

Law of 4 December 2019 amending:

1° the Law of 5 April 1993 on the financial sector, as amended;

2° the Law of 1 April 2015 establishing a Systemic Risk Committee and amending the Law of 23 December 1998 concerning the monetary status and the Banque centrale du Luxembourg, as amended;

enacting macroprudential measures on residential mortgage loans.

(Mém. A 2019, No 811)

Article I.

The Law of 5 April 1993 on the financial sector, as amended, is amended as follows:

1° In point 10) of Article 59-2 of the Law of 5 April 1993 on the financial sector, as amended, the following sentence is inserted before the last sentence:

“The designated authority shall also decide on the application of the measures referred to in Article 59-14a. ”.

2° A new Chapter 6 titled “Macroprudential measures applicable to the provision of residential mortgage loans” is inserted after Chapter 5 in Part III of the Law of 5 April 1993 on the financial sector, as amended, and reads as follows:

"Article 59-14a. Powers of the CSSF.

(1) The CSSF may take the measures referred to in paragraph 2 to set out the conditions for granting loans for residential immovable property located in Luxembourg by credit institutions, insurance undertakings and professionals performing lending operations.

The CSSF may only take the measures referred to in paragraph 2 if the activation of such measures allows counteracting the malfunctioning of the national financial system or reducing the accumulation of risks to national financial stability arising from developments in the real estate sector in Luxembourg and if no other measure that may be taken under this Law, under Regulation (EU) No 575/2013 or their implementing measures, taken independently or together, would allow these risks to be adequately mitigated.

In the event of a sustained and persistent increase in house prices and in the volume of mortgage loans coupled with a significant deterioration, when granting loans, of the ratios referred to in paragraph 2, the Systemic Risk Committee shall assess whether such developments indicate a malfunctioning of the national financial system or pose a risk to national financial stability.

The CSSF shall act under this article only after a recommendation from the Systemic Risk Committee has been adopted and addressed to the CSSF. Where the CSSF acts in accordance with this article, it shall decide on the measures to be taken after consultation with the Banque centrale du Luxembourg to reach a common position. Where players of the insurance sector are concerned by the measures referred to in paragraph 2, a prior consultation with the Commissariat aux assurances shall take place.

The measures taken in accordance with this article shall not apply to credit agreements in force at the time of the decision of the measure by the CSSF.

- (2) For the provision of loans relating to residential immovable property, the CSSF may define:
- (a) a maximum limit for the ratio between the sum of all loans or loan tranches secured by the borrower on the immovable property at the moment of loan origination and the value of the property at the moment of loan origination. Where the CSSF defines a maximum limit for the above ratio, this limit shall be between 75 % and 100 %;
 - (b) a maximum limit for the ratio between the sum of all loans or loan tranches secured by the borrower on the immovable property at the moment of loan origination and the borrower's total available annual income at the moment of loan origination. Where the CSSF defines a maximum limit for the above ratio, this limit shall be between 400 % and 1200 %;
 - (c) a maximum limit for the ratio between the borrower's total indebtedness at the moment of loan origination and the borrower's total available annual income at the moment of loan origination. Where the CSSF defines a maximum limit for the above ratio, this limit shall be between 400 % and 1200 %;
 - (d) a maximum limit for the ratio between the total annual mortgage charges and the borrower's total available annual income at the moment of loan origination. Where the CSSF defines a maximum limit for the above ratio, this limit shall be between 35 % and 75 %;
 - (e) a maximum limit for a loan's initial maturity. Where the CSSF defines a maximum limit for the loans' initial maturity, this limit shall be between 20 and 35 years.

The measures referred to under points (a) to (e) may be applied alone or in combination and may refer to all or part of the amount of the new loans.

Article 59-14b. Recognition of the measures taken in Luxembourg and in other Member States.

- (1) The CSSF may, in its capacity as designated authority, ask the national authorities of other Member States to recognise the conditions set out for granting loans relating to immovable property located in Luxembourg and to apply these conditions to entities under their supervision.
- (2) The CSSF shall act under this article only after a recommendation from the Systemic Risk Committee has been adopted and addressed to the CSSF. Where the CSSF acts in accordance with this article, it shall decide on the measures to be taken after consultation with the Banque centrale du Luxembourg to reach a common position. ”.

Article II.

A subparagraph is inserted in Article 8(2) of the Law of 1 April 2015 establishing a Systemic Risk Committee and amending the Law of 23 December 1998 concerning the monetary status and the Banque centrale du Luxembourg, as amended, which reads as follows:

“Without prejudice to Article 32 of the Law of 23 December 1998 concerning the monetary status and the Banque centrale du Luxembourg and - repealing the legal tender on notes issued by the Banque Internationale à Luxembourg; - amending Article 1 of the Law of 12 July 1895 on the payment of workers' salaries, as amended, the Banque centrale du Luxembourg shall have the 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 required to perform its research and analysis activities with regard to the role of the Systemic Risk Committee.”.