



EUROPEAN CENTRAL BANK

EUROSYSTEM

EN

ECB-PUBLIC

OPINION OF THE EUROPEAN CENTRAL BANK

of 19 February 2018

on additional macro-prudential tools for residential mortgages

(CON/2018/9)

Introduction and legal basis

On 13 December 2017, the European Central Bank (ECB) received a request from the Luxembourg Ministry of Finance for an opinion on a draft law on macro-prudential measures on residential mortgage loans in Luxembourg and amending the Law on banking and the Law establishing the Luxembourg Systemic Risk Committee (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 third, fourth and sixth indents of Article 2(1) of Council Decision 98/415/EC¹, as the draft law relates to the Banque centrale du Luxembourg (BCL), statistics and 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 adapt the macro-prudential legal framework to address the threat posed in Luxembourg to financial stability by the combination of high residential real estate sector prices and increasing household indebtedness. As noted in the remarks accompanying the draft law, in the light of the alert issued by the European System Risk Board in November 2016 identifying emerging vulnerabilities in the residential property sector in Luxembourg, and, more particularly, with regard to household debt and property prices², as well as the International Monetary Fund's recommendations with regard to the introduction of new macro-prudential tools for the property sector in Luxembourg³, it has become important for Luxembourg to equip itself with a legislative framework that can be used to effectively deal with macro-prudential risks stemming from the residential property sector.

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 See European Systemic Risk Board, Vulnerabilities in the EU residential real estate sector, November 2016, pp. 5 and 86 to 89, available on the ESRB's website at: www.esrb.europa.eu.

³ See the International Monetary Fund, Staff Report for the 2015 Article IV Consultation, p. 47, and Financial Sector Assessment Program, August 2017, Technical note, selected issues on banking supervision, pp. 30 – 32, available on the IMF's website at: www.imf.org.

- 1.2 To this end, the draft law empowers the Financial Sector Supervisory Commission (CSSF) to lay down the conditions for granting mortgages for residential property located in Luxembourg by lending institutions, insurance companies and professionals carrying out credit operations.
- 1.3 More specifically, the CSSF may define the following: (a) upper limits for the ratio between the total credit obligations of a borrower and the total market value of a given property; (b) upper limits for the ratio of the total amount of a borrower's repayment obligations resulting from a residential mortgage and the borrower's total available annual income; (c) upper limits for the ratio between the borrower's total indebtedness and the borrower's total available annual income; (d) upper limits for the ratio between the total annual mortgage charges and the borrower's total available annual income; and (e) upper limits for a loan's initial repayment amount. These measures may be applied alone or in combination and may refer to all or part of the amount of new loans. The CSSF may only adopt such measures once it receives a recommendation from the Systemic Risk Committee, and following consultation with the BCL to reach a common position.
- 1.4 The CSSF may ask the national authorities of other Member States to recognise the conditions set out for granting mortgages for property located in Luxembourg and to apply them to the entities under their supervision. Conversely, the CSSF may recognise conditions set down by the national authorities of other Member States for granting loans for property located in those Member States and apply them to the entities under its supervision. The CSSF will take such measure only after receiving a recommendation from the Systemic Risk Committee and following consultation with the BCL to reach a common position.
- 1.5 The draft law also stipulates that the BCL has a right to access aggregate information available from State departments, public institutions apart from those placed under the supervision of the communes and other competent State authorities, as long as that information is necessary for its research and analysis work with regard to the role of the Systemic Risk Committee. As noted in the remarks accompanying the draft law, the BCL's right to access such information will contribute to identifying the emergence of systemic risks in the financial system as early as possible. The BCL's right to access this information is strictly supervised through the BCL's professional secrecy system as provided in Article 37 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank and Article 33 of the Organic Law of the BCL.

2. Preliminary observation

The ECB issued an opinion on the draft law establishing the Systemic Risk Committee in 2014⁴. The following observations are without prejudice to the recommendations made in that opinion, which are reiterated in this opinion, notably the principle that the ECB and the national central banks (NCBs) should play a leading role in macro-prudential oversight, given their expertise and existing responsibilities in the area of financial stability (point 5.2) and that any additional task that may be entrusted to the BCL with regard to macro-prudential policy must not affect the BCL's institutional, functional and financial independence, or that of its Governor.

⁴ See Opinion CON/2014/46. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

3. General observations

- 3.1 The ECB welcomes the draft law insofar as it equips the CSSF with new macro-prudential tools intended to remedy imbalances in the residential real estate sector, which result from overvaluation of residential property accompanied by excessive credit provision and may have significant negative implications for financial stability and the real economy. Against this background, the core objectives of the draft law seem appropriate, namely to create instruments that enable the CSSF to impose upper limits on the level of indebtedness of residential mortgage borrowers, with a view to strengthening the resilience of the financial system and counteracting the cyclical build-up of systemic risk, when deemed necessary. The objectives of the draft law are also in line with the principles set out in the ESRB's Recommendation on intermediate objectives and instruments of macro-prudential policy, in particular with regard to the objective of mitigating and preventing excessive credit growth and leverage⁵.
- 3.2 From a financial stability perspective, the ECB welcomes the implementation of a legislative framework for borrower-based measures in all euro area countries⁶. The ECB takes positive note of the fact that the CSSF may activate part or all of the above-described tools, thereby responding in a flexible and proportionate way to potential risks to financial stability. A thorough quantitative impact assessment is, however, important to verify the effect and appropriateness of the new tools when they are activated.
- 3.3 From a statistical perspective, the ECB notes the extended right of the BCL to access information available from state departments and public institutions. This is basically in line with Article 32 of the BCL Organic Law, which provides that, in order to undertake its tasks, the BCL shall be empowered to collect the necessary statistical information, either from the competent national authorities or directly from economic agents. The BCL may likewise perform spot checks of the information from these authorities and economic agents, in accordance with relevant Community law provisions and within the competences of the ESCB and the ECB. However, the draft law, which concerns the research and analysis work of the Systemic Risk Committee, should also provide for access to more granular information, to the extent and at the level of detail necessary for the performance of tasks of the ESCB. This would be a necessary condition to the exercise of the analytical capabilities of the BCL, also with regard to its role in the Systemic Risk Committee.

⁵ See paragraph 2.3 of Opinion CON/2017/21, paragraph 2.2 of Opinion CON/2017/11 and Recommendation of the Eurosystem Systemic Risk Board of 4 April 2013 on intermediate objectives and instruments of macro-prudential policy (ESRB/2013/1) (OJ 170, 15.6.2013, p. 1).

⁶ See paragraph 2.4 of Opinion CON/2017/21, paragraph 2.3. of Opinion CON/2017/11 and the Governing Council's statement on macro-prudential policies of 15 December 2016, available on the ECB's website at www.ecb.europa.eu.

3.4 The ECB expects the Ministry of Finance to consult the ECB in accordance with Article 127(4) of the Treaty on draft regulations that CSSF will enact under the draft law⁷.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 19 February 2018.

[signed]

The President of the ECB

Mario DRAGHI

⁷ See Opinion CON/2017/11, Section 2.4.