

18 March 2022

European Commission

Addressing the double-counting of macroprudential risks at the level of a Member State

Drafting proposals

Article 458 CRR

Macroprudential or systemic risk identified at the level of a Member State

[..]

2. Where the authority designated in accordance with paragraph 1 of this Article identifies changes in the intensity of macroprudential or systemic risk in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific Member State and which that authority considers that cannot be addressed by means of other macroprudential tools set out in this Regulation and in Directive 2013/36/EU as effectively as by implementing stricter national measures, it shall notify the Commission and the ESRB accordingly. The ESRB shall forward the notification to the European Parliament, to the Council and to EBA without delay.

The notification shall be accompanied by the following documents and include, where appropriate, relevant quantitative or qualitative evidence on:

- (a) the changes in the intensity of macroprudential or systemic risk;
- (b) the reasons why such changes could pose a threat to financial stability at national level or to the real economy;
- (c) an explanation as to why the authority considers that the macro-prudential tools set out in Articles 124 and 164 of this Regulation and Articles 133 and 136 of Directive 2013/36/EU would be less suitable and effective to deal with those risks than the draft national measures referred to in point (d) of this paragraph;
- (d) the draft national measures for domestically authorised institutions, or a subset of those institutions, intended to mitigate the changes in the intensity of risk and concerning:
 - (i) the level of own funds laid down in Article 92(1);
 - (ii) the requirements for large exposures laid down in Article 392 and Articles 395 to 403;
 - (iii) liquidity requirements laid down in Part Six;
 - (iv) risk weights for targeting asset bubbles in the residential property and commercial immovable property sector *when calculating the un-floored total risk exposure amount in accordance with Article 92(4);*
 - (v) the public disclosure requirements laid down in Part Eight;
 - (vi) the level of the capital conservation buffer laid down in Article 129 of Directive 2013/36/EU; or
 - (vii) intra-financial sector exposures;

[..]

10. Notwithstanding the procedure as set out in paragraphs 3 to 9 of this Article, Member States shall be allowed to increase the risk weights *when calculating the un-floored total risk exposure amount in accordance with Article 92(4)* beyond those provided for in this Regulation by up to 25 %, for those exposures identified in points (d)(iv) and (d)(vii) of paragraph 2 of this Article and tighten the large exposure limit provided for in Article 395 by up to 15 % for a period of up to two years or until the macro-prudential or systemic risk ceases to exist if that occurs sooner, provided that the conditions and notification requirements laid down in paragraph 2 of this Article are met.

Article 92 CRR

[..]

4. The un-floored total risk exposure amount shall be calculated as the sum of points (a) to (g~~f~~) of this paragraph after having taken into account paragraph 7:

(a) the risk-weighted exposure amounts for credit risk, including counterparty risk, and dilution risk, calculated in accordance with Title II and Article 379, in respect of all the business activities of an institution, excluding risk-weighted exposure amounts for counterparty risk from the trading book business of the institution;

(b) the own funds requirements for the trading-book business of an institution for the following:

(i) market risk, calculated in accordance with Title IV of this Part;

(ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent that an institution is permitted to exceed those limits, as determined in accordance with Part Four;

(c) the own funds requirements for market risk, calculated in accordance with Title IV of this Part for all business activities that are subject to foreign exchange risk or commodity risk;

(ca) the own funds requirements for settlement risk, calculated in accordance with Title V of this Part, with the exception of Article 379;

(d) the own funds requirements for credit valuation adjustment risk, calculated in accordance with Title VI of this Part;

(e) the own funds requirements for operational risk, calculated in accordance with Title III of this Part;

(f) the risk-weighted exposure amounts for counterparty risk arising from the trading book business of the institution for the following types of transactions and agreements, calculated in accordance with Title II of this Part:

(i) contracts listed in Annex II and credit derivatives;

(ii) repurchase transactions, securities or commodities lending or borrowing transactions based on securities or commodities;

(iii) margin lending transactions based on securities or commodities;

(iv) long settlement transactions.;

(g) *other risk exposure amounts arising from Articles 3, 458 and 459 CRR.*

Article 130 CRD

Requirement to maintain an institution-specific countercyclical capital buffer

1. Member States shall require institutions to maintain an institution-specific countercyclical capital buffer equivalent to their total risk exposure amount calculated in accordance with Article 92(~~43~~)(a)-(f) of Regulation (EU) No 575/2013 multiplied by the weighted average of the countercyclical buffer rates calculated in accordance with Article 140 of this Directive on an individual and consolidated basis, as applicable in accordance with Part One, Title II of that Regulation.

Article 140 CRD

Calculation of institution-specific countercyclical capital buffer rates

1. The institution-specific countercyclical capital buffer rate shall consist of the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the relevant credit exposures of the institution are located or are applied for the purposes of this Article by virtue of Article 139(2) or (3).

*Member States shall require institutions, in order to calculate the weighted average referred to in the first subparagraph, to apply to each applicable countercyclical buffer rate its total own funds requirements for credit risk, determined in accordance with Part Three, Titles II and IV of Regulation (EU) No 575/2013, that relates to the relevant credit exposures in the territory in question, divided by its total own funds requirements for credit risk that relates to all of its relevant credit exposures. **The calculation of the institution-specific countercyclical capital buffer rate shall not take into account macroprudential or systemic risk measures determined in accordance with Part Nine of Regulation (EU) No 575/2013.***

