

The European Systemic Risk Board

– Main features, mandate and accountability

This briefing provides an overview of the European Systemic Risk Board (ESRB), its main features, mandate and accountability. It also includes the overview of recent review of the ESRB mission, mandate and organisation as part of the review of European System of Financial Supervision.



The objectives and role of the ESRB

The European System of Financial Supervision (ESFS) was created following the recommendation of a high-level group experts led by Jacques de Larosière to strengthen financial supervision, better protect European citizens and ultimately rebuild trust in the EU financial system. As part of this reform, the European Systemic Risk Board (ESRB) and European Supervisory Authorities (the ESAs) were created in November 2010.

The ESRB is responsible for *'the macroprudential oversight of the financial system within the Union in order to contribute to the prevention or mitigation of systemic risks to financial stability [...]'* (Article 3(1) of the [ESRB Regulation](#)) and coordination of EU policies for financial stability (see further below for additional details).

Macroprudential policies and systemic risk oversight may be of particular importance for the Euro Area with a single monetary policy, including the well-functioning Banking Union. As pointed out by [Luis de Guindos](#) *"While the current accommodative monetary policy is supporting the economic recovery, it may generate undesired side effects in the form of excessive risk-taking. Macroprudential policy can counter these excesses with its targeted toolkit. By imposing additional requirements, it can restrain lending to excessively risky borrowers or create the necessary loss absorption capacity in specific sectors or countries."*

The ESRB tasks include collecting data, identifying and analysing systemic risks, issuing warnings, recommendations and opinions where appropriate and cooperating closely with all the other bodies within the ESFS. The macroprudential role of the ESRB is exercised by the issuing of non-binding warnings and recommendations for which a 'comply or explain' procedure applies to the addressee (Articles 16 and 17). These can be seen as "soft powers" compared to those of the ECB Supervisory Board or of the ESAs. According to the ESRB Regulation, the addressees of warnings and recommendations can be the Union as a whole, one or more Member States, one or more of the ESAs or one or more of the national supervisory authorities. These warnings and recommendations can be made public on a case-by-case basis (Article 18). They are published in a dedicated section of the ESRB website. Moreover, according to the [Regulation EU 1176/2011](#), the ESRB warnings and recommendations should also warrant appropriate follow-up action by the Commission in the context of the surveillance of macroeconomic imbalances, where appropriate.

The ESRB is also mandated to design scenarios of adverse economic and financial market developments.

The ESRB also participates in the European economic governance as it is defined in the [Regulation EU 1176/2011](#) and [Regulation 472/2013](#). The ESRB should provide its views on macroeconomic imbalances scoreboard draft indicators, relevant to financial market stability and can take prudential steps that it deems necessary in the case of opening of an excessive imbalance procedure for Member States. When the Commission decides to subject a Member State to enhanced surveillance, the ESRB should be notified of all

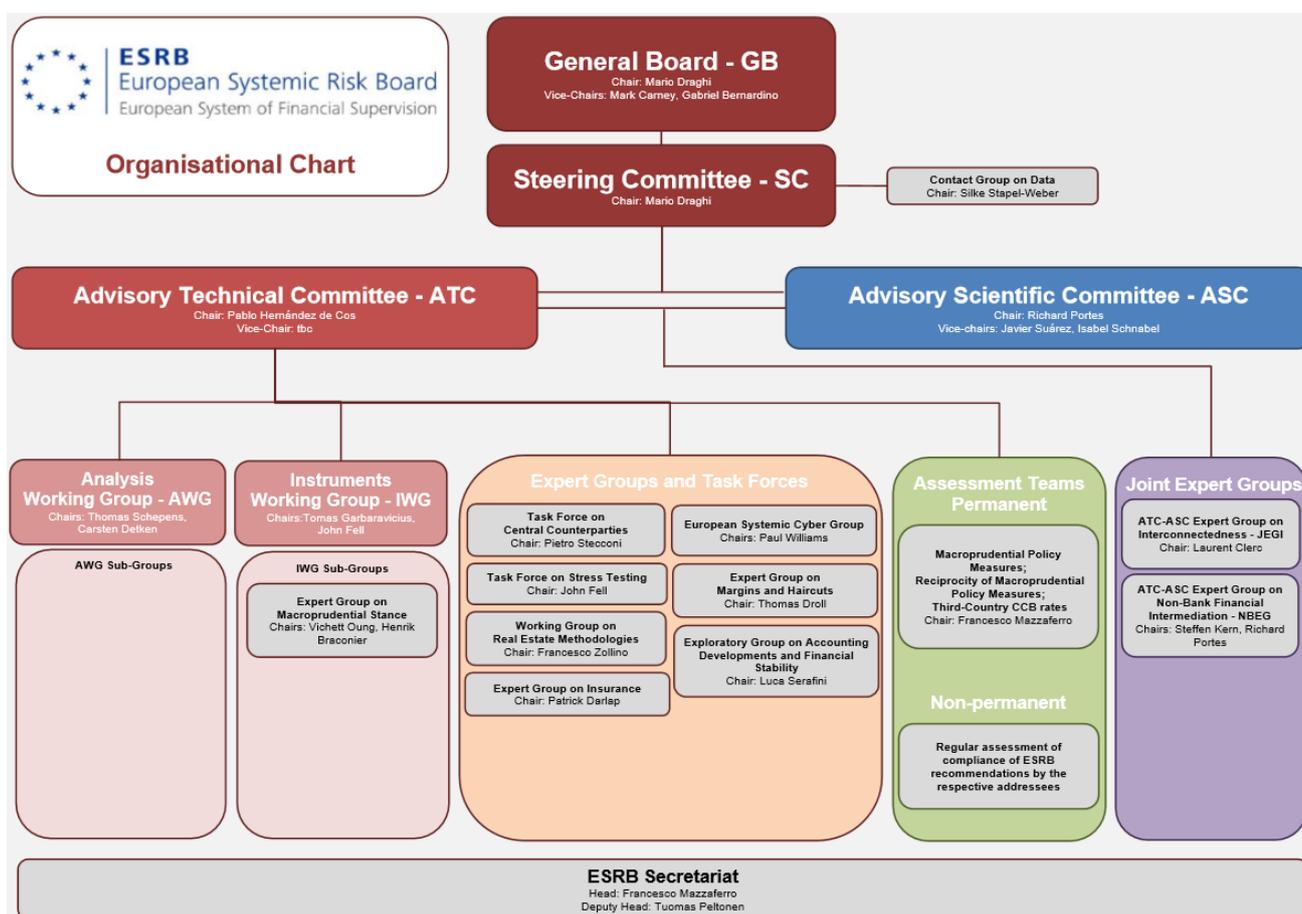


the results of the assessment and can consult Member State regarding the measures aimed at addressing the sources or potential sources of highlighted difficulties. Also, in liaison with the ECB and the ESAs when requested should assess potential vulnerabilities of the financial system, the resilience of the financial sector to various macroeconomic and financial shocks and provide sensitivity analysis.

Organisation of the ESRB

The ESRB has a strong organisational link with the European Central Bank (ECB) and comprises the General Board (GB), the Steering Committee (SC), the Secretariat, the Advisory Scientific Committee (ASC) and the Advisory Technical Committee (ATC). The decision-making body is the GB, while the SC drives the overall work of the ESRB, with support from the advisory committees. According to [Council Regulation \(EU\) 1096/2010](#) the ECB shall ensure a Secretariat, and thereby provide analytical, statistical, logistical and administrative support to the ESRB. The internal organisation of the ESRB reflects the involvement of several EU-wide stakeholders in the oversight of the European financial stability (see Figure 1 below).

Figure 1. ESRB Organisational Chart



Source: ESRB Secretariat.

The five bodies of the ESRB are organised as follows:

1. **General Board** (67 members), made up by the ESRB President, the ECB Vice-President, the 28 National Central Bank (NCB) Governors, the three ESAs Chairmen, one Member of the European Commission, the Chair and two Vice-Chairs of the ASC, the Chair of the ATC, the former with voting rights, and the Heads of the NCAs and the Economic and Financial Committee (EFC) President as

- non-voting members. The GB is the decision making body in the ESRB structure (article 4(2) of the ESRB Regulation);
2. the **Steering Committee** (14 members) comprises the ESRB President, the ECB Vice-President, the ESRB Vice-Chair, four ESRB GB Members, one Member of the Commission, the three ESA Chairmen, the Chair of the ATC, the Chair of the ASC, the EFC President;
 3. the **Advisory Scientific Committee (ASC)** has 15 external experts and the Chair of the ATC;
 4. the **Advisory Technical Committee (ATC)** is composed of 28 NCB officials, 28 National Supervisory Authority (NSA) officials, one ECB Official, two Commission Officials, one ASC Member, three ESA Officials, one EFC Member; and
 5. the **Secretariat** is composed of staff appointed by the ECB.

Decisions at the GB are taken by majority and each voting member has a vote. The ESRB Chair has a casting vote in the event of a tie. Notwithstanding, a majority of two-thirds of the votes is required to adopt a warning or recommendation or to make them public. A quorum of two thirds of voting members is also required for the GB to take decisions, including whether to make a warning or recommendation public. The GB meets at least four times a year and is convened by its Chair. The [ESRB rules of procedure](#) complement these provisions regarding the GB and other bodies within the ESRB structure.

Accountability and transparency of the ESRB

The ESRB is accountable to the European Parliament (EP) under Article 19 of the ESRB Regulation. At least annually, in connection with the publication of the ESRB's Annual Report, and more frequently in the event of widespread financial distress, the Chair of the ESRB shall be invited to a hearing in the EP. This shall be conducted separately from the Monetary Dialogue between the EP and the President of the ECB. Moreover, the Chair of the ESRB shall hold confidential oral discussions at least twice a year, behind closed doors with the Chair and Vice-Chairs of ECON on the ongoing activity of the ESRB. Article 5(4) of the same Regulation provides that the Chair and Vice-Chairs of the ESRB *'shall present to the European Parliament, during a public hearing, how they intend to discharge their duties [...]'*.

The Regulation foresees additional accountability instruments:

- The Chair and the Vice-Chairs present to the European Parliament, during a public hearing, how they intend to discharge their duties under the Regulation;
- The EP may invite the Chair of the ESRB to present that decision and the addressees may request to participate in an exchange of views;
- Addressees of ESRB recommendations are required to follow up on such recommendations and inform the ESRB thereof; if the relevant recommendation has been made public and not followed upon, the EP may invite the Chair of the ESRB to present that decision and the addressees may request to participate in an exchange of views;
- The ESRB shall also examine specific issues at the invitation of the EP, the Council or the Commission (article 19(3) of the Regulation);
- The EP may request the Chair of the ESRB to attend a hearing of its competent Committees.

ESRB Regulation requires ESRB members to act impartially (article 7) and to *"consider only the financial stability of the Union as a whole"*. The provision mirrors similar clauses in the ESAs regulations and prevents members of the ESRB from receiving instructions or be influenced by any public or private entity. It also requires members of the ESRB that are members of the ECB Governing Council to maintain a separation of their respective mandates when deciding on monetary policy and macroprudential policy and not to hold a position in the financial sector. The ESRB members are also subject to professional secrecy obligations.

The ESRB is not subject to the common EU rules on access to documents such as [Regulation 1049/2001](#). The ESRB Regulation and Decisions by the [ECB](#) and the [ESRB](#) contain provisions addressing access to ESRB documents. The ECB decision amends ECB general stance on access to documents to better reflect the macroprudential mandate. The ESRB decision adds specific provisions reflecting the nature of ESRB documents and adjusting ECB decision on access to documents to the ESRB remit, mandate and functions.

In particular, such decision allows restricting access to ESRB documents when such access would “undermine the protection of the public interest in the confidentiality or effectiveness of its proceedings, activities, discussions, warnings or recommendations”.

Nevertheless, the rules of procedure refer to consultations ahead of issuing warnings and recommendations, as appropriate and that responses to invitations by the EP, the Council or the Commission to examine specific issues, are, as a rule, public. The ESRB also publishes in its website press releases reflecting decisions and discussions held.

Recently the EP, the Council and the European Commission reviewed the ESRB Regulation and came to a [political agreement](#) regarding its amendments and the EP has already [agreed on the legal text](#). More details on the amendments proposed in order to enhance the ESRB accountability and transparency are discussed in the ESRB Review chapter below.

The role of the ESRB in the European macroprudential policy framework

The ESRB has been acting as a catalyst to set up the macroprudential policy framework in the EU. Macroprudential policy overall aims to address three risk dimensions: prevent the excessive build-up, resulting from external factors and market failures, to smoothen the financial cycle (time dimension); make the financial sector more resilient and limit contagion effects (cross-section dimension); and encourage a system-wide perspective in financial regulation to create the right set of incentives for market participants (structural dimension).

Figure 2. Competences of the ESRB under the CRD IV/CRR package

ESRB Role under CRD IV/CRR			
<p style="text-align: center;">GUIDANCE</p> <p style="text-align: center;">on CCyB</p> <p style="text-align: center;">---</p> <p style="text-align: center;">Art. 135 CRD</p>	<p style="text-align: center;">OPINIONS</p> <p style="text-align: center;">on SyRB to Commission for MS imposing buffer rates greater than 5%</p> <p style="text-align: center;">regarding the proper use of proposed measures to the Council,</p> <p style="text-align: center;">the Commission and the MS concerned</p> <p style="text-align: center;">---</p> <p style="text-align: center;">Art. 133(15) CRD</p>	<p style="text-align: center;">RECOMMENDATIONS</p> <p style="text-align: center;">on SyRB for buffer rates between 3% to 5% when there is at least one EU-owned foreign subsidiary in the imposing MS</p> <p style="text-align: center;">---</p> <p style="text-align: center;">Art. 133(4) CRD</p>	<p style="text-align: center;">CONSULTATION</p> <p style="text-align: center;">on CRD/CRR review</p> <p style="text-align: center;">---</p> <p style="text-align: center;">Art. 513 CRR</p>

Source: EGOV

Within this macroprudential policy framework, the [CRD IV/CRR](#) has given the mandate to the ESRB to coordinate Member States' macroprudential policies, provide guidance to the NCAs and ensure that the countercyclical capital buffer (CCyB)¹ is applied consistently across the EU. It may also give opinions regarding the proper use of national flexibility measures to the Council, the European Commission and individual Member States. Opinions to the Commission are also mandatory for any Member State imposing

¹ The countercyclical capital buffer (CCyB) is part of a set of macroprudential instruments, designed to help counter pro-cyclicality in the financial system. Capital should be accumulated when cyclical systemic risk is judged to be increasing, creating buffers that increase the resilience of the banking sector during periods of stress when losses materialise. This will help maintain the supply of credit and dampen the downswing of the financial cycle. The CCyB can also help dampen excessive credit growth during the upswing of the financial cycle.

Systemic Risk Buffers (SyRB) exceeding 5%, whilst recommendations are placed on SyRB under some further conditions.

On the national flexibility measures, the ESRB has been given a mandate to provide “opinions” regarding the proper use of measures proposed by Member States to the Council, the European Commission and the Member State concerned. These opinions must assess, among other things, whether the measure is necessary, effective and proportionate, and whether the systemic risk cannot be adequately addressed by other measure(s). In practice, this will require a solid economic framework to be built in order to assess the relative effectiveness of macroprudential instruments in mitigating certain risks and explore possible cross-border spillovers.

There are both permanent and non-permanent ESRB Assessment Teams (AT) created to assess macroprudential policy measures notified to the ESRB and to prepare ESRB opinions. Each AT is composed of 13 permanent members (two representatives of the ESRB Secretariat, one representative of the ECB and one representative of the SSM, nine representatives of different EU national central banks) and three permanent observers (two representatives of the European Commission and one representative of the EBA). Jurisdictions which have notified a macroprudential policy measure should be represented by two non-permanent observers. Institutions with a member on the GB can also have one non-permanent observer, if they have material concerns regarding possible negative cross-border externalities of the notified measure.

The [ESRB Handbook](#) aims to assist macroprudential NCAs in the EU in operationalising macroprudential policy. It sets out a policy framework that links intermediate objectives, key indicators and macroprudential instruments. It aims to support macroprudential authorities in developing their own policy strategies.

ESRB Review

In its [Resolution of 9 July 2015](#) on building a capital markets union, the EP emphasised that the legal and supervisory frameworks plays a fundamental role in avoiding excessive risk taking in financial markets; it underlined “ *that a strong CMU project needs to be accompanied by strong EU-wide and national supervision including adequate macroprudential instruments;*”. That recommendation reflects concerns raised in a [study](#) commissioned by the Parliament and published in October 2013². In [August 2014](#) the Commission issued a report assessing the mission and organisation of the ESRB. It concluded 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 (...) has been providing a unique forum for discussion on financial stability issues throughout the crisis and that it has raised awareness among policy makers on the macroprudential dimension of financial policies and regulations.*” The Commission report also pointed out to possible improvements, both from a non-legislative and legislative nature, but refrained from coming forward with proposals at the time. The Council was also involved in assessing ESRB and issued [conclusions](#) in November 2014. The Council underlined that “*caution should be taken when considering more structural changes with regard to the ESRB. The Council RECOGNISES the need to enhance the ESRB’s governance and decision-making, but STRESSES that it is necessary to identify and consider a broader range of suggestions and solutions before concrete changes are made*”.

Following up and as requested by Article 20 of the ESRB Regulation, the EP and the Council have examined the ESRB Regulation on the basis of a Commission proposal and reached political agreement on the changes in [April, 2019](#). Finalisation and publication of the revised text is pending. These are the main targeted changes that are agreed to be made:

- **ESRB Chair.** Since inception of the ESRB, it has been chaired by the President of the ECB and this set-up was initially envisaged as temporary (5 year period). As the ECB President has conferred authority and credibility to the ESRB and ensured that the ESRB can rely on the expertise of the ECB in the area of financial stability, the co-legislators decided that the ECB President will chair the ESRB on a permanent basis.

² The report makes a number of recommendations, ranging from governance issues to the scope of ESRB mandate.

- **ESRB Vice-Chairs.** The co-legislators have agreed to strengthen and clarify further the roles of the ESRB Vice-Chairs and Head of the ESRB Secretariat, as well as, giving them a bigger role to play in the external representation of the ESRB.
- **ESRB Membership.** The setting-up of the Banking Union will be reflected in the ESRB Governance after the amendments. The Chair of the Supervisory Board of the ECB and the Chair of the Single Resolution Board will become non-voting members of the ESRB General Board. Corresponding changes will be made to the ATC. These changes should facilitate information sharing between the different authorities. The co-legislators have also agreed to introduce some flexibility as regards the nomination of the voting member of the ESRB General Board. The Member States will be able to choose between the governor of the central bank and a high-level representative of a designated authority for the application of macroprudential instruments in accordance to the EU law (CRD/CRR). This flexibility allows to better reflect the existing national regulatory framework diversity within the EU and to ensure that the Member States are represented by the most appropriate authority or body.
- **Warnings and recommendations.** The agreement broadens the list of potential addresses of ESRB warnings and recommendations. The co-legislators have included the NSAs, the Single Resolution Board, as well as, the ECB (for its tasks conferred by the SSM Regulation as regards micro- and macro-prudential supervision, i.e. not pertaining the conduct of monetary policy) as potential addresses of warnings and recommendations. Moreover, the co-legislators have noted that the ESRB is expected to monitor and assess risks to financial stability regardless of their origin, including the implications of monetary policy. Last but not least, it was amended that the ESRB warnings and recommendations should be transmitted not only to the European Commission and the EU Council, but also to the EP and the ESAs.
- **Better accountability and transparency.** In line with Better Regulation principles and in order to enhance the democratic accountability and transparency, the ESRB General Board is entitled to make an announcement of its deliberations public and/or hold press conferences after its meetings. Also, the ATC and the ASC are expected to consult stakeholders, where appropriate, at an early stage and as widely as possible to inform their opinions, recommendations and decisions.

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