



16.7.2018

OPINION

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1092/2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board
(COM(2017)0538 – C8-0317/2017 – 2017/0232(COD))

Rapporteur for opinion: Kostas Chrysogonos

PA_Legam

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The 2017 Commission report on the mission and organisation of the ESRB⁵ concludes that, while the ESRB is generally well-functioning, improvements on certain specific points are necessary.

⁵ Commission Staff Working Document, Effect Analysis, Amendments to ESRB Regulation, COM(2017).

Amendment

(2) The 2017 Commission report on the mission and organisation of the ESRB⁵ concludes that, while the ESRB is generally well-functioning, improvements on certain specific points are necessary, *especially since the recent institutional changes relating to the Banking Union, coupled with efforts to achieve a capital markets union, have effectively altered the ESRB operating framework since the time of its inception. As a result, the ESRB should be changed accordingly in order to ensure the efficiency of the macro-prudential policies.*

⁵ Commission Staff Working Document, Effect Analysis, Amendments to ESRB Regulation, COM(2017).

Amendment 2

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) It should be stressed that the proposed improvements aim at achieving the right balance between the autonomy of the ESRB and the need for a strong and credible leadership. They also aim to improve the coordination of Union macro-prudential policies and make it easier to ensure a balance between those

Member States belonging to the Banking Union and overseen by the ECB/SSM and those still outside.

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(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.*

Amendment

(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, *should also be* reflected in the composition of that General Board *and be taken into account.*

Amendment 4

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) A gender balance within the General Board of the ESRB should be aimed at.

Amendment 5

Proposal for a regulation Recital 4

Text proposed by the Commission

Amendment

(4) The ECB President has chaired the

(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.*

Amendment 6

Proposal for a regulation Recital 5

Text proposed by the Commission

(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 the head of the ESRB Secretariat.

Amendment 7

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Article 3(2) of Council Regulation (EU) No 1096/2010⁶ 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

ESRB for the first 5 years of its existence, after which the ECB President has continued to chair the ESRB on an interim basis. *Close cooperation between the ECB and the ESRB and the development of information flows are necessary in order to improve the ESRB's ability to effectively identify, analyse and monitor Union-wide systemic risks.*

Amendment

(5) *The accountability, transparency and independency of the ESRB should be fully ensured and guaranteed. It is also necessary to enhance the ESRB's autonomy and visibility. Such enhancement could be achieved through the establishment of the ESRB as an independent, reliable, macro-prudential authority.* 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 the head of the ESRB Secretariat *or to the Vice-Chairs of the ESRB.*

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.

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. ***This would maintain the link with the ECB and ensure the accountability of the head of the ESRB Secretariat to the General Board.*** Furthermore, the tasks of the head of the ESRB Secretariat should be clarified, ***especially since the assignment of a more important role to the head of the ESRB Secretariat could help increase the impact and effectiveness of warnings and recommendations. The European Parliament and the Council should be able to ask the General Board for additional information.***

⁶ 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).

⁶ 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).

Amendment 8

Proposal for a regulation Recital 10

Text proposed by the Commission

(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

Amendment

(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.

and recommendations *must* be transmitted *without delay* to the European Parliament and to the ESAs.

Amendment 9

Proposal for a regulation Recital 11

Text proposed by the Commission

(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.

Amendment

(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, *relevant experts and social partners*, where appropriate, at an early stage and in an open, *pluralistic* and transparent manner. *For the sake of increased efficiency, the results of those consultations should be fully taken into account.*

Amendment 10

Proposal for a regulation Article 1 – paragraph 1 – point -1 (new) Regulation (EU) No 1092/2010 Article 3 – paragraph 1

Present text

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

Amendment

(-1) In article 3, paragraph 1 is replaced by the following:

“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.

thereby ensure a sustainable contribution of the financial sector to economic growth ***and contribute to the achievement of the aims of Article 3 of the Treaty of the European Union.***"

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point a

Regulation (EU) No 1092/2010

Article 4 – paragraph 2a

Text proposed by the Commission

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 and experience necessary to manage the ESRB Secretariat. The General Board shall inform the European Parliament and the Council about the 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)."

Amendment

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 and experience necessary to manage the ESRB Secretariat. The General Board shall inform the European Parliament and the Council about the consultation procedure. ***The General Board shall inform the European Parliament and the Council in sufficient detail about the assessment and consultation procedure. The European Parliament and the Council may ask the General Board for additional information.***

* 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)."

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EU) No 1092/2010

Article 4 – paragraph 3a – introductory wording

Text proposed by the Commission

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:

Amendment

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 ***in a transparent manner*** the following:

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 1092/2010

Article 5 – paragraph 8

Text proposed by the Commission

“8. The Chair shall represent the ESRB externally. The Chair may delegate tasks related to the external representation of the ESRB to the head of the Secretariat;”

Amendment

“8. The Chair shall represent the ESRB externally. The Chair may delegate tasks related to the external representation of the ESRB to the head of the Secretariat ***or to the Vice-Chairs of the ESRB;***”

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a – point i

Regulation (EU) No 1092/2010

Article 6 – paragraph 1 – points fa and fb

Text proposed by the Commission

(i) ***the following points (fa) and (fb) are inserted:***

deleted

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

Amendment

(fb) the Chair of the Single Resolution Board;”;

Justification

Inclusion of SSM and SRB representatives as voting members would affect the balance between countries that have joined the SSM and those that are not yet members.

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point i a (new)

Regulation (EU) No 1092/2010

Article 6 – paragraph 2 – points b a and b b (new)

Text proposed by the Commission

Amendment

(ia) the following points (ba) and (bb) are inserted:

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

(bb) the Chair of the Single Resolution Board;”;

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a – point ii

Regulation (EU) No 1092/2010

Article 11 – paragraph 1 – points ga and gb

Text proposed by the Commission

Amendment

(ii) the following points (ga) and (gb) are inserted: deleted

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

(gb) the Chair of the Single Resolution Board;”;

Justification

The current situation, where SSM and SRB representatives are not members of the Steering

Committee (SC) or Advisory Technical Committee (ATC), is preferable. Within the existing margin of flexibility, SSM and SRB representatives may be invited as observers to meetings of the Advisory Technical Advisory Committee, enabling them to participate without upsetting the balance between those countries that have joined the SSM and those that are not yet members.

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point a

Regulation (EU) No 1092/2010

Article 12 – paragraph 5

Text proposed by the Commission

Amendment

“5. Where appropriate, the Advisory Scientific 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.”

“5. Where appropriate, the Advisory Scientific Committee shall organise consultations with stakeholders **and relevant experts** at an early stage and in an open, **pluralistic** and transparent manner, while taking into account the requirement of confidentiality.”

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a – point ii

Regulation (EU) No 1092/2010

Article 13 – paragraph 1 – points fa and fb

Text proposed by the Commission

Amendment

(ii) the following points (fa) and (fb) are inserted: **deleted**

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

(fb) a representative of the Single Resolution Board;”;

Justification

The current situation, where SSM and SRB representatives are not members of the Steering Committee (SC) or Advisory Technical Committee (ATC), is preferable. Within the existing margin of flexibility, SSM and SRB representatives may be invited as observers to meetings of

the Advisory Technical Advisory Committee, enabling them to participate without upsetting the balance between those countries that have joined the SSM and those that are not yet members.

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a a (new)

Regulation (EU) No 1092/2010

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(aa) The following paragraph is inserted:

1a. A representative of the ECB Supervisory Board and a representative of the Single Resolution Board may be invited as observers to meetings of the Advisory Technical Committee.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b

Regulation (EU) No 1092/2010

Article 13 – paragraph 4 a

Text proposed by the Commission

Amendment

“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.”

“4a. Where appropriate, the Advisory Technical Committee shall organise consultations with stakeholders ***and relevant experts*** at an early stage and in an open, ***pluralistic*** and transparent manner, while taking into account the requirement of confidentiality.”

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point a

Regulation (EU) No 1092/2010

Article 16 – paragraph 2 – first sentence

Text proposed by the Commission

“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 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.”;

Amendment

“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 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.

Those warnings and recommendations shall be sufficiently detailed and reasoned and shall be accompanied by an adequate and comprehensive statement of grounds.”

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 1092/2010

Article 17 – paragraph 1

Text proposed by the Commission

“(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 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.”;

Amendment

“(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, ***in sufficient detail and without delay***, to the European Parliament, the Council and to the ESRB the actions undertaken in response to the recommendation and shall substantiate ***adequately and in detail*** any inaction. Where relevant, the ESRB shall, subject to strict rules of confidentiality, inform the ESAs ***in sufficient detail*** of the answers received without delay. ***The rule of law, fundamental rights, as well as the***

principle of state sovereignty, shall be respected in full.”;

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 1092/2010

Article 17 – paragraph 2

Text proposed by the Commission

(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, without delay and subject to strict rules of confidentiality, inform the addressees, the European Parliament, the Council and the relevant ESAs thereof.”;

Amendment

(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, without delay and subject to strict rules of confidentiality, inform the addressees, the European Parliament, ***the Commission***, the Council and the relevant ESAs thereof.”;

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board
References	COM(2017)0538 – C8-0317/2017 – 2017/0232(COD)
Committee responsible Date announced in plenary	ECON 26.10.2017
Opinion by Date announced in plenary	JURI 26.10.2017
Rapporteur Date appointed	Kostas Chrysogonos 9.10.2017
Discussed in committee	15.5.2018
Date adopted	10.7.2018
Result of final vote	+: 16 –: 3 0: 0
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Rosa Estaràs Ferragut, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Emil Radev, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
Substitutes present for the final vote	Pascal Durand, Angel Dzhambazki, Evelyne Gebhardt, Răzvan Popa

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

16	+
ALDE	Jean-Marie Cavada, António Marinho e Pinto
EFDD	Joëlle Bergeron
GUE/NGL	Kostas Chrysogonos
PPE	Rosa Estaràs Ferragut, Emil Radev, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
S&D	Evelyne Gebhardt, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Răzvan Popa
VERTS/ALE	Max Andersson, Pascal Durand

3	-
ECR	Angel Dzhambazki
ENF	Marie-Christine Boutonnet, Gilles Lebreton

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention