OPINION OF THE EUROPEAN CENTRAL BANK
of 4 March 2022
on macroprudential measures
(CON/2022/8)

Introduction and legal basis

On 31 January 2022 the European Central Bank (ECB) received a request from the Finnish Ministry of Finance for an opinion on a draft Law on certain macroprudential measures (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the sixth indent of Article 2(1) of Council Decision 98/415/EC[1], as the draft law relates to rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

1.1 The purpose of the draft law is to curb the growth of the direct and indirect indebtedness of private individuals and households and to safeguard financial stability in Finland. The draft law intends to prevent the extension of the repayment times of household mortgage loans, limit excessive lending in particular to housing companies, promote customer protection and improve credit granting processes related to other consumer lending.

1.2 In particular, the draft law proposes that the current provisions on the loan-to-value (LTV) ratio regarding mortgage loans applicable to credit institutions are extended to apply to lenders who fall within the scope of the Law on the registration of certain lenders and credit intermediaries[2]. As with the current LTV ratio limit applicable to credit institutions, the size of the mortgage loan would be limited to 90 % of the available collateral (or, in the case of first-time buyers, 95 %). According to the draft law, the Board of the Finnish Financial Supervisory Authority (FIN-FSA) would be given the power to decrease the maximum LTV ratio amount by a maximum of 10 percentage points. The provision would apply where the risks to financial stability are growing exceptionally. According to the explanatory memorandum accompanying the draft law, the limit of the maximum amount of the reduction of the LTV ratio restricts the discretion of FIN-FSA in line with applicable constitutional requirements. FIN-FSA would also have power to decide on restrictions on the use of certain forms of credit protection (e.g. guarantees and credit insurance) in the calculation of the LTV ratio under the Law on the registration of certain lenders and credit intermediaries. FIN-FSA would have the

1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 Laki eräiden luotonantajien ja luotonvälittäjien rekisteröinnistä 14.10.2016/853.

power to regulate specific situations where the LTV ratio can be derogated from as well. The new powers would correspond to the powers the Board of FIN-FSA already exercises regarding the LTV ratio applicable to credit institutions.

1.3 The draft law proposes that a maximum loan period of 30 years be applied to residential mortgages. However, in each calendar quarter 10 % of the total amount of a lender's loans would be allowed to exceed the 30-year limit.

1.4 According to the draft law loans granted to housing companies, in the event of the construction of new residential properties, would be limited to 60 % of the value of the debt-free sales price of the shares of the housing company. Such loans would also be subject to the 30-year limit on the loan period, and it would be prohibited to allow amortisation-free years of the housing company's loan during the first five years after the building has been put into use.

1.5 According to the explanatory memorandum accompanying the draft law, alternative or complementary measures to limit the indebtedness of households that were assessed, but ultimately not included in the draft law, include the possibility for an upper limit on the ratio of overall indebtedness to the borrower's income.

1.6 The draft law also proposes to introduce provisions concerning the management of insolvency risks when granting consumer credit aimed at clarifying the principles and procedures related to granting loans and the protection of customers.

1.7 Finally, according to the draft law, FIN-FSA would be given supervisory responsibility over the entities that must be registered under the current Law on the registration of certain lenders and credit intermediaries. This would include supervising compliance with registration requirements, consumer protection provisions and anti-money laundering provisions. The supervisory powers and supervisory fees of FIN-FSA would be expanded accordingly.

2. General observations

2.1 The ECB recalls that in its previous opinion on macroprudential oversight in Finland[3] it expressed its support for the design of effective macroprudential policy frameworks within Member States, in line with the guiding principles set out in Recommendation ESRB/2011/3 of the European Systemic Risk Board[4].

2.2 The ECB notes that the objectives of the draft law are in line with the principles set out in the European Systemic Risk Board's Recommendation on intermediate objectives and instruments of macroprudential policy, in particular with regard to the objective to mitigate and prevent excessive credit growth and leverage[5].

3 See Opinion CON/2013/82. All ECB opinions are available on EUR-Lex.

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

5 See paragraph 2.2 of Opinion CON/2017/11 and Recommendation ESRB/2013/1 of the European Systemic Risk Board of 4 April 2013 on intermediate objectives and instruments of macro-prudential policy (OJ C 170, 15.6.2013, p. 1).

3. Specific observations

3.1 As emphasised in previous opinions[6], and in the Governing Council statement on Macroprudential Policies,[7] from a financial stability perspective, the ECB supports the implementation of a legislative framework for borrower-based measures in all euro area member countries. Against this background, the ECB welcomes the draft law's proposed extension of the provisions on the LTV ratio, that are currently applicable to credit institutions, to non-credit institution lenders[8].

3.2 The ECB also takes note of the definition that is used for the LTV ratio in Finland. More specifically, differing from what is prescribed in Recommendation ESRB/2019/8 of the European Systemic Risk Board[9], the LTV ratio is defined in a manner that allows assets other than real estate assets to be considered as collateral.

3.3 Regarding FIN-FSA's power to reduce the maximum amount of the LTV ratio by a maximum of 10 percentage points, in general, the ECB stresses that the relevant authorities should have the capacity to act in a flexible and proportionate way when setting and calibrating macroprudential measures. This will enable them to effectively and efficiently address potential risks to financial stability[10], while acting within the preestablished legal framework. The ECB understands that the limit on the maximum amount of the reduction of the LTV ratio is intended to restrict the discretion of FIN-FSA in view of applicable constitutional requirements. Available information on borrower-based measures adopted by other Member States[11] suggests that the lower limits of the foreseen LTV ratio under the draft law are close to the ratios that are applied in most of those Member States. In that context, a reduction of the current lower limit of the LTV ratio, to the extent possible within the national constitutional framework, would ensure effective policy action, taking into account changing macro-financial conditions. Such a reduction of the lower limit would also allow for the potential application of stricter limits, for instance for buy-to-let purposes, for non-first-time buyers, as well as under stress scenarios. Finally, the ECB suggests a regular review of the limit to allow FIN-FSA to take into account policy experience and the implications of changes in macroeconomic and macro-financial conditions[12].

3.4 The ECB again recalls its support for the implementation of a legislative framework for borrower-based measures in all euro area member countries[13], which are known to be effective in addressing risks. The availability of a comprehensive set of borrower-based measures, including income-based

---

6 See paragraph 2.3 of Opinion CON/2017/11, paragraph 2.4 of Opinion CON/2017/21, paragraph 3.2 of Opinion CON/2018/9, paragraph 2.1 of Opinion CON/2019/34 and paragraph 2.3 of Opinion CON/2020/1.

7 See Real estate risks section of the Governing Council statement on Macroprudential Policies, available on the ECB website at www.ecb.europa.eu.

8 Lenders falling within the scope of the Law on the registration of certain lenders and credit intermediaries (including entities, which grant consumer loans and loans to housing associations).

9 Recommendation ESRB/2019/8 of the European Systemic Risk Board of 27 June 2019 on medium-term vulnerabilities in the residential real estate sector in Finland (OJ C 366, 30.10.2019, p.29).

10 See paragraph 2.3 of Opinion CON/2017/11 and paragraph 3.1 of Opinion CON/2019/34.

11 Due to the lack of harmonisation of borrower-based measures and the related statistical data, there is limited information available to compare these measures across Member States. See Overview of national measures of macroprudential interest, ESRB, available on the ESRB website at www.esrb.europa.eu.

12 See paragraph 2.3 of Opinion CON/2017/11, paragraph 2.4 of Opinion CON/2017/21, paragraph 2 of Opinion CON/2016/8, paragraph 3.1 of Opinion CON/2019/34 and paragraph 2.3 of Opinion CON/2020/1.

13 See Real estate risks section of the Governing Council statement on Macroprudential Policies, available on the ECB website at www.ecb.europa.eu.

measures, would enable FIN-FSA to respond in a flexible and proportionate way to potential risks to financial stability[14]. The inclusion of such measures into the Finnish legislative framework would be also in line with the actions prescribed in the aforementioned country-specific Recommendation ESRB/2019/8 of the European Systemic Risk Board.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 4 March 2022.

[signed]

The President of the ECB

Christine LAGARDE

14 See paragraph 2.3 of Opinion CON/2017/11 and paragraph 2.4 of Opinion CON/2020/1.