

Basic information	
2009/0140(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (ESRB)	
Amended by 2017/0232(COD) Amended by 2023/0363(COD)	
Subject 2.50.10 Financial supervision 5.10.01 Convergence of economic policies, public deficit, interest rates 8.40.08 Agencies and bodies of the EU	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs	GOULARD Sylvie (ALDE)	20/10/2009
	Committee for opinion	Rapporteur for opinion	Appointed
	BUDG Budgets	The committee decided not to give an opinion.	16/12/2009
	EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
	JURI Legal Affairs	REGNER Evelyn (S&D)	05/10/2009
Council of the European Union	Committee responsible	Rapporteur	Appointed
	AFCO Constitutional Affairs	MÉNDEZ DE VIGO Íñigo (PPE)	24/11/2009
	Council configuration	Meetings	Date
	Economic and Financial Affairs ECOFIN	2967	2009-10-20
	Economic and Financial Affairs ECOFIN	3030	2010-09-07
European Commission	Commission DG	Commissioner	
	Internal Market and Consumer Protection	ANDREAS DANIELS	
	Environment, Climate Action and Energy	FRANÇOIS LAFON	

Key events

Date	Event	Reference	Summary
23/09/2009	Legislative proposal published	COM(2009)0499 	Summary
07/10/2009	Committee referral announced in Parliament, 1st reading		
20/10/2009	Debate in Council		Summary
11/11/2009	Final act published in Official Journal		
10/05/2010	Vote in committee, 1st reading		Summary
25/05/2010	Committee report tabled for plenary, 1st reading	A7-0168/2010	
06/07/2010	Debate in Parliament		
07/07/2010	Decision by Parliament, 1st reading	T7-0271/2010	Summary
07/07/2010	Results of vote in Parliament		
13/07/2010	Debate in Council		Summary
22/09/2010	Decision by Parliament, 1st reading	T7-0335/2010	Summary
22/09/2010	Results of vote in Parliament		
17/11/2010	Act adopted by Council after Parliament's 1st reading		
24/11/2010	Final act signed		
24/11/2010	End of procedure in Parliament		
15/12/2010	Final act published in Official Journal		

Technical information

Procedure reference	2009/0140(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amended by 2017/0232(COD) Amended by 2023/0363(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/01060

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE438.496	10/02/2010	
Amendments tabled in committee		PE439.845	19/03/2010	
Committee opinion	AFCO	PE439.139	09/04/2010	
Committee opinion	JURI	PE438.153	30/04/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0168/2010	25/05/2010	
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0271/2010	07/07/2010	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0335/2010	22/09/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00039/2010/LEX	24/11/2010	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2009)0499 	23/09/2009	Summary
Document attached to the procedure	SEC(2009)1234 	23/09/2009	
Document attached to the procedure	SEC(2009)1235 	23/09/2009	
Commission response to text adopted in plenary	SP(2010)7193	13/10/2010	
Follow-up document	COM(2014)0508 	08/08/2014	Summary
Follow-up document	SWD(2014)0260 	08/08/2014	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	NL_CHAMBER	COM(2009)0499	13/11/2009	
Contribution	CZ_SENATE	COM(2009)0499	07/12/2009	
Contribution	IT_SENATE	COM(2009)0499	16/06/2010	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
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ECB	European Central Bank: opinion, guideline, report	CON/2009/0088 OJ C 270 11.11.2009, p. 0001	26/10/2009	Summary
EESC	Economic and Social Committee: opinion, report	CES0100/2010	20/01/2010	
ECB	European Central Bank: opinion, guideline, report	CON/2015/0004 OJ C 192 10.06.2015, p. 0001	04/02/2015	Summary

Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act
Regulation 2010/1092 OJ L 331 15.12.2010, p. 0001

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

2009/0140(COD) - 04/02/2015 - European Central Bank: opinion, guideline, report

Opinion of the European Central Bank (ECB) on the review of the mission and organisation of the European Systemic Risk Board (ESRB).

On 8 August 2014, the European Commission adopted a report on the mission and organisation of the European Systemic Risk Board (ESRB) as required under Regulation (EU) No 1092/2010 and Regulation (EU) No 1096/2010 (*please refer to the summary dated from the same day in the documentation gateway*). The European Central Bank (ECB) delivered an opinion on this report.

At present, the ECB considered that **no far-reaching changes are needed to the ESRB legal framework** and that the ESRB has, on balance, functioned well. However, **some technical adjustments to the ESRB's operational framework would improve its efficiency**. These should be considered by the European Parliament, the Council and the Commission, when assessing the need for concrete legislative proposals.

The ECB made the following specific observations:

(1) ECB support provided to the ESRB - Link between ESRB macro-prudential oversight in the European Union and the ECB's mandate for monetary policy, financial stability and banking supervision.

- The ESRB was established in 2010 to conduct macro-prudential oversight in the Union. The activities the ECB carries out to support the ESRB neither affect the ECB's institutional, functional and financial independence nor the ESCB's performance of its tasks under the Treaty and the Statute of the European System of Central Banks and of the European Central Bank.
- As concerns the proposal advanced by several stakeholders in the Commission consultation process to enhance the ESRB's autonomy, the ECB considered that an appropriate balance should be sought as an unwarranted degree of autonomy would be incompatible with the continued reliance of the ESRB on the ECB's reputation and expertise.

(2) The Chair of the ESRB's General Board.

- The ECB supported the Commission's proposal to keep the President of the ECB as the Chair of the ESRB's General Board. The role of the President of the ECB as the Chair of the ESRB's General Board should therefore not be changed. Importantly, the President of the ECB would need to be re-appointed as Chair of the ESRB's General Board by the end of 2015, since Regulation (EU) No 1092/2010 provides an explicit limitation on the term of office. Consequently, a legislative proposal specifying the modalities for the designation of the Chair would need to be prepared and adopted in the first half of 2015.

(3) ESRB organisation.

- **Review of the composition of the ESRB's General Board:** the ECB considered that there would be only very limited possibilities to reduce membership. In fact the ECB stated that all macro-prudential decision-makers should participate in the General Board. In addition, it would be beneficial that the Single Supervisory Mechanism (SSM) is represented on the General Board with non-voting rights, i.e. in the same way that national supervisors are currently represented.
- **Review of the composition and tasks of the Steering Committee:** the ECB agreed with the Commission's proposal to strengthen the Steering Committee's role. For example, the Steering Committee could be used as a platform for the exchange of information on planned macro-prudential measures before they are officially notified to the ESRB. Furthermore, the Steering Committee could take a more proactive, forward-looking approach in setting the priorities for the General Board agenda and in identifying key policy issues in the form of a work programme. The strengthened role of the Steering Committee should not in any way compromise the role of the General Board as the ESRB's sole decision-making body. Finally, the ECB considers it beneficial that the SSM is represented on the Steering Committee.
- **The role of a Managing Director:** the ECB suggested that appointment of an ESRB Managing Director should be balanced by permanently assigning the ex officio chairmanship of the General Board to the President of the ECB. The ECB furthermore suggested that the scope of the Managing Director's role should be further clarified.

(4) SRB toolbox.

- The ECB supports an approach which should enable the ESRB to highlight some risks at an earlier stage without necessarily having to issue a formal warning. However, the ECB considered that there is no need to establish a formal role for the ESRB in the Union legislative procedure beyond what is already provided for in Regulation (EU) No 1092/2010.

(5) ESRB access to data:

the ECB called for:

- improvements to be made to the procedures related to the exchange of data;
- streamlining the data access procedures in cases where data are already available in European or national authorities and only the content, format and access rights of such data need to be specified;
- the review of Article 15 of Regulation (EU) No 1092/2010 to make procedures for the provision of individual firm-level data more attuned to the needs of the ESRB and less restrictive, by distinguishing data that is sensitive (e.g. on interconnectedness) and ensuring the appropriate protection of confidentiality.
- The ECB would encourage the ESAs to give appropriate weight to the needs of the ESRB when considering new or amended supervisory reporting requirements, so as to better reflect macro-prudential analytical needs.

(6) Interaction between the ESRB and the SSM.

- Regulation (EU) No 1092/2010 should explicitly provide for SSM representation on the ESRB's General Board. The ECB considered it useful to provide the SSM representation on the Steering Committee as well as on the Advisory Technical Committee (ATC).

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

2009/0140(COD) - 20/10/2009

The Council discussed two legislative proposals on the establishment of a European Systemic Risk Board (ESRB). Without prejudice to ongoing national parliamentary procedures, there was broad agreement on the substance on both the regulation establishing the ESRB and the [Council decision](#) entrusting the European Central Bank with specific tasks in relation to the ESRB.

As a consequence of this support, the Council invited the presidency to start negotiations with the European Parliament on the regulation on the basis of this approach with a view to reaching agreement at first reading.

Furthermore, the Council invited the presidency to take the necessary steps to initiate the process with the European Parliament on the Council decision, while taking note of the need for further political negotiations before reaching a final agreement in December 2009 on the complete package setting up a new supervisory structure for the EU.

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 Systemic 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.

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

2009/0140(COD) - 07/09/2010

The Council endorsed an agreement reached with the European Parliament on 2 September on key elements of a reform of the EU framework for supervision of the financial system.

The reform is aimed at establishing a new basis for supervision in Europe, eliminating deficiencies that were exposed during the financial crisis. It involves the creation both of a European Systemic Risk Board (ESRB), which will provide macro-prudential oversight of the financial system, and three supervisory authorities:

- a European Banking Authority (EBA);
- a European Insurance and Occupational Pensions Authority and;
- a European Securities and Markets Authority.

The agreement with the Parliament, which focuses on draft regulations establishing the ESRB and the EBA, will enable all of these bodies to be operational as planned as from 1 January 2011.

The Parliament is expected to adopt the texts in first reading during its plenary session starting on 20 September. The Council will formally adopt them at a subsequent meeting without further discussion.

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

2009/0140(COD) - 13/07/2010

The Council adopted a political guideline with a view to continuing negotiations with the European Parliament on a package of measures which are intended to reform the European framework for supervision of the financial system, in the wake of the global financial crisis.

The proposals, presented by the Commission in the autumn of 2009, are:

- draft Regulations on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Board (ESRB), and entrusting the European Central Bank (ECB) with specific tasks concerning the functioning of that Board;
- draft Regulations establishing a European Banking Authority (EBA) a European Insurance and Occupational Pensions Authority (EIOPA) and a European Securities and Markets Authority (ESMA);
- a draft Directive intended to amend existing legislation¹ in respect of the powers of these three new authorities.

Most of these texts are subject to the ordinary legislative procedure (formerly co decision) between the Parliament and the Council. The negotiations with Parliament are intended to allow them to be adopted at first reading, so that the European Systemic Risk Board and the three new supervisory authorities can be operational from 1 January 2011.

There is now a large degree of convergence between the two institutions, thanks to the negotiations which have already taken place, but it has not proven possible to find an overall agreement in time to enable Parliament to hold its first reading on 8 July, as originally intended. Parliament has therefore decided to postpone the vote to a subsequent plenary session.

On the basis of the general approaches already defined, the Council has agreed on the compromise proposals submitted by the Presidency with a view to facilitating continuing negotiations. It has thus strengthened the negotiating mandate given to the Presidency, while allowing it the necessary degree of flexibility.

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

2009/0140(COD) - 26/10/2009

OPINION OF THE EUROPEAN CENTRAL BANK on a 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 and a [proposal for a Council decision](#) entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board.

On 6 October 2009 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on this proposal. The ECB **broadly supports** the decision proposed by the Commission, which are aimed at establishing a new body responsible for the conduct of macro-prudential oversight in the EU, namely the ESRB.

The ECB has decided that it stands ready to ensure the Secretariat of the ESRB and to support the ESRB and suggests referring to this in a recital of the proposed regulation. The ECB is prepared to bring to the benefit of the ESRB, with the participation of all the members of the ECB's General Council, the macroeconomic, financial and monetary expertise of all EU central banks. This contribution will be underpinned by the activities of the ECB and ESCB in the areas of financial stability monitoring, macroeconomic analysis, collection of statistical information, and by the overall synergies in terms of expertise, resources and infrastructure in the context of existing central banking activities in the EU.

In the area of statistics, the ECB is prepared to provide the necessary information to the ESRB relating to the macroeconomic and macro-financial environment and has the necessary expertise to do so. This includes in particular information on market conditions and market infrastructures. Micro-prudential information will be provided by the three new European supervisory authorities.

The ECB makes the following **specific observations**:

Procedure for the issuance and follow-up of risk warnings and recommendations: the ECB fully supports the proposed regulation which provides that the ESRB risk warnings and recommendations will be directly transmitted to the respective addressees, with parallel transmission to the Ecofin Council. Changes to these provisions that would lead to an 'indirect route' for the transmission of risk warnings and recommendations would undermine the effectiveness and timeliness of the recommendations as well as the independence and credibility of the ESRB.

Organisational aspects of the ESRB: the ECB considers it particularly important that the composition of the ESRB's Steering Committee adequately reflects that of the ESRB's General Board in order to ensure that the Committee is representative of the Board, whose meetings it is meant to prepare. However, as the composition of the euro area will change with time, it would not be advisable to lay down in a legal act a specific, immutable allocation of seats between euro area and non-euro area central banks. The ECB supports the Commission's approach under which only the chair of the ESRB gives directions to the head of the secretariat.

Chair and the vice-chair of the ESRB's General Board: these should be elected on the basis of the same procedures and by the same group of voting members, as the vice-chair should be fully able to deputise for the chair, if necessary. Consequently, the vice-chair should also be elected, as stated in the Commission's proposal, by and from the members of the General Board who are also members of the General Council of the ECB. Different procedures for the election of the chair and vice-chair would add undue complications and could give the unwarranted impression that they represent different groups within the ESRB.

Composition of the ESRB's General Board: the ECB supports the Commission's proposal that the president and vice-president of the ECB be voting members of the ESRB's General Board. This is in line with the principle that the ECB's General Council provides the basis for the voting members of the General Board. Indeed, if he were not a member of the ESRB's General Board, the vice-president would be prevented from voting in this election. In view of the systemic importance of certain European non-EU countries for the EU financial system, it may be considered appropriate to invite representatives from these countries to attend some of the ESRB's meetings and/or the technical committees as observers when relevant issues are being discussed.

The observations contained in this opinion are without prejudice to the future ECB opinion on the three draft proposals for Regulations of the European Parliament and of the Council establishing a [European Banking Authority](#), a [European Insurance and Occupational Pensions Authority](#) and a [European Securities and Markets Authority](#), which form part of the legislative package adopted by the Commission on 23 September 2009 reforming European financial supervision.

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

2009/0140(COD) - 22/09/2010 - Text adopted by Parliament, 1st reading/single reading

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 Supervision** (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 is 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 ESRB, 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.

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

2009/0140(COD) - 07/07/2010 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments, by 612 votes to 40 with 37 abstentions, at first reading under the ordinary legislative procedure (formerly known as the codecision procedure), to 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 vote on the legislative resolution was postponed to a future plenary session. The main amendments to the regulation were as follows:

Establishment and seat: the ESRB will have its **seat in Frankfurt**. It will 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: (a) the ESRB; (b) the European Supervisory Authority (Securities and Markets) ([ESMA](#)); (c) the European Supervisory Authority (Insurance and Occupational Pensions) ([EIOPA](#)); (d) the European Supervisory Authority (Banking) ([EBA](#)); (e) the European Supervisory Authority (Joint Committee) established by Regulations on EBA, ESMA and EIOPA; (f) the authorities in the Member States as specified in the Regulations on EBA and ESMA and EIOPA; (g) the Commission, for the purposes of carrying out the tasks referred to in the Regulation on EBA, ESMA and EIOPA.

The ESAs shall have their headquarters in Frankfurt. They may have representations in the most important financial centres of the European Union.

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 is 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, and 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**:

- analyse all the relevant information, including legislation with a potential impact on financial stability such as accounting, reorganisation and winding-up rules;
- 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;
- in collaboration with the ESAs, develop a common set of quantitative and qualitative indicators (risk dashboard), which will serve as the basis to assign a supervisory rating to cross-border institutions that potentially could pose a systemic risk. Such rating will be reviewed on a regular basis, reflecting material changes of the risk profile of an institution. The supervisory rating will be a critical element for the decision to directly supervise or intervene in an ailing institution.

Structure: the ESRB shall have a General Board, a Steering Committee, a Secretariat and an Advisory Scientific Committee. Members state that the ESRB should draw expertise from a high-level scientific committee and take on all the global responsibilities required in order to ensure that the voice of the Union is heard on financial stability matters, in particular in cooperating closely with the International Monetary Fund (IMF), the Financial Services Board (FSB) and all the partners of the G-20.

Chair: Parliament considers that in the spirit of the de Larosière Report, the President of the ECB should be the Chair of the ESRB. The first Vice-Chair shall be elected by and from the Members of the General Council of the ECB for a term of 5 years, with regard to the need for a balanced representation of Member States, and those within and outside the euro area. He or she 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 : in addition to the members described in the Commission proposal, Parliament proposes that six independent persons appointed by the Members of the General Board with voting rights on the proposal of the Joint Committee. The nominees must not be Members of the ESAs and shall be chosen on the basis of their general competence as well as for their diverse backgrounds in academic fields or other sectors, in particular in small and medium size enterprises, trade-unions or as providers or consumers of financial services. At the time of their nomination, the Joint Committee shall indicate which persons are designated also to serve on the Steering Committee; in carrying out their responsibilities, the persons nominated shall neither seek nor take instructions from any Government, institution, body, office, entity or private person; they shall refrain from any action incompatible with their duties or the performance of their tasks.

Where appropriate, high-level representatives from international institutions carrying out other related activities may be invited to attend the meetings of the General Board.

Because banks and financial institutions from third countries that are members of the European Economic Area or the European Free Trade Association may operate within the Union, it should be possible to invite one high-level representative from each of those countries to participate in meetings of the General Board subject to authorisation from their home country.

A majority of two-thirds of the votes shall be required to make a warning or recommendation public.

Members also made amendments to the composition of the **Steering Committee** and the **Advisory Scientific Committee**.

Collection and exchange of information: the amended proposal states that the European Supervisory Authorities, the ESCB, the Commission, the national supervisory authorities and national statistics authorities shall cooperate closely with the ESRB and provide all the information necessary for the fulfilment of its tasks in accordance with European Union legislation.

Before requesting information, the ESRB shall first take account of the existing statistics produced, disseminated and developed by the European Statistical System and the ESCB. If the requested data are not available to those Authorities or are not made available in a timely manner, the ESRB may request the data from the ESCB, national supervisory authorities or national statistics authorities. When the data is not available at the aforementioned authorities, the ESRB may request the data from the Member State concerned.

Where 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.

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 addressee of the request, provided that the addressee has legal access to the relevant data.

Warnings and recommendations: the warnings or recommendations shall also be transmitted to the European Parliament, the Council, the Commission, the addressees in the regulation and, where addressed to one or more national supervisory authorities, to the ESAs. In order to enhance the awareness of risks in the European 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 will indicate, on a case-by-case basis, and where appropriate, to which category the risk belongs.

Action in emergency situations: in the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the European Union, the ESRB may issue an emergency warning. The Commission on its own initiative or at the request of the ESRB, an Authority, the European Parliament or the Council, may adopt a decision addressed to an Authority, determining the existence of an emergency situation. The Commission shall review that decision at appropriate intervals and in any

event once a month and shall declare the discontinuation of the emergency situation as soon as appropriate. If the Commission determines the existence of an emergency situation, it shall duly inform the European Parliament and the Council without delay.

Follow-up of the ESRB recommendations: the amended proposal states that where the ESRB decides that an addressee of one of its recommendations has failed to follow or has inappropriately followed that recommendation, and that the addressee has not justified such failure, it shall inform the European Parliament, the Council, and the Commission and, where relevant, the European Supervisory Authorities concerned.

The European Parliament may, where appropriate, invite an addressee for an exchange of views with its competent Committee. This exchange of views, in presence of the ESRB, is notably relevant when national decisions have an effect on one or multiple Member States (spill over effect).

Public warnings and recommendations: Members consider that the addressees of warnings and recommendations released by the ESRB should be provided with the rights of making public its views and reasoning as well in response to the warning and recommendation published by the ESRB. Any data on which the General Board of the ESRB bases its analysis before issuing a warning or a recommendation shall be made public in an appropriately anonymous form. In the event of confidential warnings, information shall be made available within an appropriate period of time, to be defined in the ESRB's rules of procedure.

Reporting obligations and review: 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.

Three years after entry into force of the Regulation, the European Parliament and the Council shall examine the Regulation on the basis of a report from the Commission and shall determine whether the objectives and organisation of the ESRB need to be reviewed after having received an opinion from the ECB.

The report shall assess, in particular, whether:

- it is appropriate to simplify and reinforce the architecture of the ESFS in order to increase the coherence between the macro and the micro levels as well as between the ESAs;
- it is appropriate to increase the regulatory powers of the ESAs;
- the evolution of the ESFS is consistent with that of global developments in this area;
- there is sufficient diversity and excellence within the ESFS;
- accountability and transparency in relation to publication requirements are adequate.

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

2009/0140(COD) - 23/09/2009 - Legislative proposal

PURPOSE: to establish a European Systemic Risk Board.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: experience of the financial crisis has exposed important failures in financial supervision, both in particular cases and in relation to the financial system as a whole. A high level group of experts, chaired by Mr. Jacques de Larosière, was established to make recommendations with a view to establishing a more efficient, integrated and sustainable supervisory framework.

The key recommendations of the de Larosière group focus on establishing:

- a **European Systemic Risk Board (ESRB)** that would be responsible for **macro-prudential oversight** of the financial system within the Community in order to prevent or mitigate systemic risks, to avoid episodes of widespread financial distress, contribute to a smooth functioning of the Internal Market and ensure a sustainable contribution of the financial sector to economic growth;
- a **European System of Financial Supervisors (ESFS)**, consisting of a network of national financial supervisors working in tandem with new European Supervisory Authorities (ESAs), created by the transformation of existing European supervisory committees in a European Banking Authority (EBA), a European Securities and Markets Authority (ESMA), and a European Insurance and Occupational Pensions Authority (EIOPA).

On 27 May 2009, the Commission published a Communication on Financial Supervision in the EU, describing in detail how these recommendations could be put into effect, focusing in particular on the establishment of the proposed ESFS and ESRB.

The Commission notes that stakeholders, e.g. financial institutions, investors and consumers, can only have sufficient confidence in cross-border financial activities with arrangements in place that properly acknowledge the interdependence between micro and macro-prudential risks. Too often in the past, the focus of prudential supervision has been exclusively at the micro-level, with supervisors assessing the balance sheets of individual financial institutions without due consideration for interactions between institutions and between institutions and the broader financial system. Providing this broader perspective is the responsibility of macro-prudential supervisors. These supervisors shall assess potential financial-stability risks arising from developments that can impact on a sectoral level or at the level of the financial system as a whole. By addressing such risks, the ESRB would be an essential building block for an integrated EU supervisory structure necessary to promote timely and consistent policy responses among Member States, thus preventing diverging approaches and so improve the functioning of the Internal Market.

The Regulation establishing the ESRB is completed by a [Council decision](#) which confers on the European Central Bank (ECB) the task of ensuring the Secretariat of the ESRB. Accordingly, the ECB will provide the administrative, logistical, statistical and analytical support to the ESRB.

IMPACT ASSESSMENT: the May 2009 Communication was accompanied by an impact assessment analysing the main policy options for establishing the ESFS and ESRB. A second impact assessment has nevertheless been made in respect of the more detailed aspects of the proposal (please see [SEC\(2009\)1234](#).)

CONTENT: the ESRB is an entirely new European body with no precedent, which shall be responsible for macro-prudential oversight. The objective of the ESRB shall be threefold:

1. it will develop a European macro-prudential perspective to address the problem of fragmented individual risk analysis at national level;
2. it will enhance the effectiveness of early warning mechanisms by improving the interaction between micro-and macro-prudential analysis. The soundness of individual firms was too often supervised in isolation with little focus on the degree of interdependence within the financial system;
3. it will allow for risk assessments to be translated into action by the relevant authorities.

The ESRB shall not be conceived as a body with legal personality and binding powers but rather as a body drawing its legitimacy from its reputation for independent judgements, high quality analysis and sharpness in its conclusions.

Tasks and powers of the ESRB: the ESRB will not have any binding powers to impose measures on Member States or national authorities. It has been conceived as a body with a high level composition that should influence the actions of policy makers and supervisors by means of its moral authority. To this end, it will not only provide high quality assessment of the macro-prudential situation but it may also issue risk warnings and recommendations which identify the potential imbalances in the financial system which are likely to increase systemic risks and the appropriate remedial actions. The ESRB will have a broad scope of activity, not limited to a specific type of entity or market. Warnings and recommendations may address any aspect of the financial system which may generate a systemic risk. It will also cooperate with the relevant international financial institutions (IMF, FSB) and third countries on issues related to macro-prudential oversight.

Warnings and recommendations: an essential role of the ESRB is to identify risks with a systemic dimension and prevent or mitigate their impact on the financial system within the EU. To this end, the ESRB may issue risk warnings. These warnings should prompt early responses to avoid the build-up of wider problems and eventually a future crisis. If necessary, the ESRB may also recommend specific actions to address any identified risks.

ESRB recommendations will not be legally binding. However, the addressees of recommendations cannot remain passive towards a risk which has been identified and are expected to react in some way. If the addressee agrees with a recommendation, it must communicate all the actions undertaken to follow what is prescribed in the recommendation. If the addressee does not agree with a recommendation and chooses not to act, the reasons for inaction must be properly explained. Hence, recommendations issued by the ESRB cannot be simply ignored.

The ESRB shall decide on a case by case basis whether warnings and recommendations should be made public. On the one hand, the publication of a recommendation may increase the pressure for prompt corrective actions. On the other hand, it could trigger adverse financial-market reactions. Sensitivity of judgement will be required in each case. Moreover, it seems appropriate that warnings and recommendations should not be made public unless a qualified majority of two-thirds of the General Board decides otherwise.

The addressees of warnings and recommendations can be the Community as a whole, one or more Member States, one or more European Supervisory Authorities, and one or more national supervisory authorities. All warnings and recommendations must be transmitted to the Council, while those related to supervisory issues should also be transmitted to the relevant ESA. This transmission to the Council and to the ESAs is not intended as a way to water down their content, but aims on the contrary at increasing the moral pressure on the addressee to act or explain and offering the possibility to the Council to comment it.

Access to information: the interconnectedness of financial institutions and markets implies that the monitoring and assessment of potential systemic risks should be based on a broad set of relevant macro-economic and micro-financial data and indicators. The ESRB should therefore have access to all the information necessary to perform its duties while preserving the confidentiality of these data. It will be able to rely on the broad set of data already collected through the Eurosystem by the ECB on Monetary and Financial Institutions. To ensure the necessary consistency between the micro-supervisors and the ESRB, the ESRB, through its secretariat, will also be able to request the ESAs to provide information in summary or collective form. Should this information be not available (or not made available), the ESRB will be able to request data directly from national supervisory authorities, national central banks (NCBs) or other authorities of Member States. The regulation furthermore creates a general obligation on the ESAs, the NCBs and Member States to provide to the ESRB all the information needed for the fulfilment of its tasks, thus guaranteeing a wide access to the data needed for the macro-prudential analysis.

As some individual institutions can be systemic in nature (because of their size, their interconnectedness with other financial institutions or their risk profile), the ESRB – through its secretariat - shall also have access to individual data upon a reasoned request to the ESAs.

Relationship with the ESFS: the proposed framework for EU supervision can only work if the ESRB and ESFS cooperate efficiently. In fulfilling its role as macro-prudential supervisor, the ESRB will need a timely flow of harmonised micro-level data, while micro-prudential supervision by national authorities will benefit from the ESRB's insights into the macro-prudential environment. The Regulations also specify the procedures to be followed by the ESAs to act upon recommendations by the ESRB and how the ESAs should use their powers to ensure timely follow-up to recommendations addressed to one or more competent national supervisory authorities.

Confidentiality: the Members of the General Board of the ESRB and the staff working for the ESRB shall be subject to the obligation of professional secrecy. The addressees, the Council and the ESAs shall also take the measures necessary for the protection of the confidential nature of the warnings and recommendations.

The internal organisation of the ESRB: the ESRB shall be composed of: (i) a General Board; (ii) a Steering Committee and (iii) a Secretariat.

The General Board is the decision making body of the ESRB and as such, will be responsible for the adoption of the warnings and recommendations. The composition of the General Board is a key issue for the effectiveness of the ESRB. The members of the General Board with voting rights are the Governors of national central banks; the President and the vice-President of the ECB; a Member of the European Commission; and the Chairpersons of the three European Supervisory Authorities. The members of the General Board without voting rights are: - one high level representative per Member State of the competent national supervisory authorities, and the President of the Economic and Financial Committee.

The proposal describes in detail the role of the Chairperson, the steering committee and the secretariat as well as the Advisory Technical Committee and other sources of advice.

Reporting obligations: the ESRB shall be accountable to the European Parliament and to the Council and shall therefore report to them at least annually. The European Parliament and the Council may also require the ESRB to report more often.

BUDGETARY IMPLICATIONS: the budgetary cost related to the ESRB will be borne by the ECB and will not have any direct implication for the Community budget. The cost of such support will depend on the extent to which the existing staff and resources of the ECB can be used to fulfil the tasks of the Secretariat of the ESRB.

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

2009/0140(COD) - 08/08/2014 - Follow-up document

The present Commission staff working document accompanies the report from the Commission to the European Parliament and the Council on the mission and organisation of the

European Systemic Risk Board (ESRB).

It covers the following aspects:

- the ESRB mandate, powers and tools;
- the structure and governance arrangements;
- the stakeholder management, accountability and communications;
- the cooperation and interaction between micro and macro-prudential policy;
- the issue of data access.

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

2009/0140(COD) - 08/08/2014 - Follow-up document

In line with the Regulation establishing the European Systemic Risk Board (ESRB), this Commission report reviews the mission and organisation of the ESRB, including issues relating to the appointment of the Chair of the ESRB, in light of experience in the past three years. The ESRB is the new authority in charge of EU-wide macro-prudential oversight which was established in 2010 as part of the new European System of Financial Supervision (ESFS) comprising also three European sectoral micro-prudential authorities, the European Supervisory Authorities (the ESAs).

The Commission's review of the ESRB was informed by various sources: evidence from the Public Hearing on the ESFS review on 24 May 2013; the feedback it received from the consultation process which was held between 26 April and 31 July 2013; the contribution provided by the ESRB's High-Level Group on the ESRB Review as well as the ESAs Joint Opinion on the review of the ESRB. The [European Parliament's resolution](#) contained recommendations to the Commission on the ESFS Review and the preceding discussions were carefully considered.

(1) Assessment of the ESRB's performance: it is **difficult to assess the ESRB's performance** as a forward-looking macroprudential authority given its only recent inception. Nevertheless, the feedback received by the Commission from stakeholders shows that during the first three years of its existence, **the ESRB has managed to establish itself as a key component of the European supervisory framework. The major strengths and successes of the ESRB have been underlined by many stakeholders:**

- the **ESRB mandate** and powers was sufficiently broad and all stakeholders were satisfied with the forward-looking and preventive nature of the ESRB's mandate. All stakeholders were also satisfied with the non-binding nature of ESRB warnings and recommendations;
- throughout the crisis, the ESRB has provided a **unique forum for discussion** at the highest level between central bankers, national supervisors and European authorities on financial stability issues;
- the ESRB has contributed to the introduction of a macro-prudential dimension to financial policies and regulations;
- the ESRB is developing **important analytical work on cross-cutting macroprudential issues** (e.g. over-banking, interconnectedness). The recent work on contagion channels via Credit Default Swaps (CDS) or interbank funding is particularly interesting in that respect;
- the **current accountability arrangements** to the Parliament and the Council were considered by stakeholders as appropriate, as they allow for a proper dialogue while ensuring full confidentiality for sensitive information.

With the entry into force of the macro-prudential framework of [CRD IV/CRR](#) on 1 January 2014, the ESRB is developing an analytical and organisational framework in order to be able to take up the new tasks conferred on it by the legislation, i.e. delivering opinions and/or recommendations to Member States with regards to the use of the new macro-prudential tools (i.e. countercyclical capital buffers, systemic risk buffer), including the possibility to impose stricter prudential requirements of the CRR ('flexibility clause').

(2) Areas of improvement: bearing in mind these achievements, the report stresses that there is merit in drawing attention to important aspects of the ESRB's framework with a view to enhancing the efficiency of macro-prudential oversight at EU level.

Some of the improvements can be implemented in the **short term by the ESRB and would not require any change to the legislative framework**. This is the case as concerns for example:

- a more proactive communication strategy and earlier interaction with potential addressees. This could include, in particular, a better exchange of information with the EFC and a stronger involvement of the ESRB in the EFC discussions and meetings. The ESRB could also make more use of 'soft powers' for example via published letters or public statements, as a means to enhance the flexibility of the early warning function before any formal warning or recommendations would be issued;
- an increased frequency of the Steering Committee meetings;
- less formalism in the drafting of ESRB recommendations. This could contribute to shorten the deadlines for the adoption of the recommendations;
- a rebalancing of the focus beyond banking risks.

Other possible areas of improvement were identified by the stakeholders:

- **organisational identity:** there is a need to enhance the ESRB's visibility and autonomy, while allowing it to continue to benefit from the ECB's reputation and expertise. The possibility of a two-tier managerial structure with the ECB President as Chair and a new full-time Managing Director in charge of the day-to-day activities of the ESRB is one option that could be further explored;

- **internal governance:** there is scope for streamlining decision-making arrangements involving the General Board and the Steering Committee by reducing the size of the General Board or delegating/transferring more powers to the Steering Committee; there may be further potential for improving the efficiency and effectiveness of the supporting advisory committees;

- **toolbox:** there is scope to expand the ESRB toolbox so that it exercises more 'soft power' to enhance flexibility and foster early intervention; scope to more clearly specify the role of ESRB in relation to legislative changes.

Greater clarity on all these elements is needed before any possible legislative action could be proposed on the reform of the ESRB, as these will clearly impact the design of the proposal. The technical and legal work which the Commission will undertake will be able to take into account the important elements of the overall financial architecture which are not yet in place such as the various pillars of the **Banking Union** and establishing national macroprudential authorities; the macro-prudential responsibility within the ECB/Single Supervisory Mechanism ([SSM](#)).