Commission de Surveillance
du Secteur Financier

Technical FAQ on Regulation CSSF No 20-08 on borrower based measures for residential real estate credit

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The Loan-To-Value limits introduced by CSSF regulation No 20-08 require borrowers to satisfy specific own funds requirements (see question 2 below) in order to qualify for mortgage loans granted for the purchase of real estate in Luxembourg. Hereafter "L" refers to the loan amount granted whereas "V" refers to the value of the property purchased. Further to these own funds requirements, the difference between the value V and the loan amount L needs to be made up of actual own funds of the borrower. The aim of CSSF regulation No 20-08 is to limit leverage. Thus, it is expected that the own funds part in financing a residential real estate property is made up by an actual equity contribution from the borrower according to the applicable LTV limit set out in the regulation.

1. What type of collateral is included in the "V"?

The "V" refers only to the transaction value or the independently estimated value of the property purchased (whichever is lower). The "V" does not take into account the value of any other property given as collateral to secure the loan or the value of other types of collateral (e.g. a securities portfolio, cash collateral).

2. How are bridge loans to be treated?

Bridge loans are non-amortizing real estate loans that are used to facilitate a transaction. They are used to finance a new property for a limited period of time until an existing property has been sold. It is common practice that a part of the own funds that are to be put down for the new property come from the sale of the existing property. Such practice remains compatible with Regulation No CSSF 20-08.

When a borrower uses a bridge loan to purchase a new property while already owning a mortgage-financed existing property, the borrower needs to respect two LTV ratios:

1) **the "global LTV"**, where L includes the loan secured by the new property purchased and the outstanding loan amount on the existing property (the one to be sold) and V includes the value of both the property currently owned and the property purchased. The global LTV limit has to be satisfied at the origination of the bridge loan;

2) **the "final LTV"** where L includes the loan secured by the new property purchased net of the own funds that were provided through the sale of the existing property and V equals the value of the new property purchased. This final LTV has to be satisfied at the time the former property has been sold and the proceeds put down as own funds contribution on the new mortgage loan.

A bridge loan is permissible to support the purchase of a new property under the condition that both the global LTV and the final LTV described above comply with the LTV limit as applicable. In addition, we request the lender to have a contractual claim on the funds to be perceived from the sale of the existing property. Bridge loans should not exceed a maturity of 18 months and be non-renewable. In case of VEFA constructions, bridge loans may extend to 24 months of maturity.

3. What limits apply and how is the portfolio allowance to be calculated?

The LTV limit that applies in accordance with CSSF Regulation No 20-08 is composed as follows:

Type of loan	LTV limit	Portfolio allowance
RRE loan First-time buyers	LTV ≤ 100%	0%
RRE loan non-first-time buyers	LTV ≤ 90%	Lenders can go beyond this limit for 15% of their annual production for these types of loans, without exceeding, per loan granted, an LTV limit of 100%.
Other RRE loan, including buy-to-let	LTV ≤ 80%	0%

The portfolio allowance concerns loans for the purchase of a principal residence of a non-first-time buyer. The portfolio allowance must be calculated as a share of the amount of new loans granted in this category over a period of a calendar year. It thus means that a maximum of 15% of the volume of loans granted to borrowers in this category can exceed the LTV limit that applies to this category (without, however, exceeding an LTV of 100% per loan granted). The LTV of these loans can thus range from 90% to 100%. In case a bridge loan is used to facilitate a transaction, the total volume of the loans relating to the transaction, i.e. both the mortgage loan and the bridge loan, is to be taken into account in the calculation of the portfolio allowance.

4. How is the value determined in case of significant renovations or works and properties with constructions to be completed?

In the case of renovation associated with the purchase of an existing property the lender needs to assess the materiality of the renovations and whether they actually improve the value of the property.[1] This would include major renovations like for example works that improve the energy efficiency of a property (i.e. to improve the "Energiepass"). To this end, the lender should request all the necessary information from the borrower for an estimation of the renovation costs and document the works appropriately (e.g. by storing the 'offer documents' (devis)). Lenders should also ascertain and document that works have been performed as billed. The lender should define internal, sound and prudent policies to guide the assessment of how renovation costs translate into increased value V. Renovation works can only be taken into account in the calculation of V if they are completed within a reasonable timeframe of the purchase of the property, say 18 months, and cannot increase V by more than 80% of the cost of the renovation. In general, the value V, including renovation, shall not exceed market prices that apply to similar objects in the same location.

For the purchase of a property to be built, i.e. in the context of a VEFA ("vente en futur état d'achèvement") which includes the purchase of construction land and construction works, V corresponds to the selling price of the project as agreed in the notarial deed. Lenders may factor into V costs incurred subsequently to the notarial deed, under the same provisions as stated in paragraph one.

In some instances, there might be a time lag of several years, between the transaction on a piece of land and the construction of the real estate property on this same piece of land.

In case the borrower introduces a request for an RRE loan to construct the real estate property, and if the construction of the property does not start more than 6 years after the purchase of the land, the LTV could be calculated and complied with in aggregate as follows:

- L is the amount of the outstanding loan on the piece of land plus the amount of the "second loan" related to the construction of the property,
- V is obtained as the sum of the values of the piece of land and the construction costs of the real estate property.

5. To whom does the LTV limit apply?

The measure applies to any "private" borrower taking out a mortgage loan to purchase residential real estate in Luxembourg. Hence Regulation CSSF No 20-08 targets private use and does not apply to the financing of residential real estate for commercial purposes. If borrowers use a legal structure like a "société civile immobilière" to complete this transaction, the measures also apply. The LTV limits apply as well in the case of joint applications.

[1] *Loans granted for the renovation of a property and that are secured by a real estate property are also included in the scope.*

“Residential real estate” includes construction land, whether the construction work takes place immediately after the purchase or years after.

The LTV limits apply independently from the type of ownership (e.g. full ownership, usufruct, bare ownership). The measure also applies if a loan is granted to a borrower for purchasing a property with a long-term lease agreement (emphythéose).

The purpose of the real estate property may be as a residence or as an investment (“buy to let”).

In the case of divorces where one of the partners takes over the credit on the initially jointly acquired property, the LTV limit does not need to be reapplied as there is no new transaction on the property.

The LTV limit also applies to mortgage loans repurchased from other banks. Those loans are considered as new loans. Nevertheless, the borrower keeps its “status”, i.e. if the loan was initially given to a FTB, the LTV to be applied on the new mortgage loan at the new bank remains in the same category.

6. What is a first-time buyer (FTB)?

A first-time buyer is a borrower that has never contracted a residential real estate loan aimed at financing a residential real estate property located in Luxembourg. It implies that a borrower, who has in the past contracted a residential real estate loan cannot be considered as a first-time buyer.

In the case of a joint application, all borrowers must be 'first-time buyers' for the loan to be classified as a 'first-time buyer' loan.

In the case of divorcees that have owned a property in the past and sold it after their separation, they are no longer to be considered first-time buyers when they repurchase a new property. If one partner has been paid out after the separation, this partner is no longer to be considered a first-time buyer.

7. If a borrower moves out of his primary residence to rent it out, does the loan have to be reclassified as buy-to-let?

No. The measures are to be applied strictly at origination.

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