Compromises on amending Regulation (EU) No 1092/2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (ESRB)</Titre>

***COMP A***

*Article 1*

Establishment

1.   A European Systemic Risk Board (ESRB) is established. It shall have its seat in Frankfurt am Main.

2.   The ESRB 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.

3.   The ESFS shall comprise:

(a) the ESRB;

(b) the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010;

(c) the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010;

(d) the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010;

(e) 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;

(f) 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.

4.   Pursuant to the principle of sincere cooperation in accordance with Article 4(3) of 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.

*AMs that fall if COMP is adopted:*

***COMP B***

*Article 2*

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(a) ‘financial institution’ means any undertaking that falls within the scope of the legislation 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, as well as any other undertaking or entity in the Union whose main business is of a similar nature;

(b) ‘financial system’ means all financial institutions, markets, products and market infrastructures;

(c) ‘systemic risk’ means a risk of disruption in the financial system with the potential to have serious negative consequences for ***the financial stability of the Union or of one or more of its Member States or for the real economy and the functioning of*** the internal market . All types of financial intermediaries, markets and infrastructure may be potentially systemically important to some degree.

*AMs that fall if COMP is adopted: 21 Berès, Fernandez*

***COMP C***

*Article 3*

Mission, objectives and tasks

1.   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 macroeconomic developments, so as to avoid periods of widespread financial distress. It shall contribute to the smooth functioning of the internal market and thereby ensure a sustainable contribution of the financial sector to economic growth.

2.   For the purposes of paragraph 1, the ESRB shall carry out the following tasks:

(a) determining and/or collecting and analysing all the relevant and necessary information, for the purposes of achieving the objectives described in paragraph 1;

(b) identifying and prioritising systemic risks;

(c) issuing warnings where such systemic risks are deemed to be significant and, where appropriate, making those warnings public;

(d) issuing recommendations ***to Union institutions and Members States*** for remedial action in response to the risks identified and, where appropriate, making those recommendations public; ***(22 Giegold)***

(e) when the ESRB determines that an emergency situation may arise pursuant to Article 18 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 issuing a confidential warning addressed to the Council and providing the Council with an assessment of the situation, in order to enable the Council to assess the need to adopt a decision addressed to the ESAs determining the existence of an emergency situation;

(f) monitoring the follow-up to warnings and recommendations;

(g) cooperating closely with all the other parties to the ESFS; where appropriate, providing the ESAs with the information on systemic risks required for the performance of their tasks; and, in particular, in collaboration with the ESAs, developing a common set of quantitative and qualitative indicators (risk dashboard) to identify and measure systemic risk;

(h) participating, where appropriate, in the Joint Committee;

(i) coordinating its actions with those of 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;

(j) carrying out other related tasks as specified in Union legislation.

*AMs that fall if COMP is adopted: 22 Giegold, 10 JURI*

***COMP D***

*Article 4*

Structure

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

2.   The General Board shall take the decisions necessary to ensure the performance of the tasks entrusted to the ESRB, pursuant to Article 3(2).

2a. When consulted on the appointment of the head of Secretariat of the ESRB in accordance with Article 3(2) of Council Regulation (EU) No 1096/2010\*, the General Board, following an open and transparent procedure, shall assess whether the shortlisted candidates for the position of head of Secretariat of the ESRB possess the qualities, ***independence*** and experience necessary to manage the ESRB Secretariat. The General Board shall inform the European Parliament and the Council ***in sufficient detail*** about the ***assessment and*** consultation procedure.

\* Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board (OJ L 331, 15.12.2010, p. 162).

3.   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.

3a. When giving directions to the head of Secretariat of the ESRB in accordance with Article 4(1) of Council Regulation (EU) No 1096/2010, the ESRB Chair and the Steering Committee may in particular address the following:

(a) the day-to-day management of the ESRB Secretariat;

(b) any administrative and budgetary issues related to the ESRB Secretariat;

(c) the coordination and preparation of the work and the decision making of the General Board;

(d) the preparation of the annual ESRB programme proposal and its implementation;

(e) the preparation of the annual report on the ESRB activities and the reporting to the General Board on its implementation

4.   The Secretariat shall be responsible for the day-to-day business of the ESRB. It shall provide high-quality analytical, statistical, administrative and logistical support to the ESRB under the direction of the Chair and the Steering Committee in accordance with Council Regulation (EU) No 1096/2010[(17)](http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1512748963989&uri=CELEX:32010R1092#ntr17-L_2010331EN.01000101-E0017). It shall also draw on technical advice from the ESAs, national central banks and national supervisors.

5.   The Advisory Scientific Committee and the Advisory Technical Committee referred to in Articles 12 and 13 shall provide advice and assistance on issues relevant to the work of the ESRB.

*AMs that fall if COMP is adopted: 23-27 Balz, 8-9 AFCO, 11-12 JURI*

***COMP E***

*Article 5*

Chair and Vice-Chairs of the ESRB

1. The ESRB shall be chaired by the President of the ECB.

2. 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 overall, and between those which are participating Member States as defined in Article 2(1) of Council Regulation (EU) No 1024/2013\*\*, and those which are not~~. The first Vice-Chair may be re-elected once. ***(30 Giegold)***

\*\* Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

3.   The second Vice-Chair shall be the Chair of the Joint Committee as appointed pursuant to Article 55(3) of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

4.   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.

5.   The Chair shall preside at the meetings of the General Board and the Steering Committee.

6.   The Vice-Chairs, in order of precedence, shall preside at the General Board and/or the Steering Committee when the Chair is unable to participate in a meeting.

7.   If the term of office of a member of the General Council of the ECB elected as first Vice-Chair ends before the completion of the five-year term or if for any reason the first Vice-Chair is unable to discharge his duties, a new first Vice-Chair shall be elected in accordance with paragraph 2.

8.   The Chair shall represent the ESRB externally. The Chair may delegate tasks related to the external representation of the ESRB ***with the exception of the tasks set out in Article 19(1), (4) and (5),*** ***to the Vice-Chairs of the ESRB or*** to the head of the Secretariat.

*AMs that fall if COMP is adopted: 28, 30 Giegold, 29, 31-35 Balz, 10 AFCO, 13 JURI*

***COMP F***

*Article 6*

General Board

1.   Members of the General Board with voting rights shall comprise:

(a) the President and the Vice-President of the ECB;

(b) the Governors of the national central banks;

(c) a Member of the Commission;

(d) the Chairperson of the European Supervisory Authority (European Banking Authority);

(e) the Chairperson of the European Supervisory Authority (European Insurance and Occupational Pensions Authority);

(f) the Chairperson of the European Supervisory Authority (European Securities and Markets Authority);

(fa) the Chair of the Supervisory Board of the ECB;

(fb) the Chair of the Single Resolution Board;

(g) the Chair ***and the two Vice-Chairs*** of the Advisory Scientific Committee; ***(44 Giegold, 45 Fernandez, 46 Balz)***

(h) the Chair of the Advisory Technical Committee.

2.   Members of the General Board without voting rights shall comprise:

(a) one high-level representative per Member State either of the national competent authorities or of the national authorities designated for the application of measures aimed at addressing systemic or macro-prudential risk, in accordance with paragraph 3

(b) the President of the Economic and Financial Committee (EFC).

3. With regard to the representation of the national authorities referred to under paragraph 2(a), the respective high-level representatives shall rotate depending on the item discussed, unless the national authorities of a particular Member State have agreed on a common representative.

4.   The General Board shall establish rules of procedure for the ESRB.

*AMs that fall if COMP is adopted: 38, 46-48 Balz, 39, 49 Valli, 40 Klinz, Cornillet, 41, 43 Gualtieri, 42 Klinz, Tremosa i Balcells, Cornillet, 44 Giegold, 45 Fernandez, 14 JURI-15*

***COMP G***

*Article 7*

Impartiality

1.   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 ***any government***, the Union institutions or any other public or private body. ***(50 Balz)***

2.   No member of the General Board (whether voting or non-voting) shall have a function in the financial industry.

3.   Neither the Member States, the Union institutions nor any other public or private body shall seek to influence the members of the ESRB in the performance of the tasks set out in Article 3(2).

*AMs that fall if COMP is adopted: 50 Balz*

***COMP H***

*Article 8*

Professional secrecy

1.   Members of the General Board and any other persons who work or who have worked for or in connection with the ESRB (including the relevant staff of central banks, the Advisory Scientific Committee, the Advisory Technical Committee, the ESAs and the Member States’ competent national supervisory authorities) shall not disclose information that is subject to professional secrecy, even after their duties have ceased.

***This paragraph shall not apply to any person who reports or discloses information on a threat or harm to the public interest in the context of their work-based relationship.***

***This paragraph is without prejudice to the confidential oral discussions held in accordance with Article 19(5).*** *(1 Balz, Berès, also included in 51 Giegold)*

2.   Information received by members of the ESRB shall be used only in the course of their duties and in performing the tasks set out in Article 3(2).

3.   Without prejudice to Article 16 and the application of criminal law, no confidential information received by the persons referred to in paragraph 1 whilst performing their duties shall be divulged to any person or authority whatsoever, except in summary or aggregate form, such that individual financial institutions cannot be identified.

4.   The ESRB shall, together with the ESAs, agree on and establish specific confidentiality procedures in order to safeguard information regarding individual financial institutions and information from which individual financial institutions can be identified.

*AMs that fall if COMP is adopted: 1 Balz-Berès, 51 Giegold*

***COMP I***

*Article 9*

Meetings of the General Board

1.   Ordinary plenary meetings of the General Board shall be convened by the Chair of the ESRB and shall take place at least four times a year. Extraordinary meetings may be convened at the initiative of the Chair of the ESRB or at the request of at least one third of the members of the General Board with voting rights.

2.   Each member shall be present in person at the meetings of the General Board and shall not be represented.

3.   By way of derogation from paragraph 2, a member who is prevented from attending the meetings for a period of at least 3 months may appoint an alternate. That member may also be replaced by a person who has been formally appointed under the rules governing the institution concerned for the substitution of representatives on a temporary basis.

4. Where appropriate, high-level representatives from international financial organisations ***or from the European Parliament*** carrying out activities directly related to the tasks of the ESRB set out in Article 3(2) may be invited to attend the meetings of the General Board. *(2 Balz, Berès)*

***5. Participation in the work of the ESRB may be open to high-level representatives of the relevant authorities from EEA countries, strictly limited to issues of particular relevance to those countries. Arrangements may be made by the ESRB specifying, in particular, the nature, scope and procedural aspects of the involvement of those 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 to those countries, excluding any case where the situation of individual financial institutions or Member States may be discussed.*** *(3 Balz, Berès, reinstatement of existing text but now ONLY EEA, not “3rd countries in particular EEA”)*

6.   The proceedings of the meetings shall be confidential.

*AMs that fall if COMP is adopted: 2-3 Balz-Berès, 52, 55 Swinburne, 53 Balz, 54 Hayes, 11-12 AFCO*

***COMP J***

*Article 10*

Voting modalities of the General Board

1.   Each member of the General Board with a voting right shall have one vote.

2.   Without prejudice to the voting procedures set out in Article 18(1), the General Board shall act by a simple majority of members present with voting rights. In the event of a tie, the Chair of the ESRB shall have the casting vote.

3.   By derogation from paragraph 2, a majority of two-thirds of the votes cast shall be required to adopt a recommendation or to make a warning or recommendation public.

4.   A quorum of two-thirds of the members with voting rights shall be required for any vote to be taken by the General Board. If the quorum is not met, the Chair of the ESRB may convene an extraordinary meeting at which decisions may be taken with a quorum of one-third. The rules of procedure referred to in Article 6(4) shall provide for adequate notice for convening an extraordinary meeting.

*AMs that fall if COMP is adopted:*

***COMP K***

*Article 11*

Steering Committee

1.   The Steering Committee shall be composed of:

(a) the Chair and first Vice-Chair of the ESRB;

(b) the Vice-President of the ECB;

(c) four other members of the General Board who are also members of the General Council of the ECB, with regard to the need for a balanced representation of Member States overall, and between those which are participating Member States as defined in Article 2(1) Regulation (EU) No 1024/2013 and those which are not. They shall be elected by and from among the members of the General Board who are also members of the General Council of the ECB, for a period of 3 years;

(d) a Member of the Commission;

(e) the Chairperson of the European Supervisory Authority (European Banking Authority);

(f) the Chairperson of the European Supervisory Authority (European Insurance and Occupational Pensions Authority);

(g) the Chairperson of the European Supervisory Authority (European Securities and Markets Authority);

(ga) the Chair of the Supervisory Board of the ECB;

(gb) the Chair of the Supervisory Board of the ECB;

***(gba) the head of the Secretariat of the ESRB; (61 Gualtieri)***

(h) the President of the EFC;

(i) the Chair of the Advisory Scientific Committee; and

(j) the Chair of the Advisory Technical Committee.

Any vacancy for an elected member of the Steering Committee shall be filled by the election of a new member by the General Board.

2.   Meetings of the Steering Committee shall be convened by the Chair of the ESRB at least quarterly, before each meeting of the General Board. The Chair of the ESRB may also convene ad-hoc meetings.

*AMs that fall if COMP is adopted: 57-58, 62 Balz, 59 Giegold, 60-61 Gualtieri, 16 JURI*

***COMP L***

*Article 12*

Advisory Scientific Committee

1. The Advisory Scientific Committee shall be composed of the Chair of the Advisory Technical Committee and 15 experts representing a wide range of skills***,*** experiences ***and knowledge pertaining to all relevant financial markets sectors,*** proposed by the Steering Committee and approved by the General Board for a four-year, renewable mandate. The nominees shall not be members of the ESAs and shall be chosen on the basis of their general competence and their diverse experience in academic fields or other sectors, in particular in small and medium-sized enterprises or trade unions, or as providers or consumers of financial services. *(4 Balz, Berès, repeated in 63 Balz)*

2.   The Chair and the two Vice-Chairs of the Advisory Scientific Committee shall be appointed by the General Board following a proposal from the Chair of the ESRB and they shall each have a high level of relevant expertise and knowledge, for example by virtue of their ***relevant*** academic ***professional*** background in the sectors of banking, securities markets, or insurance and occupational pensions. The chairmanship of the Advisory Scientific Committee should rotate between those three persons. ***(64 Balz)***

3.   The Advisory Scientific Committee shall provide advice and assistance to the ESRB in accordance with Article 4(5), at the request of the Chair of the ESRB ***or the General Board***. ***(65 Balz)***

4.   The ESRB Secretariat shall support the work of the Advisory Scientific Committee and the head of the Secretariat shall participate in its meetings.

5. Where appropriate, the Advisory Scientific Committee shall organise consultations with stakeholders, ***such as market participants, consumer bodies and academic experts,*** at an early stage and in an open and transparent manner, while taking into account the requirement of confidentiality. ***The consultations shall be conducted as widely as possible to ensure an inclusive approach towards all interested parties and relevant financial sectors and shall allow reasonable time for stakeholders to respond.*** *(5 Balz, Berès, repeated in 66 Balz)*

6.   The Advisory Scientific Committee shall be provided with all necessary means in order to successfully complete its tasks.

*AMs that fall if COMP is adopted: 4-5 Balz-Berès, 63-66 Balz, 13 AFCO, 17 JURI*

***COMP M***

*Article 13*

Advisory Technical Committee

1.   The Advisory Technical Committee shall be composed of:

(a) a representative of each national central bank; ***(67 Balz)***

(b) one representative per Member State of the competent national supervisory authorities, in accordance with the second subparagraph;

(c) a representative of the European Supervisory Authority (European Banking Authority);

(d) a representative of the European Supervisory Authority (European Insurance and Occupational Pensions Authority);

(e) a representative of the European Supervisory Authority (European Securities and Markets Authority);

(f) a representative of the Commission;

(fa) a representative of the Supervisory Board of the ECB;

(fb) a representative of the Single Resolution Board;

(g) a representative of the EFC; and

(h) a representative of the Advisory Scientific Committee.

The supervisory authorities of each Member State shall choose one representative in the Advisory Technical Committee. With regard to the representation of national supervisory authorities under point (b) of the first subparagraph, the respective representatives shall rotate depending on the item discussed, unless the national supervisory authorities of a particular Member State have agreed on a common representative.

2.   The Chair of the Advisory Technical Committee shall be appointed by the General Board following a proposal from the Chair of the ESRB.

3.   The Advisory Technical Committee shall provide advice and assistance to the ESRB in accordance with Article 4(5) at the request of the Chair of the ESRB ***or the General Board***. ***(70 Balz)***

4.   The ESRB Secretariat shall support the work of the Advisory Technical Committee and the head of the Secretariat shall participate in its meetings.

4a. Where appropriate, the Advisory Technical Committee shall organise consultations with stakeholders at an early stage and in an open and transparent manner, while taking into account the requirement of confidentiality. ***The consultations shall be conducted as widely as possible to ensure an inclusive approach towards all interested parties and relevant financial sectors and shall allow reasonable time for stakeholders to respond.*** *(6 Balz, Berès,* ***72 Balz****)*

5.   The Advisory Technical Committee shall be provided with all necessary means in order to successfully complete its tasks.

*AMs that fall if COMP is adopted: 6 Balz-Berès, 67-72 Balz, 18-20 JURI*

***COMP N***

*Article 14*

Other sources of advice

In performing the tasks set out in Article 3(2), the ESRB shall, where appropriate, seek the views of relevant private sector stakeholders. ***The consultations shall be conducted as widely as possible to ensure an inclusive approach towards all interested parties and relevant financial sectors and shall allow reasonable time for stakeholders to respond.*** *(7 Balz, Berès, repeated in 74 Balz)*

*AMs that fall if COMP is adopted: 7 Balz-Berès, 73 Klinz, 74 Balz*

***COMP O***

*Article 15*

Collection and exchange of information

1.   The ESRB shall provide the ESAs with the information on risks necessary for the achievement of their tasks.

2.   The ESAs, the European System of Central Banks (ESCB), the Commission, the national supervisory authorities and national statistics authorities shall cooperate closely with the ESRB and shall provide it with all the information necessary for the fulfilment of its tasks in accordance with Union legislation.

3.   Subject to Article 36(2) of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010, the ESRB may request information from the ESAs, as a rule in summary or aggregate form such that individual financial institutions cannot be identified.

4.   Before requesting information in accordance with this Article, the ESRB shall first take account of the existing statistics produced, disseminated and developed by the European Statistical System and the ESCB.

5.   If the requested information is not available or is not made available in a timely manner, the ESRB may request the information from the ESCB, the national supervisory authorities or the national statistics authorities. If the information remains unavailable, the ESRB may request it from the Member State concerned, without prejudice to the prerogatives conferred, respectively, on the Council, the Commission (Eurostat), the ECB, the Eurosystem and the ESCB in the field of statistics and data collection.

6.   If the ESRB requests information that is not in summary or aggregate 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.

7.   Before each request for information ***of a supervisory nature*** which is not in summary or aggregate 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 information shall be transmitted to the ESRB by the addressees of the request, provided that they have legal access to the relevant information. ***(77 Hübner)***

*AMs that fall if COMP is adopted: 75-76 Giegold, 77 Hübner*

***COMP P***

*Article 16*

Warnings and recommendations

1.   When significant risks to the achievement of the objective in Article 3(1) are identified, the ESRB shall provide warnings and, where appropriate, issue recommendations for remedial action, including, where appropriate, for legislative initiatives.

2.   Warnings or recommendations issued by the ESRB in accordance with points (c) and (d) of Article 3(2) may be of either a general or a specific nature and shall be addressed in particular to the Union, to one or more Member States, to one or more of the ESAs or to one or more of the national competent authorities or ***national resolution authorities,*** to the ECB for the tasks conferred to the ECB in accordance with Articles 4(1), 4(2) and 5(2) of Regulation (EU) No 1024/2013, ***or to the Single Resolution Board***. If a warning or a recommendation is addressed to one or more of the national supervisory authorities, the Member State(s) concerned shall also be informed thereof. Recommendations shall include a specified timeline for the policy response. Recommendations may also be addressed to the Commission in respect of the relevant Union legislation. *(8 Balz, Berès, repeated in 78 Balz)* ***Warnings and recommendations shall be sufficiently detailed and reasoned and shall be accompanied by an adequate and comprehensive statement of reasons.***

3. At the same time as they are transmitted to the addressees in accordance with paragraph 2, the warnings or recommendations shall be transmitted, in accordance with strict rules of confidentiality, to the Council, the European Parliament, the Commission and to the ESAs.

4.   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.

Once the criteria for such classification have been elaborated, the ESRB’s warnings and recommendations shall indicate, on a case-by-case basis, and where appropriate, to which category the risk belongs.

*AMs that fall if COMP is adopted: 8 Balz-Berès, 78 Balz, 21 JURI*

***COMP Q***

*Article 17*

Follow-up of the ESRB recommendations

1. If a recommendation referred to in Article 3(2)(d) is addressed to the Commission, to one or more Member States, to one or more ESAs, or to one or more national competent authorities, the addressees shall communicate to the European Parliament, the Council***, the Commission*** and to the ESRB the actions undertaken in response to the recommendation and shall substantiate any inaction. Where relevant, the ESRB shall, subject to strict rules of confidentiality, inform the ESAs of the answers received without delay. *(9 Balz, Berès, repeated in 79 Balz)*

2. If the ESRB decides that its recommendation has not been followed or that the addressees have failed to provide adequate justification for their inaction, the ESRB shall, subject to strict rules of confidentiality, inform the addressees, the European Parliament, the Council***, the Commission*** and the relevant ESAs thereof.

3.   If the ESRB has made a decision under paragraph 2 on a recommendation that has been made public following the procedure set out in Article 18(1), the European Parliament may invite the Chair of the ESRB to present that decision and the addressees may request to participate in an exchange of views.

*AMs that fall if COMP is adopted:9 Balz-Berès, 79 Balz, 22-23 JURI*

***COMP R***

*Article 18*

Public warnings and recommendations

1.   The General Board 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. Notwithstanding Article 10(3), a quorum of two-thirds shall always apply to decisions taken by the General Board under this paragraph.

2.   If the General Board decides to make a warning or recommendation public, it shall inform the addressees in advance.

3.   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.

4.   Where the General Board decides not to make a warning or a recommendation public, the addressees and, where appropriate, the Council and the ESAs shall take all the measures necessary for the protection of their confidential nature.

*AMs that fall if COMP is adopted:80 Giegold*

***COMP S***

*Article 19*

Accountability and reporting obligations

1. 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 ***by the competent committee***, marking the publication of the ESRB’s annual report to the European Parliament and the Council. That hearing shall be conducted separately from the monetary dialogue between the European Parliament and the President of the ECB. *(10 Balz, Berès,* ***81 Balz****)*

2. The annual report referred to in paragraph 1 shall contain the information that the General Board decides to make public in accordance with Article 18. The annual report shall be made available to the public. ***It shall include giving an account of the resources made available to the ESRB in accordance with Article 3(1) of Regulation (EU) 1096/2010.*** *(11 Balz, Berès,* ***82 Balz****)*

3.   The ESRB shall also examine specific issues at the invitation of the European Parliament, the Council or the Commission.

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

5.   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 in accordance with Article 8. The ESRB shall provide a copy of that agreement to the Council.

***5a.***  ***The ESRB shall reply orally or in writing to questions put to it by the European Parliament or by the Council. It shall reply to those questions without delay and in any event within five weeks from the date of their transmission to the ESRB. (80 Giegold)***

*AMs that fall if COMP is adopted:10-11 Balz-Berès, 81-84 Balz, 85 Klinz, Tremosa i Balcells, Cornillet , 14 AFCO*

***COMP T***

*Article 20*

Review

No sooner than five years after [OJ, please insert the date of entering into force], the Commission shall carry out an evaluation of this Regulation and present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

*AMs that fall if COMP is adopted:*

***COMP U***

*Article 21*

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 24 November 2010.

*AMs that fall if COMP is adopted:*

***Recitals***

***COMP V***

(1) In accordance with Article 20 of Regulation (EU) No 1092/2010[[1]](#footnote-1) (ESRB Regulation), the European Parliament and the Council, on the basis of a report[[2]](#footnote-2) from the Commission, have examined the ESRB Regulation to determine whether the mission and organisation of the ESRB needed to be reviewed. The modalities for the designation of the Chair of the ESRB have also been reviewed.

*AMs that fall if COMP is adopted:*

***COMP W***

(2) The 2017 Commission report on the mission and organisation of the ESRB[[3]](#footnote-3) concludes that, while the ESRB is generally well-functioning, improvements on certain specific points are necessary. ***In addition, recent institutional changes relating to the Banking Union, coupled with efforts to achieve a capital markets union, as well as technological change, have effectively altered the ESRB’s operating environment since the time of its inception. The establishment of the ESRB should contribute directly to achieving the objectives of the internal market. The Union macro-prudential oversight of the financial system is an integral part of the overall new supervisory arrangements in the Union as the macro-prudential aspect is closely linked to the micro-prudential supervisory tasks attributed to the ESAs. Only with arrangements in place that properly acknowledge the interdependence of micro and macro-prudential risks can all stakeholders have sufficient confidence to engage in cross-border financial activities. The ESRB should monitor and assess risks to financial stability arising from developments that can impact on a sectoral level or at the level of the financial system as a whole, including risks and vulnerabilities resulting from technological change or from environmental or social factors. By addressing such risks, the ESRB should contribute directly to an integrated Union supervisory structure necessary to promote timely and consistent policy responses among the Member States, thus preventing diverging approaches and improving the functioning of the internal market. In order to accomplish its objectives, the ESRB should analyse all the relevant information, including developments leading to the completion of the Capital Markets Union. (21 Berès et al)***

*AMs that fall if COMP is adopted:12 Viegas, 1 JURI, 21 Berès, Fernandez*

***COMP X***

(3) The broad membership of the General Board of the ESRB is a major asset. Recent developments in the financial supervisory architecture of the Union, and in particular the set-up of a Banking Union, are however not reflected in the composition of that General Board. For that reason, the Chair of the Supervisory Board of the ECB and the Chair of the Single Resolution Board should become members with voting rights of the General Board of the ESRB. Corresponding adjustments should also be made to the Steering Committee and to the Advisory Technical Committee, respectively.

*AMs that fall if COMP is adopted: 13 Marco Valli, 3 JURI*

***COMP Y***

(4) The ECB President has chaired the ESRB for the first 5 years of its existence, after which the ECB President has continued to chair the ESRB on an interim basis. During that period, the ECB President has conferred authority and credibility to the ESRB and ensured that the ESRB can effectively build and rely on the expertise of the ECB in the area of financial stability. It is therefore appropriate that the ECB President chairs the ESRB on a permanent basis.

*AMs that fall if COMP is adopted: 5 JURI*

***COMP Z***

(5) To strengthen the visibility of the ESRB as a body that is separate from its individual members, the Chair of the ESRB should be able to delegate tasks related to the external representation of the ESRB to ***Vice-Chairs or to*** the head of the ESRB Secretariat, ***with the exception of participation in hearings and discussions behind closed doors at the European Parliament***.

*AMs that fall if COMP is adopted: 15 Giegold, 1 AFCO, 6 JURI*

***COMP AA***

(6) Article 3(2) of Council Regulation (EU) No 1096/2010[[4]](#footnote-4) provides that the head of the Secretariat of the ESRB is to be appointed by the ECB, in consultation with the General Board of the ESRB. To raise the profile of the head of Secretariat of the ESRB, the General Board of the ESRB should assess, in an open and transparent procedure, whether the shortlisted candidates for the position of head of Secretariat of the ESRB possess the qualities and experience necessary to manage the ESRB Secretariat. The General Board should inform the European Parliament and the Council about the assessment procedure. Furthermore, the tasks of the head of the ESRB Secretariat should be clarified.

*AMs that fall if COMP is adopted: 2 AFCO, 7 JURI*

***COMP AB***

(7) In accordance with Article 5(2) of Regulation (EU) No 1092/2010, the first Vice-Chair of the ESRB has up until now been elected by and from the members of the General Council of the ECB, with regard to the need for a balanced representation of Member States overall and between those whose currency is the euro and those whose currency is not the euro. ***This is no longer appropriate, although such a balanced representation should remain a consideration for the ESRB’s Steering Committee. Furthermore, f***ollowing the creation of the Banking Union, it is appropriate to replace the reference to Member State whose currency is the euro and those whose currency is not the euro with a reference to Member States that do participate in the Banking Union and those who do not.

*AMs that fall if COMP is adopted: 19 Giegold*

***COMP AC***

(8) ~~Given the amendments to the Agreement on the European Economic Area (EEA)[[5]](#footnote-5), and in particular the adoption of Regulation (EU) No 1092/2010 by the EEA member states, Article 9(5) of that Regulation is no longer relevant and should therefore be deleted.~~

*AMs that fall if COMP is adopted:4 AFCO*

***COMP AD***

(9) To decrease costs and to enhance procedural efficiency, the number of representatives of the Commission in the Advisory Technical Committee of the ESRB should be reduced from the current two representatives to one representative.

*AMs that fall if COMP is adopted: 20 Giegold*

***COMP AE***

(10) Article 16(3) of Regulation (EU) No 1092/2010 requires that the ESRB warnings and recommendations are transmitted to the Council and the Commission and, where addressed to one or more national supervisory authorities, to the ESAs. To strengthen democratic control and transparency, those warnings and recommendations should also be transmitted to the European Parliament and to the ESAs.

*AMs that fall if COMP is adopted: 6 AFCO, 8 JURI*

***COMP AF***

(11) To ensure the quality and relevance of the ESRB opinions, recommendations and decisions, the Advisory Technical Committee and Advisory Scientific Committee are expected to consult stakeholders, where appropriate, at an early stage and in an open and transparent manner, ***and to do so as widely as possible to ensure an inclusive approach towards all interested parties***.

*AMs that fall if COMP is adopted: 7 AFCO, 9 JURI*

***COMP AG***

(12) Regulation (EU) No 1092/2010 should therefore be amended accordingly,

*AMs that fall if COMP is adopted:*

1. Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1). [↑](#footnote-ref-1)
2. Report from the Commission to the European Parliament and to the Council on the mission and organisation of the European Systemic Risk Board, COM(2014) 508 final. [↑](#footnote-ref-2)
3. Commission Staff Working Document, Effect Analysis, Amendments to ESRB Regulation, COM(2017). [↑](#footnote-ref-3)
4. Council Regulation (EU) NO 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board (OJ L 331, 15.12.2010, p. 162). [↑](#footnote-ref-4)
5. Decision of the EEA Joint Committee No 198/2016 of 30 September 2016 amending Annex IX (Financial services) to the EEA Agreement [2017/275] (OJ L 46, 23.2.2017, p. 1). [↑](#footnote-ref-5)