

## SAFEGUARDING FINANCIAL STABILITY IN EUROPE

The **European Systemic Risk Board** (ESRB) is an independent EU body responsible for the macro-prudential oversight of the financial system within the Union. Its seat is in Frankfurt am Main. Its secretariat is ensured by the ECB.

<http://www.esrb.europa.eu/home/html/index.en.html>

The ESRB contributes to the prevention or mitigation of systemic risks to financial stability in the Union that arises from developments within the financial system. It takes into account macroeconomic developments, so as to avoid periods of widespread financial distress.

The ESRB also contributes to the smooth functioning of the internal market and thereby ensures a sustainable contribution of the financial sector to economic growth.

In response to the global financial crisis, the European Commission tasked a High Level Group, chaired by Mr Jacques de Larosière, to consider how the European supervisory arrangements could be strengthened both to better protect its citizens and to rebuild trust in the financial system. Among its many conclusions, the Group highlighted that supervisory arrangements should not only concentrate on the supervision of individual firms but also place emphasis on the stability of the financial system as whole.

In 2009, the de Larosière report recommended, among other things, that a Union level body be established with a mandate to oversee risk in the financial system as a whole.

On 16 December 2010 the legislation establishing the ESRB entered into force:

- Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24/11/2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (the 'ESRB Regulation').
- Council Regulation (EU) No 1096/2010 of 17/11/2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board
- The ESRB is part of the European System of Financial Supervision (ESFS), the purpose of which is to ensure supervision of the Union's financial system.

Besides the ESRB, the ESFS comprises:

- the European Banking Authority (EBA)
- the European Insurance and Occupational Pensions Authority (EIOPA)
- the European Securities and Markets Authority (ESMA)

- the Joint Committee of the European Supervisory Authorities (ESAs);
- the competent or supervisory authorities in the Member States as specified in the legislation establishing the three ESAs

The **European Banking Authority (EBA)** was established by Regulation (EC) 1093/2010 of the European Parliament and of the Council of 24 November 2010. <http://www.eba.europa.eu/>

The EBA has officially come into being as of 1 January 2011 and has taken over all existing and ongoing tasks and responsibilities from the Committee of European Banking Supervisors (CEBS).

The EBA acts as a hub and spoke network of EU and national bodies safeguarding public values such as the stability of the financial system, the transparency of markets and financial products and the protection of depositors and investors.

The EBA has some quite broad competences, including preventing regulatory arbitrage, guaranteeing a level playing field, strengthening international supervisory coordination, promoting supervisory convergence and providing advice to the EU institutions in the areas of banking, payments and e-money regulation as well as on issues related to corporate governance, auditing and financial reporting.

The **European Securities and Markets Authority (ESMA)** is an independent EU Authority that contributes to safeguarding the stability of the European Union's financial system by ensuring the integrity, transparency, efficiency and orderly functioning of securities markets, as well as enhancing investor protection. In particular, ESMA fosters supervisory convergence both amongst securities regulators, and across financial sectors by working closely with the other European Supervisory Authorities competent in the field of banking (EBA), and insurance and occupational pensions (EIOPA). <http://www.esma.europa.eu/>

ESMA's work on securities legislation contributes to the development of a single rule book in Europe. This serves two purposes; firstly, it ensures the consistent treatment of investors across the Union, enabling an adequate level of protection of investors through effective regulation and supervision. Secondly, it promotes equal conditions of competition for financial service providers, as well as ensuring the effectiveness and cost efficiency of supervision for supervised companies. As part of its role in standard setting and reducing the scope of regulatory arbitrage, ESMA strengthens international supervisory co-operation.

Where requested in European law, ESMA undertakes the supervision of certain entities with pan-European reach.

Finally, ESMA also contributes to the financial stability of the European Union, in the short, medium and long-term, through its contribution to the work of the European Systemic Risk Board, which identifies potential risks to the financial system and provides advice to diminish possible threats to the financial stability of the Union. ESMA is also responsible for coordinating actions of securities supervisors or adopting emergency measures when a crisis situation arises.

Whilst ESMA is independent, there is full accountability towards the European Parliament where it will appear before the relevant Committee known as ECON, at their request for formal hearings. Full accountability towards the Council of the European Union and European Commission also exists. The Authority will therefore report on its activities regularly at meetings but also through an Annual Report.

### How ESMA works

The Committee of Wise Men, chaired by Baron Alexandre Lamfalussy, outlined in its report of 15 February 2001 several shortcomings in the legislative system for securities and proposed a four level approach as well as the creation of CESR, ESMA's predecessor which was given a role as a technical advisory committee. The creation of ESMA as an EU Authority on 1 January 2011 through the [ESMA Regulation](#), has resulted in some changes regarding how the four level legislative procedure and these are described below.

Level 1 Directives and regulations, continue to set out the high level political objectives on the area concerned by the legislation. Occasionally, at this early stage, ESMA may be asked for technical advice by the Commission as it develops its legislative proposal.

However, ESMA has been given a greater role in Level 2 in drafting what can be considered as subordinate acts (known as delegated acts and implementing acts). Delegated acts are concerned more with the substantive content of the legislative requirement, for example setting out what authorisation information firms must provide to competent authorities, whilst implementing acts are similar to executive measures giving effect to the substantive requirements, this might include for example, standard forms, templates and procedures for communicating information or processes between competent authorities.

At Level 3, ESMA will develop guidelines and recommendations with a view to establishing consistent, efficient and effective supervisory practices within the European System of Financial Supervision, and to ensure the common, uniform and consistent application of Union Law. The guidelines and recommendations

are addressed to competent authorities or financial market participants. Whilst not legally binding, these have been strengthened under ESMA and competent authorities must now make every effort to comply and must explain if they do not intend to comply. Financial market participants can also be required to report publically whether they comply. ESMA will also take other steps under Level 3 to ensure supervisory convergence and these are identified in the diagram below.

At Level 4, a fast track procedure has been introduced by the Regulation establishing ESMA. On this basis, ESMA now has a new role. At the request of a national competent authority, the European Parliament, Council, Commission or the Stakeholder Group, ESMA can be requested to launch an enquiry and can issue a recommendation addressed to the national authority, within two months of launching its investigation. ESMA will also be able to launch investigations on its own initiative. The Commission will also be able to follow its usual procedures for referring a case against the Member State to the Court of Justice.

The **European Insurance and Occupational Pensions Authority (EIOPA)** is part of the European System of Financial Supervision consisting of three European Supervisory Authorities and the European Systemic Risk Board. It is an independent advisory body to the European Parliament, the Council of the European Union and the European Commission. <http://www.eiopa.europa.eu/>

EIOPA's core responsibilities are to support the stability of the financial system, transparency of markets and financial products as well as the protection of insurance policyholders, pension scheme members and beneficiaries.

EIOPA is based in Frankfurt am Main, Germany.

The **European Insurance and Occupational Pensions Authority (EIOPA)** was established in consequence of the reforms to the structure of supervision of the financial sector in the European Union. The reform was initiated by the European Commission, following the recommendations of a Committee of Wise Men, chaired by Mr. de Larosière, and supported by the European Council and Parliament.

Before and during the financial crisis in 2007 and 2008, the European Parliament has called for a move towards more integrated European supervision in order to ensure a true level playing field for all actors at the level of the European Union and to reflect the increasing integration of financial markets in the Union. As a result, the supervisory framework was strengthened to reduce risk and severity of future financial crises. EIOPA is part of a

**European System of Financial Supervisors** that comprises three **European Supervisory Authorities**, one for the banking sector, one for the securities sector and one for the insurance and occupational pensions sector, as well as the **European Systemic Risk Board**.

EIOPA's main goals are

- Better protecting consumers, rebuilding trust in the financial system.
- Ensuring a high, effective and consistent level of regulation and supervision taking account of the varying interests of all Member States and the different nature of financial institutions.
- Greater harmonisation and coherent application of rules for financial institutions & markets across the European Union.
- Strengthening oversight of cross-border groups.
- Promote coordinated European Union supervisory response.

EIOPA's core responsibilities are to support the stability of the financial system, transparency of markets and financial products as well as the protection of policyholders, pension scheme members and beneficiaries. EIOPA is commissioned to monitor and identify trends, potential risks and vulnerabilities stemming from the micro-prudential level, across borders and across sectors.

EIOPA is an independent advisory body to the European Parliament, the Council of the European Union and the European Commission.

To account for the specific conditions in national markets and nature of financial institutions, the **European System of Financial Supervision** is an integrated network of national and European supervisory authorities, which provides the necessary links between the macro and micro prudential levels, leaving day-to-day supervision to the national level. EIOPA is governed by its Board of Supervisors, which integrates the relevant national authorities in the field of insurance and occupational pensions in each Member State. The European Union's national supervisory authorities are a source of expertise and information about insurance and occupational pensions matters.

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