



CSSF Regulation No 22-07

CSSF Regulation No 22-07 of 30 November 2022

concerning systemically important institutions authorised in Luxembourg

(Mém. A 2022, No 647)

Having regard to Article 108a of the Constitution;

Having regard to the Law of 23 December 1998 establishing a financial sector supervisory commission (“Commission de surveillance du secteur financier”), and in particular Article 9(2) thereof;

Having regard to the Law of 5 April 1993 on the financial sector (“LFS”) and in particular Article 59-2 and Article 59-3 thereof, pursuant to which the CSSF, as designated authority and after consultation with the Banque centrale du Luxembourg (“BCL”), is in charge of identifying the systemically important institutions which have been authorised in Luxembourg and the yearly review thereof, and its Article 59-9 pursuant to which the CSSF, after consultation with the BCL, may require systemically important institutions, other than global, to maintain an additional capital buffer;

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, as amended by Directive 2019/878 of the European Parliament and of the Council of 20 May 2019, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, and in particular Article 131 thereof;

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (“SSM Regulation”), and in particular Article 5 thereof;

Having regard to Commission Delegated Regulation (EU) No 1222/2014 of 8 October 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions;

Having regard to the Guidelines of the European Banking Authority (EBA/GL/2014/10) of 16 December 2014 on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (“EBA Guidelines”);

Having regard to the opinion of the Comité du risque systémique (Systemic Risk Committee) of 17 October 2022 on the annual identification and the review of the calibration of the buffer for the other systemically important institutions (CRS/2022/009) (“CRS Opinion”);

Having regard to the decision of the ECB, adopted pursuant to Article 5 of the SSM Regulation, not to object to the CSSF’s intention to take the macro-prudential measures set out in this regulation;

Having regard to the opinion of the Consultative Committee for Prudential Regulation;

The Executive Board of the Commission de Surveillance du Secteur Financier,

Decides:

Article 1

Identification of global systemically important institutions

None of the institutions authorised in Luxembourg referred to in Article 1(11a) of the LFS, hereinafter “CRR institutions”, has been identified as a global systemically important institution (G-SII) within the meaning of Article 59-3 of the LFS.

Article 2

Identification of the other systemically important institutions

Pursuant to Article 59-3(6) of the LFS, the standard methodology described in the EBA Guidelines, as well as the enriched methodology taking into account the specificities of the Luxembourg financial centre, and in accordance with the CRS Opinion as appended, seven CRR institutions authorised in Luxembourg have been identified as other systemically important institutions (O-SIIs) within the meaning of Article 59-3 of the LFS.

Four of these CRR institutions have been identified as O-SIIs based on their scores obtained through the EBA's standard methodology, which exceed the threshold specifically set for Luxembourg at 325 points.

One CRR institution has been identified as O-SII according to the ruling of the designated authority and based on its score obtained through the enriched methodology, which exceeds the threshold specifically set for Luxembourg at 325 points. The identification of the institution results from the importance of its connection with the investment fund sector as well as its role as asset depositary on behalf of UCIs.

One CRR institution has been identified as O-SII according to the ruling of the designated authority and based on its score which is below, but remains nevertheless close to the threshold of 325 points. The institution has been identified as a result of its role as market infrastructure.

Thus, based on the financial situation of the CRR institutions as at 31 December 2021, the O-SIIs are:

| Denomination | Score (standard methodology) | Score (enriched methodology) ¹ |
|--|---------------------------------|--|
| Banque et Caisse d'Épargne de l'État, Luxembourg | 546 | - |
| Banque Internationale à Luxembourg | 348 | - |
| BGL BNP Paribas | 638 | - |
| Clearstream Banking S.A. | 272 | 262 |
| RBC Investor Services Bank S.A. | 295 | 346 |
| Société Générale Luxembourg | 589 | - |

¹ The scores of the enriched methodology are provided only for institutions identified based on the prudential ruling.

Article 3

Buffers for the other systemically important institutions

The buffer rates for the other systemically important institutions shall be set according to the following table:

| Denomination | Buffer rate applicable as at 1 January 2022 (As a reminder) | Buffer rate applicable as at 1 January 2023 |
|--|--|---|
| Banque et Caisse d'Épargne de l'État, Luxembourg | 0.50% | 0.50% |
| Banque Internationale à Luxembourg | 0.50% | 0.50% |
| BGL BNP Paribas | 0.50% | 0.50% |
| Clearstream Banking S.A. | 0.50% | 0.50% |
| RBC Investor Services Bank S.A. | 0.50% | 0.50% |
| Société Générale Luxembourg | 0.50% | 0.50% |

These buffer rates for the institutions identified as O-SIIs within the meaning of Article 59-3 of the LFS shall apply at sub-consolidated level.

Article 4

Entry into force

This regulation shall enter into force on 1 January 2023. It repeals and replaces CSSF Regulation No 21-04 concerning systemically important institutions authorised in Luxembourg as from the above-mentioned date.

This regulation shall be published in the Journal officiel du Grand-Duché de Luxembourg and on the website of the Commission de Surveillance du Secteur Financier.

Luxembourg, 30 November 2022

Commission de Surveillance du Secteur Financier

Claude WAMPACH
Director

Marco ZWICK
Director

Jean-Pierre FABER
Director

Françoise KAUTHEN
Director

Claude MARX
Director General

Annex: Opinion of the Comité du Risque Systémique (Systemic Risk Committee) of 17 October 2022 on the annual identification and the review of the calibration of the buffer for the other systemically important institutions (CRS/2022/009)

Annex:

OPINION
OF THE COMITÉ DU RISQUE SYSTÉMIQUE (SYSTEMIC RISK COMMITTEE)
of 17 October 2022
on the annual identification and the review of the calibration of the buffer for the other
systemically important institutions
(CRS/2022/009)

THE SYSTEMIC RISK COMMITTEE,

Having regard to Directive (EU) 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;

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, and in particular Article 131 thereof;

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, and in particular Article 5 thereof (hereinafter "SSM Regulation");

Having regard to the Guidelines of the European Banking Authority "on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs)" (hereinafter "EBA Guidelines");

Having regard to the Law of 5 April 1993 on the financial sector, as amended, and in particular Articles 59-3 and 59-9 thereof (hereinafter "Law of 5 April 1993");

Having regard to 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, and in particular Article 2(c) and (h) and Article 7 thereof (hereinafter "CdRS Law");

Having regard to the internal rules of the Systemic Risk Committee of 16 November 2015, and in particular Articles 9 and 11 thereof;

HAS ADOPTED THIS OPINION:

Part I: Buffers for the other systemically important institutions "O-SIIs"

This opinion is delivered by the Systemic Risk Committee having regard to its legal obligation to state every year its opinion on the identification of other systemically important institutions (hereinafter "O-SIIs") and the setting of buffers for these other systemically important institutions in accordance with a request from the CSSF.

1) Identification of O-SIIs and calibration of applicable buffer rates

Having regard to the different quantitative analyses and qualitative assessments of the CSSF and the BCL, and in particular the application of the methodology described in Annex I and in accordance with Articles 59-3 and 59-9 of the Law of 5 April 1993, the Systemic Risk Committee is of the opinion that:

- the institutions referred to in Annex II should be identified - as from 1 January 2023 - as O-SIIs; and
- the buffer rates applicable to the O-SIIs should be set - as from 1 January 2023 - in accordance with Annex II.

2) Notifications of O-SIIs

In accordance with Articles 59-3(7) and 59-9(3) of the Law of 5 April 1993, the Systemic Risk Committee invites the CSSF to notify its decision regarding the updated list of O-SIIs and the applicable buffer rates to the European Systemic Risk Board.

3) Publication

The Systemic Risk Committee invites the secretariat to publish this opinion on the CdRS' website.

Part II: Implementation of the Opinion of the Systemic Risk Committee

1. Interpretation

- a) The terms used in this opinion have the same meaning as in the Law of 5 April 1993.
- b) The Annexes are an integral part of this opinion.

2. Follow-up

The Systemic Risk Committee invites the CSSF, as addressee of this opinion, to communicate, as soon as possible, the measures taken in response to this opinion, to the Systemic Risk Committee via the secretariat.

3. Monitoring and assessment

- 1) The secretariat of the Systemic Risk Committee:
 - a) assists the CSSF, including by facilitating coordination of the measures taken in response to this opinion; and
 - b) prepares a report on the follow-up on this opinion and informs the Systemic Risk Committee thereof.
- 2) The Systemic Risk Committee assesses the responses of the CSSF to this opinion.

Done in Luxembourg, 17 October 2022.

For the Systemic Risk Committee

Yuriko Backes
Chairwoman

Annex I: Identification methodology and buffer calibration

The CSSF liaised with the BCL for the yearly review of the identification of O-SIIs in accordance with Article 59-3 of the Law of 5 April 1993 and pursuant to the methodology set out in the EBA Guidelines. The standard methodology as provided for by the EBA has been enriched, in a second step, to take into consideration the specificities of the Luxembourg financial centre by adding a fifth criterion which takes into consideration, on the one hand, the importance of the connection between credit institutions and the investment fund sector and, on the other hand, the depositary bank infrastructures.

Article 59-3(5) of the Law of 5 April 1993 provides that O-SIIs shall be identified on an individual, sub-consolidated or consolidated basis, as applicable, and shall be an EU parent institution, an EU parent financial holding company, an EU parent mixed financial holding company or a CRR institution.

Moreover, Article 59-3(5a) of the Law of 5 April 1993 also provides that O-SIIs may either be a CRR 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 a Member State, a parent financial holding company in a Member State or a parent mixed financial holding company in a Member State.

The methodology for identifying O-SIIs is based on the following indicators and weights:

Table 1: Criteria, indicators and weight of the identification methodology

| Criterion | Indicator | Standard methodology | Enriched methodology | Status of criterion |
|--|---|-----------------------------|-----------------------------|----------------------------|
| Size | Total assets | 25.00% | 20.00% | Mandatory |
| Importance (including substitutability/financial system infrastructure) | Value of payment transactions | 8.33% | 6.66% | Mandatory |
| | Private sector deposits from depositors in the EU | 8.33% | 6.66% | |
| | Private sector loans to recipients in the EU | 8.33% | 6.66% | |
| Complexity/cross-border activity | Value of OTC derivatives (notional) | 8.33% | 6.66% | Mandatory |
| | Cross-jurisdictional liabilities | 8.33% | 6.66% | |
| | Cross-jurisdictional claims | 8.33% | 6.66% | |
| Interconnectedness | Intra-financial system liabilities | 8.33% | 6.66% | Mandatory |
| | Intra-financial system assets | 8.33% | 6.66% | |
| | Debt securities outstanding | 8.33% | 6.66% | |
| Interconnectedness with investment fund sector | Centrality measure | - | 10.00% | Optional |
| | Third-party assets deposited by UCIs | - | 10.00% | |

The optional criterion adopted measuring the interconnectedness between banks and the investment fund sector is thus added to the four mandatory criteria defined by the EBA (cf. Table 1). It includes two variables dedicated to measuring the importance within a network of connections between credit institutions and the investment fund sector and the volume of assets deposited by investment funds.

The relevant authorities calculate the score of each institution by:

- a) dividing the indicator value of each individual relevant entity by the aggregate amount of the respective indicator values summed across all institutions in the Member State (the “denominator”);
- b) multiplying the resulting percentages by 10,000 to express the indicator scores in terms of basis points;
- c) calculating the category score for each relevant entity by taking a simple average of the indicator scores in that category;
- d) calculating the overall score for each relevant entity by taking a simple average of the category scores.

The buffer calibration methodology is a statistical approach based on a linear regression and a readjustment framework in order to maintain consistency between O-SII buffers and G-SII buffers. The developed methodology provides for six sub-categories with a cut-off score of 325 basis points, which is lower than the threshold proposed by the EBA Guidelines.

Table 2: Sub-categories, range and applied buffer for O-SIIs

| Sub-category | Score range | Applied buffer |
|--------------|---------------------------------|----------------|
| 1 | $325 \leq \text{score} < 650$ | 0.5% |
| 2 | $650 \leq \text{score} < 975$ | 1.0% |
| 3 | $975 \leq \text{score} < 1300$ | 1.5% |
| 4 | $1300 \leq \text{score} < 1625$ | 2.0% |
| 5 | $1625 \leq \text{score} < 1950$ | 2.5% |
| 6 | $1950 \leq \text{score}$ | 3.0% |

Taking into consideration this optional criterion, first introduced in 2017, also allowed performing an identification process in two steps for the year 2022, resulting in the identification of a total of six (6) banking institutions as “O-SIIs”, i.e.:

- i. Four (4) institutions have been identified as O-SIIs based on their scores obtained through the EBA’s standard methodology, which exceed the threshold specifically set for Luxembourg at 325 points;
- ii. One (1) institution has been identified as O-SII according to the ruling of the designated authority and based on its score obtained through the enriched methodology, which exceeds the threshold specifically set for Luxembourg at 325 points. The identification of the institution results from the importance of its connection with the investment fund sector as well as its role as asset depositary on behalf of UCIs.
- iii. One (1) institution has been identified as O-SII according to the ruling of the designated authority and based on its score. The institution has been identified as a result of its role as market infrastructure.

Annex II - List of other systemically important institutions (O-SIIs)

O-SIIs designated in accordance with the provisions of Article 59-3 of the Law of 5 April 1993 and the standard methodology set out in the EBA Technical Guidelines.

| Denomination² | Address | Overall score as at 31 December 2021 (standard methodology) | Buffer rate as at 1 January 2023 |
|---|--|--|---|
| Banque et Caisse d'Épargne de l'État, Luxembourg | 1-2, Place de Metz L-1930 Luxembourg Luxembourg | 546 | 0.5% |
| Banque Internationale à Luxembourg | 69, route d'Esch L-1470 Luxembourg Luxembourg | 348 | 0.5% |
| BGL BNP Paribas | 50, avenue J.F. Kennedy L-1855 Luxembourg Luxembourg | 638 | 0.5% |
| Société Générale Luxembourg | 11, avenue Emile Reuter L-2420 Luxembourg Luxembourg | 589 | 0.5% |

O-SIIs designated in accordance with the provisions of Article 59-3 of the Law of 5 April 1993 and pursuant to the enriched methodology as set out in Title III of the EBA Technical Guidelines.

| Denomination³ | Address | Overall score as at 31 December 2021 (standard methodology) | Overall score as at 31 December 2021 (enriched methodology) | Buffer rate as at 1 January 2023 |
|--|--|--|--|---|
| Clearstream Banking S.A. | 42, avenue J.F. Kennedy L-1855 Luxembourg Luxembourg | 272 | 262 | 0.5% |
| RBC Investor Services Bank S.A. | 14, Porte de France L-4360 Esch-sur-Alzette Luxembourg | 295 | 346 | 0.5% |

² Classification in alphabetical order.

³ Classification in alphabetical order.