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

2009/0140(COD) - 24/11/2010 - Final act

PURPOSE: to establish a European Systemic Risk Board (ESRB) which will provide macro-prudential oversight of the financial system.

LEGISLATIVE ACT: Regulation (EU) No 1092/2010 of the European Parliament and of the Council on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

CONTENT: following an agreement reached with the European Parliament at first reading, the Council adopted a regulation aiming to establish a **European Systematic Risk Board (ESRB)**.

The regulation is part of a package of legal texts underpinning a reform of the EU framework for supervision of the financial system, aimed at eliminating deficiencies that were exposed during the financial crisis. The package consists of the following regulations establishing:

It adopted regulations establishing:

- a European Systemic Risk Board (ESRB), which will provide macro-prudential oversight of the financial system;
- a European Banking Authority (EBA) for the supervision of banking services;
- a European Insurance and Occupational Pensions Authority (EIOPA) for the supervision of insurance services;
- a European Securities and Markets Authority (ESMA) for the supervision of the securities industry.

The Council also adopted:

- a regulation entrusting the European Central Bank with specific tasks with regard to the day-to-day running of the ESRB;
- a directive amending directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004 /39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers conferred on the three European authorities.

Institution and seat: the ESRB shall have its seat in **Frankfurt am Main**. It shall be part of the European System of Financial Supervision (ESFS), the purpose of which is to ensure the supervision of the Union's financial system.

The ESFS shall comprise: (i) the ESRB; (ii) the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010; (iii) the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094 /2010; (iv) the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010; (v) the Joint Committee of the European Supervisory Authorities (Joint Committee) provided for by Article 54 of Regulation (EU) No 1093/2010, of Regulation (EU) No

1094/2010 and of Regulation (EU) No 1095/2010; (vi) the competent or supervisory authorities in the Member States as specified in the Union acts referred to in Article 1(2) of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

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.

Missions and tasks: the ESRB's role will be to **monitor and assess potential threats to the stability of the financial system**. Where necessary, it will issue risk warnings and recommendations for remedial action and will monitor their implementation.

Risks warnings and recommendations will either be of a general nature or of a specific nature. They may be addressed to the EU as a whole or to one or more Member States, or to one or more of the European supervisory authorities (ESAs), or to one or more national supervisory authorities.

In order to enhance the awareness of risks in the economy of the Union and to prioritise such risks, the ESRB, in close cooperation with the other parties to the ESFS, shall elaborate a **colour-coded system** corresponding to situations of different risk levels.

The ESRB's recommendations are expected to exert a major influence on addressees with a high quality of analysis, while addressees will be required to provide adequate justification ("act or explain") in the event of them not following its recommendations. If the ESRB judges the reaction to be inadequate, it will inform the addressees, the Council and, where relevant, the ESA concerned. On a case-by-case basis, it could decide to make the recommendations public after informing the Council.

Organisation and structure: **the ESRB shall be chaired by the President of the ECB for a term of 5 years**. For the subsequent terms, the Chair of the ESRB shall be designated in accordance with the modalities determined on the basis of the review. The Chair and the Vice-Chairs shall present to the European Parliament, during a public hearing, how they intend to discharge their duties under this Regulation.

The ESRB shall have a General Board, a Steering Committee, a Secretariat, an Advisory Scientific Committee and an Advisory Technical Committee.

The General Board shall take the decisions necessary to ensure the performance of the tasks entrusted to the ESRB. It shall comprise: the President and the Vice-President of the ECB; the Governors of the national central banks; a Member of the Commission; the Chairperson of the European Supervisory Authority (European Banking Authority); the Chairperson of the European Supervisory Authority (European Insurance and Occupational Pensions Authority); the Chairperson of the European Supervisory Authority (European Securities and Markets Authority); the Chair and the two Vice-Chairs of the Advisory Scientific Committee; the Chair of the Advisory Technical Committee. Members of the General Board without voting rights shall comprise: one high-level representative per Member State of the competent national supervisory authorities; the President of the Economic and Financial Committee (EFC).

The Steering Committee shall assist in the decision-making process of the ESRB by preparing the meetings of the General Board, reviewing the documents to be discussed and monitoring the progress of the ESRB’s ongoing work.

When participating in the activities of the General Board and of the Steering Committee or when conducting any other activity relating to the ESRB, the members of the ESRB shall perform their duties **impartially** and solely in the interest of the Union as a whole. They shall not seek nor take instructions from the Member States, the Union institutions or any other public or private body.

Accountability and reporting obligations: at least annually and more frequently in the event of widespread financial distress, the Chair of the ESRB 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. The ESRB shall also examine specific issues at the invitation of the European Parliament, the Council or the Commission.

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.

Revision clause: By 17 December 2013, the European Parliament and the Council shall examine this Regulation on the basis of a report from the Commission and, after having received an opinion from the ECB and the ESAs, shall determine whether the mission and organisation of the ESRB need to be reviewed. They shall, in particular, review the modalities for the designation or election of the Chair of the ESRB.

ENTRY INTO FORCE: 16/12/2010.