RECOMMENDATION OF THE EUROPEAN SYSTEMIC RISK BOARD
of 22 December 2011
on the macro-prudential mandate of national authorities
(ESRB/2011/3)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 2(2) and 4(2)(a) and Protocol (No 25) on the exercise of shared competence thereof,

Having regard to 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 Board¹, and in particular Article 3(2)(b), (d) and (f) and Articles 16 to 18 thereof,

Having regard to Decision ESRB/2011/1 of the European Systemic Risk Board of 20 January 2011 adopting the Rules of Procedure of the European Systemic Risk Board², and in particular Article 15(3)(e) and Articles 18 to 20 thereof,

Whereas:

(1) A well-defined policy framework is a necessary condition for effective macroprudential policy. With the establishment of the European Systemic Risk Board within the European System of Financial Supervision, a policy framework was put in place for macroprudential policy at the European Union level to be exercised through warnings and recommendations, which need to be implemented.

(2) The effectiveness of macroprudential policy in Europe also depends on the national macroprudential policy frameworks of the Member States, since the responsibility for the adoption of the measures necessary to maintain financial stability lies first within national frameworks.

² OJ C 58, 24.2.2011, p. 4.
(3) Legislative initiatives are currently being discussed in some Member States regarding macro-prudential frameworks.

(4) It is necessary to provide guiding principles on core elements of national macro-prudential mandates, balancing the need for consistency among national approaches with the flexibility to accommodate national specificities.

(5) Setting out explicitly a clear objective would help the national macro-prudential authorities to overcome the bias towards inaction. Macro-prudential policies can be pursued at national level upon the initiative of the national macroprudential authorities, or as a follow-up to recommendations or warnings from the ESRB.

(6) Generally, macroprudential policy can be pursued by either a single institution or a board composed of several institutions, depending on the national institutional frameworks. In any case, the entrusted authority should be identified in a clear and transparent way.

(7) Recital 24 of Regulation (EU) No 1092/2010 provides that: ‘the national central banks should have a leading role in macro-prudential oversight because of their expertise and their existing responsibilities in the area of financial stability.’ This conclusion is further strengthened when central banks are also in charge of microprudential supervision.

(8) Depending on the national institutional framework, co-operation among authorities with competences influencing financial stability may take different forms, ranging from coordination to exchange of data and information.

(9) The ESRB will discuss potential cross-border policy spill-overs of macro-prudential measures planned by the competent national authorities so as to ensure a minimum degree of coordination and limit possible negative spill over effects. To this end, the ESRB Secretariat should be informed in advance of significant macro-prudential actions proposed by national authorities, for discussion by the Steering Committee of the ESRB. If deemed appropriate by the Steering Committee, the proposed macro-prudential actions may be drawn to the attention of the General Board.

(10) The tasks and powers of the macro-prudential authority should be clearly defined. Taking into account the impact that the ongoing EU reform of the capital requirements framework for credit institutions might have, the procedures to assign instruments to

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the macroprudential authority should allow - within the principles of the relevant legislative framework - for timely adjustments of the policy toolkit in response to innovation and change within the financial system and to the changing nature of risks to financial stability. The macroprudential authority should justify ex-ante why it needs certain instruments, and have the right of initiative to request the assignment of those instruments. Instruments should include both those that can affect cyclical risks, such as unsustainable levels of leverage, maturity mismatch and credit growth, and those that can affect market structures. An institutional separation between non-binding and binding instruments could be provided for.

(11) Transparency improves the understanding of macroprudential policies by the financial sector and the public at large, and is a necessary requirement for accountability vis-à-vis the legislature, as the representative of the wider population. Given that the ultimate objective of macroprudential policy is difficult to quantify, accountability may be phrased in terms of achieving intermediate objectives, or explaining publicly the rationale of the use of macroprudential instruments.

(12) Pressures can be put on macroprudential policy makers not to tighten policies in a boom or to loosen them in a bust. In order to safeguard policy credibility, macro-prudential authorities should be shielded against outside pressures through independence. Central banks entrusted with macroprudential mandates should be independent in the sense of Article 130 of the Treaty.

(13) This Recommendation is without prejudice to the monetary policy mandates of the central banks in the Union, and to the tasks entrusted to the ESRB.

(14) ESRB recommendations are published after informing the Council of the European Union of the General Board’s intention to do so and providing the Council with an opportunity to react,

HAS ADOPTED THIS RECOMMENDATION:

SECTION 1
RECOMMENDATIONS

Recommendation A – Objective

Member States are recommended to:

1. specify that the ultimate objective of macro-prudential policy is to contribute to the
safeguard of the stability of the financial system as a whole, including by strengthening
the resilience of the financial system and decreasing the build up of systemic risks,
thereby ensuring a sustainable contribution of the financial sector to economic growth;

2. ensure that macro-prudential policies can be pursued at national level upon the initiative
of the national macroprudential authority, or as a follow-up to recommendations or
warnings from the ESRB.

Recommendation B – Institutional arrangements

Member States are recommended to:

1. designate in the national legislation an authority entrusted with the conduct of
macroprudential policy, generally either as a single institution or as a board composed
of the authorities whose actions have a material impact on financial stability. The
national legislation should specify the decision-making process of the governing body
of the macro-prudential authority;

2. where a single institution is designated as the macro-prudential authority, establish
mechanisms for cooperation among all authorities whose actions have a material impact
on financial stability, without prejudice to their respective mandates;

3. ensure that the central bank plays a leading role in the macroprudential policy and that
macroprudential policy does not undermine its independence in accordance with Article
130 of the Treaty;

4. mandate the macroprudential authority to cooperate and to exchange information also
cross-border, in particular by informing the ESRB of the actions taken to address
systemic risks at national level.

Recommendation C – Tasks, powers, instruments

Member States are recommended to:

1. entrust the macroprudential authority at a minimum with the tasks of identifying,
monitoring and assessing risks to financial stability and of implementing policies to
achieve its objective by preventing and mitigating those risks;

2. ensure that the macroprudential authority has the power to require and obtain in a
timely fashion all national data and information relevant for the exercise of its tasks,
including information from micro-prudential and securities market supervisors and
information from outside the regulatory perimeter, as well as institution-specific
information upon reasoned request and with adequate arrangements to ensure
confidentiality. Under the same principles the macroprudential authority should share with microprudential supervisory authorities the data and information relevant for the exercise of the tasks of those authorities;

3. entrust the macro-prudential authority with the power to designate and/or develop the surveillance approaches for identifying, in coordination or together with the micro-prudential and securities market supervisors, the financial institutions and structures that are systemically relevant for the respective Member State, and to determine or recommend on the perimeter of national regulation;

4. ensure that the macroprudential authority has control over appropriate instruments for achieving its objectives. Where necessary, clear and expeditious procedures should be established for assigning instruments to the macroprudential authority.

**Recommendation D – Transparency and accountability**

Member States are recommended to:

1. ensure that macroprudential policy decisions and their motivations are made public in a timely manner, unless there are risks to financial stability in doing so, and that the macroprudential policy strategies are set out and published by the macro-prudential authority;

2. entrust the macroprudential authority with the power to make public and private statements on systemic risk;

3. make the macro-prudential authority ultimately accountable to the national parliament;

4. ensure legal protection for the macroprudential authority and its staff when they act in good faith.

**Recommendation E – Independence**

Member States are recommended to ensure that:

1. in the pursuit of its objective, the macroprudential authority is as a minimum operationally independent, in particular from political bodies and from the financial industry;

2. organizational and financial arrangements do not jeopardize the conduct of macroprudential policy.

SECTION 2
IMPLEMENTATION

1. Interpretation

Terms used in this Recommendation have the following meanings:

‘financial institutions’ means financial institutions as defined in Regulation (EU) No 1092/2010;

‘financial system’ means financial system as defined in Regulation (EU) No 1092/2010.

2. Criteria for implementation

1. The following criteria apply to the implementation of this Recommendation:

   (a) The recommended measures should be enacted in the national legislation;

   (b) Regulatory arbitrage should be avoided;

   (c) Due regard should be paid to the principle of proportionality in the implementation, with reference to the different systemic significance of the financial institutions, to the different institutional systems, and taking into account the objective and the content of each recommendation;

   (d) For the purpose of recommendation A:

      (i) intermediate policy objectives may be identified as operational specifications of the ultimate objective;

      (ii) macro-prudential policy should allow action also on measures that have macro-prudential relevance.

2. Addressees are requested to communicate to the ESRB and to the Council the actions taken in response to this Recommendation, or adequately justify inaction. The reports should as a minimum contain:

   (a) information on the substance and timeline of the actions taken;

   (b) an assessment of the functioning of the actions taken, from the perspective of the objectives of this Recommendation;

   (c) detailed justification of any inaction or departure from this Recommendation, including any delays.

3. Timeline for the follow-up

1. Addressees are requested to communicate to the ESRB and the Council the actions taken in response to this Recommendation, or adequately justify inaction, as specified
in the following paragraphs.

2. By 30 June 2012, addressees communicate to the ESRB an interim report covering at
the minimum the following aspects: (a) a statement concerning whether a
macroprudential mandate has been implemented or is planned to be implemented; (b)
an examination of the legal basis for the implementation of this Recommendation; (c)
the foreseen institutional shaping of the macroprudential authority and the devised
institutional changes; (d) an assessment for each recommendation hereby provided of
whether it is or will be covered by the national measures on the macro-prudential
mandate and, if not, adequate explanations. The ESRB may inform the addressees about
its views of its views on the interim report.

3. By 30 June 2013, addressees communicate the final report to the ESRB and the
Council. Recommended measures should be in force not later than the 1 July 2013.

4. The General Board may extend the deadlines in paragraphs 2 and 3 where legislative
initiatives are necessary to comply with one or more recommendations.

4. Monitoring and assessment

1. The ESRB Secretariat:

   (a) assists the addressees, including by facilitating coordinated reporting, providing
       relevant templates and detailing where necessary the modalities and the timeline
       for the follow-up;

   (b) verifies the follow-up by the addressees, including by assisting them upon their
       request, and reports on the follow-up to the General Board via the Steering
       Committee within two months from the expiry of the deadlines for the follow-up.

2. The General Board assesses the actions and the justifications reported by the addressees
and, where appropriate, decides whether this Recommendation has not been followed
and the addressees have failed to adequately justify their inaction.

Done at Frankfurt am Main, 22 December 2011

The Chair of the ESRB
Mario DRAGHI