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THE EUROPEAN PARLIAMENT **THE COUNCIL**

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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

REGULATION (EU) 2019/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 18 December 2019

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C 120, 6.4.2018, p. 2.
2 OJ C 227, 28.6.2018, p. 63.
3 Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 2 December 2019.

Whereas:

(1) In accordance with Article 20 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council[1], the European Parliament and the Council, on the basis of the report from the Commission to the European Parliament and to the Council of 8 August 2014 on the mission and organisation of the European Systemic Risk Board, have examined Regulation (EU) No 1092/2010 to determine whether the mission and organisation of the European Systemic Risk Board (ESRB) needed to be reviewed. The modalities for the designation of the Chair of the ESRB have also been reviewed.

(2) The Commission effect analysis accompanying its proposal for this Regulation concludes that, while the ESRB is generally well-functioning, improvements on certain specific points are necessary.

[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).

(3) Recent institutional changes relating to the banking union, coupled with efforts to achieve a capital markets union, as well as technological change, have actually altered the ESRB's operating environment. The ESRB should contribute to preventing or mitigating systemic risks to financial stability in the Union and thereby to achieving the objectives of the internal market. Union macro-prudential oversight of the financial system is an integral part of the European System of Financial Supervision. Institutional arrangements that effectively identify and address micro and macro-prudential risks can ensure that all stakeholders have sufficient confidence to engage in financial activities, in particular cross-border activities. By promoting timely and consistent policy responses in Member States to identified systemic risks, the ESRB should contribute to preventing diverging approaches and improving the functioning of the internal market.

(4) The broad membership of the General Board of the ESRB (the "General Board") is a major asset. Recent developments in the financial supervisory architecture of the Union, and in particular the creation of a banking union, are, however, not reflected in the composition of the General Board. For that reason, the Chair of the Supervisory Board of the European Central Bank (ECB) and the Chair of the Single Resolution Board established by Regulation (EU) No 806/2014 of the European Parliament and of the Council[1] should become members without voting rights of the General Board. Corresponding adjustments should also be made to the Advisory Technical Committee of the ESRB (the "Advisory Technical Committee").

[1] Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

(5) The President of the ECB has chaired the ESRB since its establishment, pursuant to Regulation (EU) No 1092/2010 until 15 December 2015 and thereafter on an interim basis. During that period, the President of the ECB has conferred authority and credibility on the ESRB and ensured that it can effectively build and rely on the expertise of the ECB in the area of financial stability. It is therefore appropriate that the President of the ECB chair the ESRB on a permanent basis.

(6) The ESRB is responsible for the macro-prudential oversight of the financial system within the Union and contributes to the prevention or mitigation of systemic risks in the Union as a whole or parts thereof, including identifying and discussing financial stability risks regardless of their origin. Monetary conditions may have implications for financial stability and it falls under the ESRB's macro-prudential oversight mandate to discuss those implications while fully respecting the independence of central banks. The ESRB is also responsible for monitoring and assessing risks to financial stability arising from developments that can have an 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. The ESRB should also analyse developments outside the banking sector, including those leading to the completion of the capital markets union.

(7) Members of the General Board are collectively responsible for achieving the mission, objectives and tasks of the ESRB. All members are also responsible for shaping the ESRB's agenda and work programme and for actively contributing to its regular work, including bringing relevant topics to the attention of the other members of the General Board.

(8) To strengthen the visibility of the ESRB, the Chair of the ESRB should be able to delegate tasks, such as tasks related to the external representation of the ESRB to the first Vice-Chair or, if the first Vice-Chair is unavailable and where appropriate, to the second Vice-Chair or to the head of the ESRB Secretariat. Such delegation should not extend to participation in public hearings and in discussions behind closed doors at the European Parliament.

(9) In order to provide for flexibility as regards the selection of the member of the General Board with voting rights, Member States should be able to choose their voting representative between the Governor of the national central bank and a high-level representative of a designated authority pursuant to Directive 2013/36/EU of the European Parliament and of the Council[1] or Regulation (EU) No 575/2013 of the European Parliament and of the Council[2], where that designated authority has the leading role in financial stability in its area of competence. That flexibility as regards the selection of the member of the General Board with voting rights does not affect Member States in which the national central bank is a designated authority pursuant to Directive 2013/36/EU or Regulation (EU) No 575/2013. In order to avoid political influence, no member of the General Board should have a function in the central government of a Member State.

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1 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

2 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

(10) In accordance with Article 5(2) of Regulation (EU) No 1092/2010, the first Vice-Chair of the ESRB has 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. Following the creation of the banking union, it is appropriate to replace the reference to Member States whose currency is the euro and those whose currency is not the euro with a reference to Member States which are participating Member States as defined in Council Regulation (EU) No 1024/2013[1] and those which are not. The first Vice-Chair should be elected by and from the national members of the General Board with voting rights, reflecting the greater flexibility as regards membership of the General Board.

[1] 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).

(11) Council Regulation (EU) No 1096/2010[1] provides that the head of the ESRB Secretariat is to be appointed by the ECB, in consultation with the General Board. To raise the profile of the head of the ESRB Secretariat, the General Board should assess, in an open and transparent procedure, whether the shortlisted candidates for the position of head of the ESRB Secretariat possess the qualities and experience necessary to manage the ESRB Secretariat. The ECB should consider systematically opening the selection procedure to external candidates. 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.

(12) Given that Regulation (EU) No 1092/2010 has been incorporated into the Agreement on the European Economic Area, Article 9(5) of that Regulation should be amended.

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

[1] 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).

(14) The ECB should be added as a possible addressee of the ESRB's warnings and recommendations in respect of the tasks conferred on it in accordance with Articles 4(1), 4(2) and 5(2) of Regulation (EU) No 1024/2013. Resolution authorities designated by Member States pursuant to Directive 2014/59/EU of the European Parliament and of the Council[1] and the Single Resolution Board should also be added as possible addressees.

[1] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

Regulation (EU) No 1092/2010 requires that those warnings and recommendations be transmitted to the Council and the Commission and, where addressed to one or more national supervisory authorities, to the European Supervisory Authority (European Banking Authority), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[1], to the European Supervisory Authority (European Insurance and Occupational Pensions Authority), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council[2] and to the European Supervisory Authority (European Securities and Markets Authority), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council[3] (hereinafter collectively referred to as the "ESAs"). To strengthen democratic control and transparency, the ESRB's warnings and recommendations should also be transmitted to the European Parliament and to the ESAs. Where appropriate, the General Board should require that an agreement be concluded to ensure confidentiality when confidential or non-public warnings or recommendations are being transmitted.

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1 Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

2 Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

3 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(15) Members of the ESRB from national central banks, national supervisory authorities and national authorities entrusted with the conduct of macroprudential policy should be able to use the information they receive from the ESRB in the course of their duties and in relation to the tasks of the ESRB, including for the exercise of their statutory tasks.

(16) The ESRB should facilitate the sharing among national authorities or bodies responsible for the stability of the financial system and Union bodies of information related to measures designed to address systemic risk across the Union's financial system.

(17) To ensure the quality and relevance of ESRB opinions, recommendations, warnings 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.

(18) When reviewing the mission and organisation of the ESRB, the Commission should in particular consider possible alternative institutional models. It should also consider whether the balance between Member States which are participating Member States as defined in Regulation (EU) No 1024/2013 and those which are not, in the organisation of the ESRB remains appropriate.

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

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1092/2010 is amended as follows:

(1) in Article 2, point (c) is replaced by the following:

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

(2) Article 4 is amended as follows:

(a) the following paragraph is inserted:

"2a. When consulted on the appointment of the head of the Secretariat 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 the Secretariat possess the qualities, impartiality and experience necessary to manage the Secretariat. The General Board shall inform the European Parliament and the Council in sufficient detail about the assessment and consultation procedure.

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* 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).";

(b) the following paragraph is inserted:

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

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

(b) any administrative and budgetary issues related to the 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's activities and the reporting to the General Board on the implementation of the annual programme.";

(3) Article 5 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

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

2. The first Vice-Chair shall be elected by and from the national members of the General Board with voting rights for a term of five years, with regard to the need for a balanced representation of Member States between those which are participating Member States as defined in point (1) of Article 2 of Council Regulation (EU) No 1024/2013* and those which are not. The first Vice-Chair may be re-elected once.

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* 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).";

(b) paragraph 8 is replaced by the following:

"8. The Chair shall represent the ESRB externally. The Chair may delegate tasks, such as tasks related to the external representation of the ESRB, including the presentation of the work program, to the first Vice-Chair, or if the first Vice-Chair is unavailable and where appropriate, to the second Vice-Chair or to the head of the Secretariat. Tasks related to the ESRB's accountability and reporting obligations laid down in Article 19(1), (4) and (5) may not be delegated.";

(4) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

"(b) the Governors of the national central banks. Member States in which the national central bank is not a designated authority pursuant to Directive 2013/36/EU of the European Parliament and of the Council* or Regulation (EU) No 575/2013 of the European Parliament and of the Council** and in which that designated authority has the leading role in financial stability in its area of competence may alternatively nominate a high-level representative of a designated authority pursuant to Directive 2013/36/EU or Regulation (EU) No 575/2013.

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* Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

** Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).";

(ii) point (c) is replaced by the following:

"(c) a representative of the Commission;";

(b) paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:

"(a) subject to the decision of each Member State in accordance with point (b) of paragraph 1 and in accordance with paragraph 3, a high-level representative per Member State of the national supervisory authorities, of a national authority entrusted with the conduct of macroprudential policy, or of the national central bank, unless the Governor of the national central bank is not the member of the General Board with voting rights referred to in point (b) of paragraph 1 in which case a high-level representative of the national central bank shall be the member of the General Board without voting rights;";

(ii) the following points are added:

"(c) the Chair of the Supervisory Board of the ECB;

(d) the Chair of the Single Resolution Board established by Regulation (EU) No 806/2014 of the European Parliament and of the Council*.

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* Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).";

(c) paragraph 3 is replaced by the following:

"3. The respective high-level representatives referred to in point (a) of paragraph 2 shall rotate depending on the item discussed, unless the national authorities of a particular Member State have agreed on a common representative.";

(5) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

"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.";

(b) the following paragraph is added:

"4. No member of the General Board (whether voting or non-voting) shall have a function in the central government of a Member State.";

(6) Article 8 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

"This paragraph is without prejudice to the confidential oral discussions held in accordance with Article 19(5).";

(b) the following paragraphs are inserted:

"2a. The members of the ESRB from national central banks, national supervisory authorities and national authorities entrusted with the conduct of macroprudential policy may, in their capacity as members of the ESRB provide to national authorities or to bodies responsible for the stability of the financial system in accordance with Union law or with national arrangements information related to the performance of the tasks entrusted to the ESRB which is necessary for the exercise of statutory tasks of those authorities or bodies, provided that sufficient safeguards are established to ensure full respect of relevant Union law and national arrangements.

2b. Where information originates from other authorities than those referred to in paragraph 2a, members of the ESRB from national central banks, national supervisory authorities and national authorities entrusted with the conduct of macroprudential policy shall use that information for the exercise of their statutory tasks only with the explicit agreement of those authorities.";

(7) Article 9 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. Where appropriate, high-level representatives from international financial organisations carrying out activities directly related to the tasks of the ESRB set out in Article 3(2) or the President of the European Parliament or a representative of the European Parliament on topics related to Union law in the field of macroprudential policy may be invited to attend meetings of the General Board.";

(b) paragraph 5 is replaced by the following:

"5. Participation in the work of the ESRB may be open to high-level representatives of the relevant authorities from third countries when relevant to the Union. 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 to the Union, excluding any case where the situation of individual financial institutions or Member States may be discussed.";

(c) paragraph 6 is replaced by the following:

"6. The proceedings of the meetings shall be confidential. The General Board may decide to make an account of its deliberations public, subject to applicable confidentiality requirements and in a manner that does not allow for the identification of individual members of the General Board or of individual institutions. The General Board may also decide to hold press conferences after its meetings.";

(8) Article 11 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

"(b) the member of the Executive Board of the ECB responsible for financial stability and macroprudential policy;";

(ii) point (c) is replaced by the following:

"(c) four national members of the General Board with voting rights having regard to the need for a balanced representation of Member States between those which are participating Member States as defined in point (1) of Article 2 of Regulation (EU) No 1024/2013 and those which are not. They shall be elected by and from among national members of the General Board with voting rights for a period of three years;";

(iii) point (d) is replaced by the following:

"(d) a representative of the Commission;";

(b) paragraph 2 is replaced by the following:

"2. The Chair and the first Vice-Chair of the ESRB shall jointly set up the meetings of the Steering Committee at least quarterly, before each meeting of the General Board. The Chair and the first Vice-Chair may also jointly set up ad-hoc meetings.";

(9) Article 12 is amended as follows:

(a) paragraph 1 is replaced by the following:

"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, experience 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.";

(b) paragraph 2 is replaced by the following:

"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 and professional background in the sectors of banking, securities markets, or insurance and occupational pensions. The role of the Chair of the Advisory Scientific Committee shall rotate between those three persons.";

(c) paragraph 3 is replaced by the following:

"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.";

(d) paragraph 5 is replaced by the following:

"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. Such 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.";

(10) Article 13 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (f) is replaced by the following:

"(f) a representative of the Commission;";

(ii) the following points are inserted:

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

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

(b) paragraph 3 is replaced by the following:

"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.";

(c) the following paragraph is inserted:

"4a. Where appropriate, the Advisory Technical 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. Such 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.";

(11) Article 14 is replaced by the following:

"*Article 14*
Other sources of advice

In performing the tasks set out in Article 3(2), the ESRB shall, where appropriate consult relevant private sector stakeholders. Such 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.";

(12) in Article 15, paragraph 7 is replaced by the following:

"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.";

(13) Article 16 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Warnings or recommendations issued by the ESRB in accordance with points (c) and (d) of Article 3(2) of this Regulation 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, to one or more of the national supervisory authorities, to one or more national authorities designated for the application of measures aimed at addressing systemic or macro-prudential risk, 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, to resolution authorities designated by Member States pursuant to Directive 2014/59/EU of the European Parliament and of the Council* 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 or Member States 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.

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* Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).";

(b) paragraph 3 is replaced by the following:

"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 European Parliament, to the Council, to the Commission and to the ESAs. When confidential or non-public warnings or recommendations are being transmitted, the General Board shall, where appropriate, require that an agreement be concluded to ensure confidentiality.";

(14) in Article 17, paragraphs 1 and 2 are replaced by the following:

"1. If a recommendation referred to in point (d) of Article 3(2) is addressed to one of the addressees listed in Article 16(2), the addressee 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.

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 and the relevant ESAs thereof.";

(15) in Article 18, paragraph 4 is replaced by the following:

"4. Where the General Board decides not to make a warning or a recommendation public, the addressees, and where appropriate, the European Parliament, the Council and the ESAs shall take all the measures necessary to protect the confidentiality of that warning or recommendation.";

(16) Article 19 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

"1. At least annually and more frequently in the event of widespread financial distress, the Chair of the ESRB shall be invited to a 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.

2. The annual report referred to in paragraph 1 of this Article shall contain the information that the General Board decides to make public in accordance with Article 18 of this Regulation. The annual report shall be made available to the public and shall include an account of the resources made available to the ESRB in accordance with Article 3(1) of Regulation (EU) No 1096/2010.";

(b) the following paragraph is added:

"6. 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 undue delay. When confidential information is transmitted, the European Parliament shall ensure the full confidentiality of that information in accordance with Article 8 and paragraph 5 of this Article.";

(17) Article 20 is replaced by the following:

"*Article 20*
Review

By … [five years after the entry into force of this amending Regulation], the Commission shall, after having consulted the members of the ESRB, report to the European Parliament and to the Council on whether it is necessary to review the mission or organisation of the ESRB, also considering possible alternative models to the current one.".

Article 2

This Regulation shall enter into force on the third day following that of 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,

For the European Parliament	*For the Council*
The President	*The President*