



**THE NATIONAL COMMITTEE FOR MACROPRUDENTIAL OVERSIGHT**

**REGULATION**

No. 1 of 18 December 2020

amending and supplementing  
The **National Committee for Macroprudential Oversight** Regulation No. 2/2017 on the methodology and procedures used for setting capital buffers and the scope of these instruments

Having regard to the provisions of Art. 3 para. (1) letters b), c), e), g) and i) and Art. 3 para. (2) let. b) of *Law No.12/2017 on the macroprudential oversight of the national financial system*

Pursuant to the provisions of Art. 3 para. (3) of *Law No. 12/2017 on the macroprudential oversight of the national financial system*,

The **National Committee for Macroprudential Oversight** issues the following regulation:

**Art. I.** The **National Committee for Macroprudential Oversight** Regulation No. 2/2017 on the methodology and procedures used for setting capital buffers and the scope of these instruments, published in *Monitorul Oficial al României*, Part I, No. 13 of 5 January 2018, is amended and supplemented as follows:

**1. In Article 1, paragraph (2) is amended as follows:**

“(2) The addressees of the recommendations issued by the Committee under this Regulation are the National Bank of Romania (‘NBR’) and the Financial Supervisory Authority (referred to as ‘FSA’) respectively, referred to as national sectoral financial supervisory authorities.”

**2. In Article 1, paragraph (5) is amended as follows:**

“(5) Where the Committee decides to act in accordance with para. (4), it shall report to the European Systemic Risk Board (‘ESRB’) the derogations granted by the national sectoral financial supervisory authorities and shall recommend them to implement ongoing monitoring, in order to make any necessary adjustments.”

**3. In Article 2, paragraph (2) is amended as follows:**

“(2) The terms and expressions ‘institution’, ‘credit institution’, ‘subsidiary’, ‘financial holding company’, ‘parent financial holding company in a Member State’, ‘EU parent financial holding company’, ‘mixed financial holding company’, ‘parent mixed financial holding company in a Member State’, ‘EU parent mixed financial holding company’, ‘parent institution in a Member State’, ‘EU parent institution’, ‘competent authority’, ‘consolidated basis’, ‘sub-consolidated basis’, ‘own funds’, ‘global systemically important institution (G-SII)’, ‘group’ shall have the meaning set out in Article 4(1) of Regulation (EU) No 575/2013 of 26 June 2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (‘Regulation (EU) No 575/2013’).”

**4. In Article 3, paragraph (3) is amended as follows:**

“(3) Where, following the Committee’s recommendation, the FSA decides to exempt small and medium-sized investment firms from the requirement to maintain a capital conservation buffer,

the Committee shall notify the ESRB. The Committee shall publish the recommendation on its website.”

**5. In Article 4 paragraph (1), the introductory part is amended as follows:**

“(1) The Committee shall assess the intensity of cyclical systemic risk and the appropriateness of the countercyclical buffer rate for Romania on a quarterly basis and set or adjust, if necessary, the buffer rate applicable to institutions with credit exposures in Romania. In so doing, the Committee shall take into account:”

**6. Article 7 is amended as follows:**

“(1) The Committee shall publish quarterly at least the following information on its website:

- a) the recommended countercyclical buffer rate;
  - b) the credit-to-GDP-ratio and its deviation from the long-term trend;
  - c) the buffer guide for the countercyclical capital buffer, calculated in accordance with Art. 4 para. (1) let. a) and para. (2);
  - d) the justification for that buffer rate;
  - e) where the buffer rate is increased, the date from which institutions are recommended to apply that increased buffer rate for the purpose of calculating their institution-specific countercyclical capital buffer;
  - f) where the date referred to in let. (e) is less than 12 months after the date of the publication under this paragraph, a reference to the exceptional circumstances that justify that shorter deadline for application;
  - g) where the buffer rate is decreased, the indicative period during which no increase in the buffer rate is expected, together with a justification for that period. Setting the indicative period shall not bind the Committee.
- (2) The Committee shall take all reasonable steps to coordinate the timing of that publication with the national sectoral financial supervisory authorities.
- (3) The Committee shall announce on its website the publication in *Monitorul Oficial al României*, Part I, of the legal acts based on which the recommended measure was imposed on institutions by the national sectoral financial supervisory authorities.”

**7. Article 8 is amended as follows:**

“(1) The Committee shall notify each change of the countercyclical buffer rate applicable as a

result of its recommendation and all information specified in Art. 7 para. (1) to the ESRB.

(2) Where the Committee deems necessary that, for the effective application of the countercyclical capital buffer, other Member States should recognise the buffer rate higher than 2.5% set in Romania, it shall submit to the ESRB, together with the notification under para. (1), a reciprocation request as well.”

**8. In Article 9, paragraph (3) is amended as follows:**

“(3) Where, following the Committee’s recommendation, the FSA decides to exempt small and medium-sized investment firms from the requirement to maintain an investment firm-specific countercyclical capital buffer, the Committee shall notify the ESRB thereof. The Committee shall publish the recommendation on its website.”

**9. In Article 10, paragraph (5) is amended as follows:**

“(5) The Committee shall announce on its website the publication in *Monitorul Oficial al României*, Part I, of the legal acts based on which the recommended measure was imposed on institutions by the national sectoral financial supervisory authorities.”

**10. In Article 14, paragraphs (3) and (4) are amended as follows:**

“(3) The Committee shall announce on its website the publication in *Monitorul Oficial al României*, Part I, of the legal acts based on which the recommended measure was imposed on institutions by the national sectoral financial supervisory authorities.

(4) The Committee shall notify the ESRB in line with the conditions set out in para. (3) within one month from issuing the recommendation on the countercyclical buffer rate for a third country.”

**11. In Article 15, paragraph (2) is amended as follows:**

“(2) G-SIIs shall be any of the following:

a) a group headed by an European Union (EU) parent institution, an EU parent financial holding company, or an EU parent mixed financial holding company; or

b) an institution that is not a subsidiary of an EU parent institution, of an EU parent financial holding company or of an EU parent mixed financial holding company.”

**12. In Article 16, paragraph (3) is amended as follows:**

“(3) With a view to fulfilling its tasks under Art. 15 para. (1), the Committee may require the national sectoral financial supervisory authorities to report data (indicators and ancillary data) and to annually collect data and the values of indicators of G-SIIs, complying with the identification

methodology set out in para. (1) and using the template published on the European Banking Authority ('EBA') website.”

**13. Article (16<sup>1</sup>) is added after Article 16, as follows:**

“**Art. 16<sup>1</sup> - (1)** In addition to the G-SII identification methodology set out in Art. 16 para. (1), the Committee shall calculate an additional overall score for each assessed entity, on the basis of which it may take the measure referred to in Art. 19 let. c). In so doing, the Committee shall use a methodology based on the following categories:

a) the categories referred to in letters (a) to (d) of Art. 16 para. (1);

b) cross-border activity of the group, excluding the group’s activities across participating Member States as referred to in Article 4 of *Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010*.

**(2)** Each category shall receive an equal weighting and shall consist of quantifiable indicators. For the categories referred to in let. (a) of para. (1), the indicators shall be the same as the corresponding indicators determined pursuant to Art. 16 para. (1).”

**14. In Article 18, paragraph (1) is amended as follows:**

“(1) The lowest sub-category shall be assigned a G-SII buffer of 1% of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 and the buffer assigned to each sub-category shall increase in gradients of at least 0.5% of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation.”

**15. In Article 18, paragraph (2) is repealed.**

**16. Article 19 is amended as follows:**

“**Art. 19.** - In the exercise of its duties specified under Art. 3 para. (1) let. c) of the Law, using the sub-categories and cut-off scores mentioned in Art. 18 hereof and without prejudice to Articles 15, 17 and 18 of this Regulation, the Committee may, on the basis of sound judgment:

a) re-allocate a G-SII from a lower sub-category to a higher sub-category;

b) allocate an entity as referred to in Art. 15 that has an overall score that is lower than the cut-off score of the lowest sub-category to that sub-category or to a higher sub-category, thereby designating it as a G-SII;

c) taking into account the Single Resolution Mechanism, on the basis of the additional overall score referred to in Art. 16<sup>1</sup> para. (1), re-allocate a G-SII from a higher sub-category to a lower sub-category.”

**17. In Article 20, paragraphs (1) and (2) are amended as follows:**

“(1) The Committee shall notify to the ESRB and shall publish on its website the names of the G-SIIs and the respective sub-category to which each G-SII is allocated. The notification shall contain full reasons why supervisory judgment has been exercised in accordance with Art. 19 or, as applicable, the reasons why such judgment has not been exercised.

(2) The Committee shall review annually the identified G-SIIs and their allocation into the respective sub-categories and report the result to the institutions concerned and to the ESRB.”

**18. In Article 21, paragraph (2) is amended as follows:**

“(2) O-SIIs may either be an institution or a group headed by an EU parent institution, an EU parent financial holding company, an EU parent mixed financial holding company, a parent institution in Romania, a parent financial holding company in Romania or a parent mixed financial holding company in Romania.”

**19. Article 23 is amended as follows:**

“**Art. 23. - (1)** Based on the criteria for the identification of O-SIIs, the Committee may recommend the national sectoral financial supervisory authorities to require O-SIIs to maintain an O-SII buffer of less than or equal to 3% of the total risk exposure amount, calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013. The Committee’s recommendation shall also contain the level of application of each buffer, on a consolidated, sub-consolidated or individual basis, as applicable.”

(2) After the first-time adoption of a recommendation or after the revision of a recommendation on imposing an O-SII buffer, yet one month before the publication of the recommendation on its website, the Committee shall notify the ESRB, in accordance with the provisions of Art. 23<sup>2</sup> para. (3) and shall await opinions within one month from that date.

(3) Until the expiry of the one-month response period, the recommendation shall not take effect.

(4) Insofar as no opinions are received within a month or the opinions received within a month make no change of substance to the recommendation by the Committee, the recommendation shall be deemed as issued and shall take effect as of the date of expiry of the one-month response period. The Committee shall notify the national sectoral financial supervisory authorities of the expiry of the period to provide an opinion and shall submit to the latter the final version of the

recommendation.

(5) Where the opinions received within the one-month period express a disagreement of substance on the recommendation by the Committee, the latter shall review the proposal, by taking into account the reasons presented by the respective authorities. Following the review, the Committee may decide not to apply the recommendation, in which case the recommendation shall be deemed as not issued, or may decide to apply the recommendation. The Committee shall notify accordingly the national sectoral financial supervisory authorities.”

**20. Articles 23<sup>1</sup>-23<sup>3</sup> are added after Article 23, as follows:**

“**Art. 23<sup>1</sup>.** - (1) Subject to the European Commission (hereinafter referred to as the “Commission”) authorisation, following the notification submitted to the ESRB according to para. (2), the Committee may recommend the national sectoral financial supervisory authorities to require O-SIIs to maintain an O-SII buffer higher than 3% of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013. The Committee’s recommendation shall also contain the level of application of each buffer, on a consolidated, sub-consolidated or individual basis, as applicable.

(2) After the first-time adoption of a recommendation or after the revision of a recommendation on imposing an O-SII buffer in accordance with para. (1), yet three months before the publication of the recommendation on its website, the Committee shall submit a notification to the ESRB, in accordance with the provisions of Art. 23<sup>2</sup> para. (3), whereby it requires the Commission authorisation, and shall await an opinion within three months from that date.

(3) The recommendation of the Committee on imposing a buffer higher than 3%, adopted in accordance with para. (1), shall not take effect until the Commission provides an opinion.

(4) The recommendation under para. (1) shall be deemed as issued and shall take effect after the Commission adopts an act authorising the Committee to adopt the proposed measure.

(5) The Committee shall notify the national sectoral financial supervisory authorities of the authorisation act adopted by the Commission and shall submit to them the final version of the recommendation.

(6) Where the Commission, by its opinion, does not authorise the Committee to adopt the proposed measure, the Committee shall comply with the decision, in which case the latter’s recommendation is deemed as not issued. The Committee shall inform the national sectoral financial supervisory authorities of the Commission’s opinion and of the fact that the recommendation is deemed as not issued.

(7) Where, within the three-month period set forth in Article 131(5a), the last subparagraph of Directive 2013/36/EU, no opinion is provided by the Commission, the Committee's recommendation is deemed as not issued. The Committee shall notify the national sectoral financial supervisory authorities of the expiry of the response period and of the fact that the recommendation is deemed as not issued.

**Art. 23<sup>2</sup>.** - (1) When requiring an O-SII buffer to be maintained, the Committee shall envisage that the O-SII buffer must not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the EU as a whole, forming or creating an obstacle to the functioning of the European single market.

(2) In the process of setting the O-SII buffer rate that the Committee recommends, it shall take into account that where an O-SII is a subsidiary of either a G-SII or an O-SII which is either an institution or a group headed by an EU parent institution, and subject to an O-SII buffer on a consolidated basis, the O-SII buffer rate recommended that applies at individual or sub-consolidated level shall not exceed the lower of:

a) the sum of the higher of the G-SII or O-SII buffer rate applicable to the group on a consolidated basis and 1% of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013; and

b) 3% of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 or the rate the Committee has recommended to be applied to the group on a consolidated basis, in accordance with Art. 23<sup>1</sup> para. (1) of this Regulation and the Commission has authorised, in accordance with Art. 23<sup>1</sup> para. (4) of this Regulation.

(3) The notifications in Art. 23 para. (2) and Art. 23<sup>1</sup> para. (2) shall describe in detail:

a) the justification for why the O-SII buffer is considered likely to be effective and proportionate to mitigate the risk;

b) an assessment, based on information which is available to the Committee, of the likely positive or negative impact of the O-SII buffer on the European single market;

c) the O-SII buffer rates and the levels of application of each rate, as determined and recommended by the Committee.

(4) The publication of the recommendation in accordance with Art. 10 para. (3) of the Law, is made within three days from the date when the recommendation takes effect.

(5) The Committee shall announce on its website the publication in *Monitorul Oficial al României*, Part I, of the legal acts imposing the recommended measure on the institutions by the national



sectoral financial supervisory authorities.

(6) The Committee shall revise the O-SII buffer at least annually.

**Art. 23<sup>3</sup>** - Where the sum of the O-SII buffer rate or the G-SII buffer rate and the systemic risk buffer rate, calculated in accordance with Art. 27, 32 or 33, is higher than 5%, the procedure set out in Art. 23<sup>1</sup> shall apply.”

**21. In Article 24, paragraphs (1) and (2) are amended as follows:**

“(1) The Committee shall notify to the ESRB the names of the institutions identified as O-SIIs.

(2) The Committee shall review annually the identified O-SIIs and report the result to the institutions concerned and the ESRB. Moreover, the Committee shall notify to the EBA the scores of all identified O-SIIs and the values of indicators for the respective institutions.”

**22. Article 25 is amended as follows:**

“**Art. 25. - (1)** With a view to preventing and mitigating systemic or macroprudential risks not covered by Regulation (EU) No 575/2013 or Chapters III and IV of this Regulation, where there is a risk of disruption in the financial system with the potential to have serious negative consequences for the financial system and the real economy, the Committee may recommend that the systemic risk buffer should apply to the financial sector, or to one or more subsets of that sector, for all exposures or only one subset of exposures, in accordance with the provisions of Art. 26 para. (1).

(2) For the purpose of para. (1), the Committee shall identify the exposures and subsets of institutions to which the systemic risk buffer applies and shall set the applicable buffer rate.”

**23. Article 26 is amended as follows:**

“**Art. 26. - (1)** Within the meaning of Art. 25, the Committee may recommend that a systemic risk buffer should be applied to any of the following exposures or subsets of exposures:

a) all exposures located in Romania;

b) the following sectoral exposures located in Romania:

i) all retail exposures to natural persons which are secured by residential property;

ii) all exposures to legal persons which are secured by mortgages on commercial immovable property;

iii) all exposures to legal persons excluding those specified in point ii);

iv) all exposures to natural persons excluding those specified in point i);

- c) all exposures located in other Member States, subject to Articles 33 and 33<sup>1</sup>;
- d) sectoral exposures, as identified in let. b), located in other Member States, only to enable recognition of a buffer rate set by another Member State in accordance with Art. 35;
- e) exposures located in third countries;
- f) subsets of any of the sectoral exposures categories identified in let. b).

(2) The Committee may recommend a systemic risk buffer to be maintained on an individual basis, on a sub-consolidated basis and on a consolidated basis, as appropriate.

(3) The Committee may recommend the national sectoral financial supervisory authorities to impose the systemic risk buffer to all exposures or to a subset of exposures, as referred to in para. (1), to all institutions or one or more subsets of institutions. Moreover, the Committee may recommend that different systemic risk buffer rates should apply to different subsets of institutions and exposures.

(4) For the purposes of calculating the sum of the systemic risk buffer rate that the institution shall maintain, pursuant to the recommendation in para. (3), the Committee shall set the systemic risk buffer rate that applies to the total risk exposure amount and, as appropriate, the subset of exposures for which it decided to recommend a buffer rate and the rate applicable to the risk exposure amount of the subset of exposures.

(5) The Committee may recommend the application of the systemic risk buffer in steps of adjustment of 0.5 percentage points or multiples thereof.

(6) The Committee may not recommend the national sectoral financial supervisory authorities to impose the systemic risk buffer to address risks that are covered by the countercyclical capital buffer, the G-SII buffer or the O-SII buffer.

(7) When deciding to recommend the national sectoral financial supervisory authorities to impose a systemic risk buffer, the Committee shall consider the following:

a) the systemic risk buffer shall not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the EU as a whole forming or creating an obstacle to the proper functioning of the European single market;

b) the systemic risk buffer shall be reviewed by the Committee at least every second year;

c) the systemic risk buffer shall not be used to address risks that are covered by the countercyclical capital buffer, the G-SII buffer or the O-SII buffer.”

**24. Article 26<sup>1</sup> is added after Article 26, as follows:**

“**Art. 26<sup>1</sup>.** - (1) Before the publication of the announcement specified in Art. 34, the Committee shall notify the ESRB.

(2) Where an institution in Romania to which one or more systemic risk buffer rates apply is a subsidiary the parent of which is established in another Member State, the Committee shall also notify the authorities of that Member State, together with the notification referred to in para. (1).

(3) Where a systemic risk buffer rate applies to exposures located in third countries, the Committee shall notify the ESRB, in order to forward it to the supervisory authorities of those third countries.

(4) The notifications provided for in para. (1)- (3) shall set out in detail:

a) the systemic or macroprudential risk manifest at national level;

b) the reasons why the dimension of the systemic or macroprudential risks threatens the financial stability at national level justifying the systemic risk buffer rate;

c) the justification for why the recommended systemic risk buffer is considered to be effective and proportionate to mitigate the risk;

d) an assessment, based on information which is available to the Committee, of the likely positive or negative impact of the systemic risk buffer on the European single market;

e) the systemic risk buffer rate or rates that the Committee set and decided to recommend, the exposures to which such rates shall apply and the institutions which shall be subject to such rates;

f) where the systemic risk buffer rate applies to all exposures, a justification of why the Committee considers that the systemic risk buffer does not duplicate the functioning of the O-SII buffer.

(5) Where the decision to set the systemic risk buffer rate results in a decrease or no change from the previously set buffer rate, the Committee shall only comply with the provisions of this Article.”

**25. Article 27 is amended as follows:**

“**Art. 27.** - (1) Where the Committee issues a recommendation for the first time or revises a recommendation on imposing a systemic risk buffer rate or rates applicable to a set or subset of exposures, resulting in a combined systemic risk buffer rate of less than or equal to 3% for any of those exposures, the Committee shall notify the ESRB, in accordance with Art. 26<sup>1</sup>, one month before the publication of the announcement specified in Art. 34 and await opinions within one month from this date.

(2) Within the meaning of para. (1), the recognition by the Committee of a systemic risk buffer rate in accordance with Art. 35 shall not count towards the 3% threshold.

(3) Until the expiry of the one-month period set forth in para. (1), the recommendation shall not

take effect.

(4) Where, following the notification forwarded by the ESRB to the Commission, the EBA, the competent authorities or the designated authorities of the Member States concerned, within the one-month period, no opinions are received or the opinions received make no change of substance to the recommendation by the Committee, the recommendation shall be deemed as issued and shall take effect as of the expiry date of the period set forth in para. (1). The Committee shall notify the national sectoral financial supervisory authorities of the end of the period referred to in para. (1) and shall submit to the latter the final version of the recommendation.

(5) Where the opinions received within the one-month period following the notification forwarded by the ESRB to the Commission, the EBA, the competent authorities or the designated authorities of the Member States concerned, express substantial disagreement with the Committee's recommendation, the latter shall reassess the proposal by considering the reasons presented by those authorities. Following the review, the Committee may decide not to apply the recommendation, in which case the recommendation shall be deemed as not issued, or may decide to apply the recommendation. The Committee shall notify the national sectoral financial supervisory authorities accordingly."

**26. Articles 28-31 are repealed.**

**27. Article 32 is amended as follows:**

**“Art. 32. - (1)** Without prejudice to para. (2), where the Committee issues a recommendation for the first time or revises a recommendation on imposing a systemic risk buffer rate or rates on a set or subset of exposures, resulting in a combined systemic risk buffer rate at a level higher than 3% and less than or equal to 5% for any of the respective sets or subsets of exposures, the Committee shall request the Commission's opinion, in the notification sent to the ESRB in accordance with Art. 26<sup>1</sup>, one month before the publication of the announcement specified in Art. 34 and await opinions within one month from the ESRB notification.

(2) Until an opinion is provided by the Commission, within the one-month period provided for in the first subparagraph of Article 133(11) of Directive (EU) 2013/36, the recommendation shall not take effect.

(3) The recommendation shall be deemed as issued and shall take effect after a favourable opinion is provided by the Commission. The Committee shall notify the national sectoral financial supervisory authorities about the favourable opinion provided by the Commission and shall submit to them the final version of the recommendation.

(4) Where the opinion of the Commission is negative, the Committee shall comply with that

opinion, in which case the recommendation by the Committee is deemed as not issued, or shall give the Commission reasons for not complying. The Committee shall notify the national sectoral financial supervisory authorities of the decision on the Commission's opinion and shall submit to them, where applicable, the final version of the recommendation.

(5) Where, within the one-month period provided for in para. (2), no opinion from the Commission is received, the Committee's recommendation is deemed as issued. The Committee shall notify the national sectoral financial supervisory authorities about the end of that period and shall submit to the latter the final version of the recommendation.

(6) Where an institution in Romania, to which one or more rates recommended by the Committee pursuant to para. (1) apply, is a subsidiary the parent of which is established in another Member State, the Committee shall request in the notification submitted in accordance with Art. 26<sup>1</sup> a recommendation by the Commission and the ESRB.

(7) Until the Commission and the ESRB provide an opinion within the six-week period provided for in the fourth subparagraph of Article 133(11) of Directive (EU) 2013/36, the Committee's recommendation in para. (6) shall not take effect.

(8) Except for the situation referred to in para. (10), the Committee's recommendation set forth in para. (6) shall be deemed as issued and shall take effect only after an opinion is provided by the Commission and the ESRB respectively. The Committee shall notify the national sectoral financial supervisory authorities of the recommendation received from the Commission and the ESRB respectively, and shall submit to them the final version of the recommendation.

(9) Where the Committee and the competent authority or, where appropriate, the designated authority in the respective Member State disagree on the one or more rates recommended by the Committee pursuant to para. (1), and a negative opinion is issued by both the Commission and the ESRB, the Committee may refer the matter to the EBA for binding mediation in accordance with Article 19 of *Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC*.

(10) In the case referred to in para. (9), the Committee's recommendation on imposing a systemic risk buffer to those exposures shall not take effect until EBA takes a decision. The Committee shall comply with the EBA's decision.

(11) Where the EBA's decision changes the Committee's recommendation, the Committee shall notify the national sectoral financial supervisory authorities of the EBA's decision and of the fact that the recommendation is deemed as not issued.

(12) Where the EBA’s decision does not change the Committee’s recommendation, the Committee shall notify the national sectoral financial supervisory authorities of the EBA’s decision and shall submit to them the final version of the recommendation.”

**28. Article 33 is amended as follows:**

“**Art. 33. - (1)** Where the Committee issues a recommendation for the first time or revises a recommendation on imposing a systemic risk buffer rate or rates on a set or subset of exposures, resulting in a combined systemic risk buffer rate at a level higher than 5% for any of the respective sets or subsets of exposures, the Committee shall seek the authorisation of the Commission in the notification submitted to the ESRB, in accordance with Art. 26<sup>1</sup>, three months before the publication of the announcement specified in Art. 34 and await opinions within three months from the ESRB notification.

(2) The recommendation issued for the first time by the Committee or the revision of a recommendation issued in accordance with para. (1) shall not take effect until the Commission grants an authorisation.

(3) The recommendation under para. (1) shall be deemed as issued and shall take effect after the Commission adopts an act authorising the Committee to adopt the proposed measure. The Committee shall notify the national sectoral financial supervisory authorities of the authorising act adopted by the Commission and shall submit to the latter the final version of the recommendation.

(4) Where the response of the Commission does not authorise the Committee to adopt the proposed measure, the Committee shall comply with that decision, in which case the recommendation by the Committee is deemed as not issued. The Committee shall notify the national sectoral financial supervisory authorities of the Commission’s response and of the fact that the recommendations is deemed as not issued.

(5) Where there is no response from the Commission within the three-month period referred to in the last subparagraph of Article 133(12) of Directive 2013/36/EU, the recommendation by the Committee is deemed as not issued. The Committee shall notify the national sectoral financial supervisory authorities of the endate of the period and of the fact that the recommendation is deemed as not issued.”

**29. Article 33<sup>1</sup> is added after Article 33, as follows:**

“**Art. 33<sup>1</sup>.** - Where the Committee recommends setting a systemic risk buffer rate for exposures located in other Member States, it shall recommend the same rate to be applied to all exposures located in all EU Member States subject to the respective buffer, except when the buffer is set to

recognise the systemic risk buffer rate in accordance with Art. 35.”

**30. Article 34 is amended as follows:**

“**Art. 34. - (1)** The Committee shall announce by publication on its website one or more systemic risk buffer rates recommended based on the provisions of this chapter.

**(2)** The announcement shall include at least the following information:

- a) the recommended systemic risk buffer rate or rates;
- b) the institutions to which the systemic risk buffer applies;
- c) the exposures to which the systemic risk buffer rate or rates apply;
- d) a justification for the systemic risk buffer rate;
- e) the date from which the institutions are recommended to apply the systemic risk buffer that was set or reset; and
- f) the names of the countries where exposures located in those countries are recognised in the systemic risk buffer.

**(3)** Without prejudice to para. (1) and (2), the Committee shall not include in the announcement the information under para. (2) let. d) when the respective justification could jeopardise financial stability.

**(4)** The Committee shall announce on its website the publication in *Monitorul Oficial al României*, Part I, of the legal acts imposing the recommended measure on institutions by the national sectoral financial supervisory authorities.”

**31. In Article 35, paragraphs (1) and (2) are amended as follows:**

“(1) The Committee may recognise a systemic risk buffer rate set similarly to those provided in Section 1 of this Chapter by the designated authorities or, as applicable, the competent authorities of another Member State and may recommend that the national sectoral financial supervisory authorities impose that buffer rate on institutions, Romanian legal entities, for the exposures located in that Member State.

**(2)** When deciding to recognise a systemic risk buffer rate set in another Member State, the Committee shall issue a recommendation to the national sectoral financial supervisory authorities to impose the recognised buffer within three months from the publication date in the *Official Journal of the European Union* of the ESRB recommendation to Member States on the recognition of the said rate or within the deadline stipulated in the ESRB recommendation.”

**32. Paragraph (3<sup>1</sup>) is added after paragraph (3) in Article 35, as follows:**

“(3<sup>1</sup>) Where the Committee adopts the decision provided in para. (1), the respective systemic risk buffer may be cumulative with the systemic risk buffer applied in accordance with Art. 25, provided that the buffers address different risks. Where the buffers address the same risks, only the higher buffer shall apply to the exposures located in the respective Member States.”

**33. In Article 35, paragraphs (4) and (5) are amended as follows:**

“(4) Within one month at the latest from the date of imposing the systemic risk buffer rate by the national sectoral financial supervisory authorities, the Committee shall notify the ESRB. The date of imposing the systemic risk buffer rate shall be the date of the publication in *Monitorul Oficial al României*, Part I, of the legal act imposing the buffer.”

(5) The Committee shall announce on its website the publication in *Monitorul Oficial al României*, Part I, of the legal acts imposing the recommended measure on institutions by the national sectoral financial supervisory authorities.”

**34. Article 40 is amended as follows:**

“**Art. 40. - (1)** The Committee shall require the national sectoral financial supervisory authorities, where they decide to adopt the recommendations issued by the former in accordance with this Regulation, to inform the Committee about the measures adopted.

(2) Where the national sectoral financial supervisory authorities decide to adopt the recommendations issued by the Committee, the latter shall require a notification of the publication in *Monitorul Oficial al României*, Part I, of the legal act imposing the recommended measures on institutions by the national sectoral financial supervisory authorities.

(3) The Committee shall require the national sectoral financial supervisory authorities, where they decide not to adopt the recommendations issued by the former in accordance with this Regulation, to inform the Committee and substantiate the decision adopted.”

**35. Article 40<sup>1</sup> is added after Article 40, as follows:**

“**Art. 40<sup>1</sup> -** The Committee shall consider the guidelines and recommendations issued by the European Banking Authority with regard to capital buffers, in accordance with Article 16 of Regulation (EU) No 1093/2010.”

**Art. II.** This Regulation shall be published in *Monitorul Oficial al României*, Part I.

\*

*This Regulation transposes the provisions of Directive 2019/878 of the European Parliament and*



*of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures, published in the Official Journal of the European Union L 150 of 7 June 2019.*

**MUGUR CONSTANTIN ISĂRESCU**

Chairman