pillar 1 framework and the stress testing framework.

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 Big Tech) 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?

As said above, we do not see the need for any possible risk, "risk driver" or "source of risk" to be addressed by a specific layer of capital or a macroprudential tool.

Increasing the capital requirements for banks would not address risks generated by new competitors (FinTech and Big Tech) and new products (notably crypto-based products).

In order to protect financial stability, a level playing field between regulated and non-regulated entities should instead be ensured. The risks to financial stability resulting from banks' new competitors entering the market should be addressed by regulating such new entrants, making sure they are subject to financial regulation and financial supervision as soon as they start providing financial services, as well as adequately monitoring their operational resilience.

In addition, banks should not be penalized when investing in digital transformation. This requires being able to deploy existing capital, as well as modifying the current EU prudential treatment of intangible assets, which still discourages investments in software.

With regards to crypto-assets, and considering their complexity, variety, borderless nature and the legal and prudential questions they raise, we believe the elaboration of a global framework is necessary to ensure a level playing field within Europe and internationally.

The regulatory framework should be based on the overarching principle "same activity, same risk, same rules".

In addition, the CRR3 legislative proposal contains a mandate in regard of the prudential treatment of crypto assets. It would therefore be preferable waiting for this assessment before considering a dedicated macroprudential tool.

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?

From our point of view, the current prudential framework already addresses risks generated by cybersecurity threats, via the operational risk capital requirements, as well as organizational requirements imposed to banks.

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?

Under the premise that banks are fully committed to support their clients in the transition towards greening, it should be first noted that the EU climate policy should be primarily implemented through industrial and tax policies, that could ensure an orderly transition and limit transition risk levels, for both climate and financial stability purposes.

That said, increasing banks' capital requirements is not the right approach to foster the process, as banks need to be able to finance the transition of their clients in a context of increasing transition risks. This is all the truer in the EU where the financing of companies remains mostly bank loan based.

Moreover, in a global economy, increasing capital requirements for EU banks will not mean that targeted assets will stop being financed. Punitive changes to EU banks' prudential requirements, by imposing a macroprudential burden to limit financing, would only result in a substitution of such financing, which will be taken over by non-EU banks and/or non-bank players, subject to less stringent regulatory standards. This may put the related risks beyond the reach of EU regulators and supervisors.

In addition, it should be taken into account that the prudential framework and banking practices are rapidly developing towards integrating ESG factors in their strategies, governance, risk appetite, risk and control management. Discussion is underway, in the context of the forthcoming CRR3, in view of further developments in the prudential framework regarding climate risk and ESG factors. We therefore recommend waiting for these developments, before considering the possible need for macroprudential tools.

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?

Please see our response to question 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?

Please see our general remarks