Macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (ESRB)

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The European Parliament adopted a resolution under the ordinary legislative procedure (formerly the co decision procedure).amending the proposal for a regulation of the European Parliament and of the Council on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Board. The amendments are the result of a compromise agreement between Parliament and Council. The main points are as follows:

Establishment and seat: the ESRB will have its **seat in Frankfurt**. It will be part of the **European System of Financial Supervisio**n (ESFS), the purpose of which is to ensure the supervision of the Union's financial system.

The compromise text states that the ESFS shall comprise: (a) the ESRB; (b) the European Supervisory Authority (Securities and Markets) (ESMA); (c) the European Supervisory Authority (Insurance and Occupational Pensions) (EIOPA); (d) the EBA (e) the Joint Committee of the European Supervisory Authorities (f) the competent or supervisory authorities in the Member States specified in the Regulations on EBA and ESMA and EIOPA.

The ESRB, ESMA, EBA and EIOPA shall be accountable to the European Parliament and the Council.

Pursuant to the principle of sincere cooperation in accordance with the Treaty on European Union, the parties to the ESFS shall cooperate with trust and full mutual respect, in particular to ensure that appropriate and reliable information flows between them.

Systemic risk: this defined as a risk of disruption in the financial system with the potential to have serious negative consequences for the internal market and the real economy. All types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree.

Mission, objectives and tasks: the amended text states that the ESRB shall be responsible for the macro-prudential oversight of the financial system within the Union in order to contribute to the prevention or mitigation of systemic risks to financial stability in the Union that arise from developments within the financial system and taking into account macro-economic developments, so as to avoid periods of widespread financial distress. It shall contribute to a smooth functioning of the internal market and thereby ensure a sustainable contribution of the financial sector to economic growth.

For this purpose, the ESRB shall carry out the **following tasks**:

- determining and/or collecting and analysing all the relevant and necessary information, for the purposes of its the objectives;
- identify and prioritise systemic risks, and issue warnings where such systemic risks are deemed to be significant and, where appropriate, make them public
- issue recommendations for remedial action in response to the risks identified and, where appropriate, make them public;
- issue a confidential warning addressed to the Commission when the ESRB deems that an emergency situation may arise. The ESRB shall provide with an assessment of the situation, in

order for the Commission to determine the need to adopt a decision addressed to the ESAs determining the existence of an emergency situation;
- monitoring the follow-up to warnings and recommendations;
- cooperating closely with all the other parties to the ESFS and , where appropriate, providing the ESAs with the information on systemic risks required for the achievement of their tasks. The ESRB shall, in particular, and in collaboration with the ESAs, develop a common set of quantitative and qualitative indicators (risk dashboard) to identify and measure systemic risk;
- coordinating with international financial organisations , particularly the IMF and the FSB as well as the relevant bodies in third countries on matters related to macro-prudential oversight.

Structure: the ESRB shall have a General Board, a Steering Committee, a Secretariat, an Advisory Scientific Committee and an Advisory Technical Committee. The establishment of the Advisory Technical Committee should take into account existing structures with a view to avoiding any duplication. The composition of the Advisory Scientific Committee should take into account adequate rules of conflict of interests adopted by the General Board.

Chair: the compromise text states given its key role and its international and internal credibility, and in the spirit of the de Larosière Report, the President of the ECB should be the Chair of the ESRB for the first five years after the entry into force of this Regulation. In addition, the accountability requirements should be increased and the ESRB bodies should be able to draw on a wide range of experience, backgrounds and opinions. The first Vice-Chair shall be elected by and from the Members of the General Council of the ECB for a term of five years, with regard to the need for a balanced representation of Member States overall and between those within and outside the euro area. The first Vice-Chair may be re-elected once. . The second Vice-Chair shall be the Chair of the Joint Committee. The Chair and Vice-Chairs shall present to the European Parliament, during a public hearing, how they intend to discharge their duties under this Regulation.

General Board: as well as persons listed in the Commission proposal, the Chair and the two Vice-Chairs of the Advisory Scientific Committee and the Chair of the Advisory Technical Committee shall be members of the General Board.

Meetings of the General Board: where appropriate, high-level representatives from international institutions carrying out other related activities may be invited to attend the meetings of the General Board. Participation in the work of the ESRB may be open to high-level representatives of the relevant authorities from third countries, in particular from EEA countries strictly limited to issues of particular relevance for them. Arrangements may be made by the ESRB specifying, in particular, the nature, scope and procedural aspects of the involvement of those third countries in the work of the ESRB. Such arrangements may provide for representation, on an ad-hoc basis, as an observer, on the General Board and should concern only items of relevance for them, excluding in any way any case where the situation of individual financial institutions or Member States may be discussed .

A quorum of two-thirds of the Members with voting rights shall be required for any vote to be taken by the General Board. However, a majority of two-thirds of the votes shall be required to adopt a recommendation or make a warning or recommendation public.

The text makes amendments to the composition of the **Steering Committee** and the **Advisory Scientific Committee**.

Collection and exchange of information: if relevant data is not available from the specified authorities, the ESRB may request it from the Member State concerned, without prejudice to the prerogatives respectively conferred on the Council, the Commission (Eurostat), the ECB, the Eurosystem and the ESCB in the field of statistics and data collection. If the ESRB requests data that is not in summary or

collective form, the reasoned request shall explain why data on the respective individual financial institution is deemed to be systemically relevant, and necessary, considering the prevailing market situation.

Before each request for information which is not in summary or collective form, the ESRB shall duly consult the relevant European Supervisory Authority in order to ensure that the request is justified and proportionate. If the relevant European Supervisory Authority does not consider the request to be justified and proportionate, it shall, without delay, send the request back to the ESRB and ask for additional justification. After the ESRB has provided the relevant European Supervisory Authority with such additional justification, the requested data shall be transmitted to the ESRB from the addressees of the request, provided that the addressees have legal access to the relevant data.

Warnings and recommendations: the warnings or recommendations shall, at the same time as they are transmitted to the addressees also be transmitted according to strict confidentiality rules to the Council and the Commission and, where addressed to one or more national supervisory authority, to the ESAs. In order to enhance the awareness of risks in the Union economy and to prioritise such risks, the ERSB, in close cooperation with the ESFS, shall **elaborate a colour-coded system corresponding to situations of different risk levels.** Once the criteria of such classification have been elaborated, its warnings and recommendations shall indicate, on a case-by-case basis, and where appropriate, to which category the risk belongs.

Follow-up of the ESRB recommendations: if the ESRB decides that its recommendation has not been followed or that the addressee(s) have failed to explain their inaction appropriately, it shall, subject to strict confidentiality rules, inform the addressees, the Council and, where relevant, the European Supervisory Authority concerned. If the ESRB has made a decision on a recommendation made public following the procedure set out in the text, the European Parliament may invite the ESRB Chair to present it and the addressee(s) may request to participate in an exchange of views.

Public warnings and recommendations: the General Board of the ESRB shall decide on a case-by-case basis, after having informed the Council sufficiently in advance so that it is able to react, whether a warning or a recommendation should be made public. A quorum of two-thirds shall always apply in respect of decisions taken under this provision. The addressees of warnings and recommendations made public by the ESRB shall also be provided with the right of making public their views and reasoning in response thereto.

Accountability and reporting obligations: the compromise text specifies that at least annually, but more frequently in the event of widespread financial distress, the ESRB Chair shall be invited to an annual hearing in the European Parliament, marking the publication of the ESRB's annual report to the European Parliament and the Council. Those hearings shall be made in a different context from the monetary dialogue between the European Parliament and the President of the ECB.

The European Parliament may request the Chair of the ESRB to attend a hearing of the competent Committees of the European Parliament.

The Chair of the ESRB shall hold confidential oral discussions at least twice a year and more often if deemed appropriate, behind closed doors with the Chair and Vice-Chairs of the Economic and Monetary Affairs Committee of the European Parliament on the ongoing activity of the ESRB. An agreement shall be concluded between the European Parliament and the ESRB on the detailed modalities of organising those meetings, with a view to ensuring full confidentiality. The ESRB shall provide a copy of the agreement to the Council.

Review clause: three years after entry into force of the Regulation, the European Parliament and the Council shall determine whether the missions and organisation of the ESRB need to be reviewed after

having received an opinion from the ECB and the ESAs. They shall in particular review the modalities of designation or election of the Chair of the ESRB.