

March 2013

High-Level Group on the ESRB Review¹

Contribution to the Review of the ESRB
(foreseen in the ESRB Regulation)

¹ Composed of ECB Vice-President Vítor Constâncio, Governor Stefan Ingves (Chair of the Advisory Technical Committee), and Professor André Sapir (Chair of the Advisory Scientific Committee).

SUMMARY OF THE RECOMMENDATIONS CONTAINED IN THIS REPORT

Modifications to the ESRB Regulation [Commission, European Parliament, Council]

- *The collection (and processing) of data [See 2.1]*

- Review procedures foreseen under Article 15;
- Provide the ESRB with more formal opportunities to contribute to reporting work.

- *The policy making process (issuance of warnings and recommendations) [See 2.3]*

- Review the process for informing the Council of warnings or recommendations prior to their publication (Art. 18 (1));
- Add a reference to the ECB and national authorities with a macro-prudential mandate being potential addressees of warnings and recommendations (in connection with the establishment of the SSM);
- Review provisions relating to emergency situations (Article 3 (2)(e)) (once the Banking Union framework is clarified) and address formal inconsistency with the Regulations on the ESAs.

- *Review of the macro-prudential aspects of forthcoming EU legislation [See 2.6]*

- Clarify ESRB involvement.

- *Communication activities [See 2.9]*

- Clarify requirement for a “colour-coded system” (Article 16 (4)).

- *The proper functioning of the ESRB framework (governance issues) [See 2.10]*

- Allow for the delegation of powers from the General Board to other ESRB bodies;
- Address the issue of the designation of the ESRB Chair, taking into account the changes in the micro- and macro-prudential supervision environment.

Modifications to the procedures or processes not covered by the ESRB Regulation

- *The collection (and processing) of data [See 2.1]*

- Review ESRB Decision of 21 September 2011 (which defines the information to be submitted on a regular basis by the ECB and the ESAs);
- Streamline procedures for ad hoc requests.

- *The analytical process (risk identification, assessment and prioritisation) [See 2.2]*

- Develop a clearer and more formal procedure for prioritising risks;

- Increase ESRB Secretariat input into discussions on risks and vulnerabilities.
- *The policy making process (issuance of warnings and recommendations) [See 2.3]*
 - Make greater use of the majority rule to contain the risk of politicisation and inaction bias.
- *Cooperation with the European Supervisory Authorities (ESAs) [See 2.4]*
 - Address possible overlaps of work in particular with the Joint Committee of the ESAs.
- *Establishing a macro-prudential framework at the EU and national levels [See 2.5]*
 - Consider ways in which national authorities in charge of macro-prudential supervision could be involved in the work of the ESRB.
- *Accountability requirements [See 2.7]*
 - Follow up on the European Parliament's request for a comprehensive review of the systemic risks across the financial sector;
 - Ensure stable high-level representation of the ESRB General Board at the EFC.
- *Coordination of actions with those of relevant international financial organisations [See 2.8]*
 - Monitor the flow of work within international fora more systematically (G20, FSB).
- *Communication activities [See 2.9]*
 - Develop communication on risk identification;
 - Develop the ESRB's communication strategy to ensure compliance with its recommendations;
 - Investigate the option of upgrading the ESRB Annual Report to bring it in line with the more substantive Financial Stability Oversight Council (FSOC) Annual Report;
 - Follow up on the ESRB Regulation requirement for a "colour-coded system";
 - Simplify the approval process for the publication of Advisory Technical Committee work.
- *The proper functioning of the ESRB framework (governance issues) [See 2.10]*
 - Avoid recourse to a formal vote when it is not required by the ESRB Rules of Procedure;
 - Limit the amount of documentation submitted to the decision-making body (General Board).
- *Resources of the ESRB [See 2.11]*
 - Optimise the resources allocated to the ESRB and consider the necessity of increasing the number of staff members working at the ESRB Secretariat;
 - Develop the potential for synergies between the ECB and the ESRB more systematically;

- Increase collective efficiency by making use of resources from all ESRB institutions and initiating work at the ESRB more systematically by setting up a dedicated expert group, rather than by establishing separate streams of work.

Possible implications of the Single Supervisory Mechanism (SSM): issues to be considered as a priority

- The role of the ESRB in the future EU macro-prudential policy framework [See 3.1]

- A more fragmented EU macro-prudential policy framework emerging with three different layers and no clear indication of how they interrelate;
- For banking-sector-related issues, the SSM could affect the voluntary macro-prudential policy coordination framework being developed by the ESRB;
- While the ESRB should interact with the ECB as it does with national agencies, the ESRB involvement in the “intra-SSM” coordination is less obvious. The Group therefore provides the pros and cons of such ESRB involvement.

- Conflicts of interest: a true risk or a false risk? [See 3.2]

- The major issue: the ECB, as a micro- and macro-supervisor, becoming a potential addressee of ESRB warnings and recommendations;
- An important dimension to be taken into account in this debate: the review (required by the Regulation) of the designation of the Chair of the ESRB;
- At staff level: the need for the ESRB Secretariat to acquire more independent analytical capacity, without calling into question the ECB’s support;
- More analytical resources with expertise in areas other than the banking sector could also help mitigate the “banking sector bias” compounded by the SSM.

- Arrange for better ESRB access to information and data [See 3.3]

- Given the difficulties experienced so far, better access should be sought through the establishment of the SSM;
- The Recommendation on national mandates should be reviewed to reflect the relationship between the national authorities, the ECB and the ESRB, notably in terms of exchanging information.

INTRODUCTION

The “de Larosière Report” which led to the establishment of the ESRB and the ESAs in December 2010/January 2011 acknowledged that “a *step-by-step approach*” would be needed when setting up the new financial supervision framework of the EU and that revisions might be necessary. Accordingly, the regulations underpinning the ESRB (and the ESAs) foresaw a review by the end of 2013.²

The establishment of the ESRB was recommended in response to one of the major weaknesses revealed by the crisis that erupted in 2008, namely the focus on the sole objective of safeguarding the soundness of specific elements of the financial system, and the failure to anticipate and to prevent the accumulation of excessive risks across the system. To address these shortcomings it was suggested that more emphasis should be placed on macro-prudential supervision in the EU and that a body should be created, which would be responsible for the prevention and mitigation of systemic risks to the EU’s financial system. While comparable macro-prudential bodies were also established in some Member States at the national level, as well as outside the EU (e.g. the US FSOC), the de Larosière Report recommended that the ESRB was set up as part of wider reforms, the aims of which would be to improve financial supervision in the EU, with the micro-prudential and macro-prudential dimensions representing the two complementary pillars of the European System of Financial Supervision (ESFS).

Concerning specifically the ESRB and macro-prudential supervision, the concept put forward in the report, the thrust of which was taken up by the legislators, revolves around a number of key principles: (i) macro-prudential supervision must encompass all sectors of finance, i.e. not be confined to banking, and the wider economic context; (ii) an effective risk warning system based on the prioritisation of risks and issuance of risk warnings should be established, (iii) support should be provided by the ECB, uniquely placed to perform this task in its position at the heart of the ESCB; and (iv) the two pillars of the new supervisory architecture should operate in close interaction, including through cross-membership. As stated in the de Larosière Report, macro-prudential supervision cannot really be meaningful unless it can somehow have an impact on supervision at the micro level, while micro-prudential supervision cannot effectively safeguard financial stability without taking into account developments at the macro level. It should be noted that the legislators went even further in this direction by making the national supervisory authorities full members of the ESRB (albeit without voting rights).

²ESRB Regulation Article 20, “Review”: *“By 17 December 2013, the European Parliament and the Council shall examine this Regulation on the basis of a report from the Commission and, after having received an opinion from the ECB and the ESAs, shall determine whether the mission and organisation of the ESRB need to be reviewed. They shall, in particular, review the modalities for the designation or election of the Chair of the ESRB”.*

Article 8 of Council Regulation No 1096/2010, “Review”: *“By 17 December 2013, the Council shall examine this Regulation, on the basis of a report from the Commission. After having received opinions from the ECB and from the European Supervisory Authorities, it shall determine whether this Regulation should be reviewed”.*

Obviously one of its added values in the new EU supervisory architecture, the fact it brings together more than 70 authorities across the EU, also represents one of the many challenges that the ESRB has had to address since its establishment in December 2010.

This report has been prepared by reviewing the ESRB's achievements in the light of the reflections of the "de Larosière High-Level Group" and the legislation it inspired. It draws on extensive consultations involving ESRB member institutions including a workshop held on 29 October 2012.

Taking into account that the project of the Single Supervisory Mechanism (SSM), which is being finalised by the legislative authorities, is likely to change the way the ESRB will operate in future in relation to its role in the implementation of macro-prudential policy in the EU, as well as to its relationship with the ECB as the supporting institution, the report also includes preliminary reflections on these possible implications.

Against this background, this report is organised as follows:

- Section 1 reviews the ESRB's achievements in the various strands of work;
- Based on the need for streamlining, as demonstrated in the previous section, Section 2 provides recommendations for possible improvements, both in the ESRB Regulation and the procedures or processes not covered by the Regulation;
- Section 3 outlines the Group's conclusions on possible implications of the SSM for the ESRB.

1. REVIEW OF ACHIEVEMENTS IN THE ESRB'S STRANDS OF WORK

1.1 The collection (and processing) of data

For the collection of data both on a permanent and ad hoc basis, the ESRB has developed and formalised comprehensive frameworks with the ESAs and the ECB. Concerning in particular ad hoc requests for firm-specific data (taking into account the requirements laid down in the ESRB Regulation), the ESRB has sought to give maximum reassurance to the supervisory community in terms of the respect for confidentiality requirements³.

Extensive experience has already been gained regarding ad hoc requests for data in general (both aggregated and firm-specific). The information requested has always been obtained, which is positive, but in many cases there were long delays. The rather complex procedures agreed for both collecting and processing data have slowed down the analytical work considerably. The Group is of the view that over time and as confidence increases among the involved teams, there will be a case for streamlining the arrangements while preserving confidentiality.

The collection of permanent/regular data is taking place on the basis of an interim solution (intended to cover the period from 2011 to 2013) with minimum requirements, which was set at a time when the ESAs had no database in place and the legislation was yet to be designed. This approach is proving unsatisfactory over time. The current flows of information are obviously not sufficient for the ESRB to perform its tasks. More importantly, delays in the adoption/implementation of legislation and the fact that ESRB requirements have in the meantime been insufficiently taken into account in the drafting of supervisory reporting risk undermining the monitoring role of the ESRB.

Against the background of difficulties encountered by the ESRB in collecting data, it is worth recalling the emphasis that the de Larosière Report placed on a proper mandatory flow of information (*"the ESRB should be able to require from national supervisors all the information necessary"*).

1.2 The analytical process (risk identification, assessment and prioritisation)

The role of identifying and prioritising new sources of systemic risk ahead of their materialisation – obviously the key mission of the ESRB – requires extensive data collection (see above) and important analytical work.

Within the ESRB, analytical work on selected topics is carried out in the first instance by the Advisory Scientific Committee (ASC), the Advisory Technical Committee (ATC) with its sub-structures the Analysis Working Group (AWG) and the Instruments Working Group (IWG). The regular (quarterly) risk detection and risk assessment process used to inform the quarterly discussions about the main risks and vulnerabilities has been established on the basis of the ECB Surveillance Note, the Risk Analysis Report⁴ and the statistical White Book, as well as contributions to the ESRB Dashboard, the

³ With for instance: (i) experts involved signing a declaration of confidentiality, (ii) systematic recourse to encryption and (iii) secure local network "dark room" arrangements.

⁴ The Surveillance Note highlights the main sources of risk and vulnerabilities for the EU financial system with the aim of informing ESRB discussions on systemic risk. The Risk Analysis Report provides background material on the analytical perspectives underpinning the ECB Surveillance Note (Part A), as well as a

ATC/AWG “bottom-up” risk assessment, analytical contributions from the ESAs and the European Commission, and market intelligence activities provided by the ECB (and the Bank of England).

The ESRB is provided with input from several sources but has so far not been able to make full use of this input. For instance, the “issues note” prepared by the ESRB Secretariat does not provide a summary of these reports together with the views of the ESRB Secretariat. Nor is there a systematic effort to aggregate all the information available so as to “tell a story” in a single note based on the various inputs.

One of the key concepts underlying the de Larosière Report was the establishment of an effective risk warning system based on the prioritisation of risks (and issuance of risk warnings).

The question of whether the ESRB has thus far been successful in identifying and prioritising new sources of systemic risk ahead of their materialisation is difficult to answer because there is currently an absence of relevant criteria or benchmarks against which its performance can be judged. More generally, the Group is of the view that, in the light of the ongoing financial crisis, the ESRB is still in a transition phase. Therefore a complete assessment of its crisis prevention role is currently very difficult.

Nevertheless, there is already a case for a better prioritisation of risks and related work. In retrospect it is not always obvious which formal criteria have been used to justify undertaking a deeper analysis of certain risks. The merits of further analysis would therefore need to be more clearly articulated and prioritised; this would also limit potential overlaps with work conducted by other bodies.

Regarding the question of a possible “banking bias” in the ESRB’s work, it should be acknowledged that the ESRB started operating in the context of what was to a large extent a banking-sector crisis, hence the initial focus on banking; over time a more balanced approach is emerging. Nevertheless, the Group is of the view that, in future, the ESRB should strengthen the “big picture” cross-sectoral approach in its analytical work (e.g. the cross-sectoral implications of sectoral regulation) and exploit this perspective more systematically in order to establish itself as the “EU cross-sector watchdog”.

1.3 The policy making process (issuance of warnings and recommendations)

After two years of existence, and in a general environment where the implementation of macro-prudential policy measures remains the exception, the ESRB has already made use of the two main instruments designed by the legislators several times. Based on the synthesis of analytical input prepared by the ESRB Secretariat, policy discussions have led in particular to the adoption of two confidential warnings, issued in the form of letters to the Heads of State and Ministers of Finance in July and September 2011. The second of these pointed to the systemic nature of the financial crisis.

While the experience gathered and the general risk of stating the obvious would argue in favour of issuing warnings which are well-targeted, preventive and to the point, a number of considerations, linked primarily to the ongoing financial crisis, were viewed as arguments against further recourse to this instrument (in particular in its public form) during the last two years. The arguments used to limit recourse to warnings were the uncertainty of the markets and a concern that the warnings would exacerbate this, and an awareness that they might overlap with messages originating from other institutions actively involved in the management of the crisis.

quantitative assessment of the possible macro-financial impact of the main systemic risks identified in the ECB Surveillance Note, based on a top-down solvency analysis of the EU banking sector (Part B).

In this respect, it should be noted that, despite the intensity reached by the financial crisis, the ESRB did not ask the Council to adopt a decision confirming the existence of an emergency situation, nor did the European Commission or the ESAs. Underlying this choice was a concern that such a decision would increase market volatility if the markets were to become aware of the emergency situation; however, there was also uncertainty about the emergency situation framework in its current form (in particular in terms of actual additional powers granted to the ESAs), a point which the Group believes should be considered in the review of both the ESRB's and the ESAs' regulations.

Concerning more specific systemic risks, policy action has already taken the form of five recommendations dealing with (i) lending in foreign currencies, (ii) US-dollar-denominated funding of credit institutions, (iii) money market funds, and (iv) funding of credit institutions. A further recommendation was related to the macro-prudential mandate of national authorities. Overall from the experience with the recommendations it can be concluded that they should be activated sparingly (in order not to weaken their impact), be well-targeted and issued on a timely basis. The Group considers it is still too early to assess whether the recommendations have had an identifiable impact on the risks they were meant to address.

The legislators placed considerable importance on monitoring the follow-up of the recommendations, assigning it as a specific task for the ESRB. The first deadline for reporting was mid-2012. The ESRB is developing harmonised assessment methodologies, based on best practices from the European Commission, the IMF, the OECD and the FSB. One challenge for the ESRB will be how to handle cases of non-compliance.

In the period ahead, further recommendations are likely to emerge from the work conducted on securities lending and repo, and macro-prudential instruments.

The Group believes that, in general, the ESRB has managed to contain the risk of policy inaction frequently highlighted in the literature on macro-prudential policy. It can be argued that, in its period of establishment, the ESRB was to some extent bound to focus on issues of interest to its whole constituency and steer clear of a number of controversial issues (e.g. in relation to supervisory forbearance). But the ESRB has also tried to tackle inaction bias at the national level by speeding up national actions via its recommendations, actions which in some or most countries would not have been taken if the ESRB had not acted. Furthermore, while there were three cases in which the ESRB eventually decided not to act, this was a result of the risks involved not being deemed systemic enough to justify policy action on the basis of thorough analysis, or because measures had been taken in the meantime by the relevant authorities⁵.

Finally, concerning the experience of the ESRB with non-binding powers, the Group considers that it is too early to draw conclusions, yet it highlights as an encouraging signal the very high response rate observed in connection with the first and second reporting deadlines for the four ESRB recommendations adopted in 2011.

1.4 Cooperation with the European Supervisory Authorities (ESAs)

A permanent dialogue at all levels has been established with the ESAs ensuring that the top-down and bottom-up identification of systemic risks contributes to a consistent overall process. Regarding EU-wide stress tests which the ESAs are requested to initiate and coordinate in cooperation with the

⁵ See work on (i) the retailisation of complex financial instruments, (ii) low interest rates, and (iii) the possible systemic impact of the Hungarian conversion plan for foreign currency loans.

ESRB, the ESRB should be more involved in future exercises (also based on the work of a recently established Task Force on Stress Testing). More generally, two years after the establishment of the ESFS, effective integration between micro- and macro-supervision – one of the key objectives of the de Larosière Report – remains challenging. In particular the difficulties encountered by the ESRB in obtaining data from the ESAs (with resistance met at the policy level rather than at a technical level) risk undermining its mission of detecting and preventing systemic risks. Furthermore, while the ESRB and ESAs benefit from each other's input into their respective work streams (combining the macro- and micro perspectives) there is still the question of whether – despite a different focus in principle – there are any risks entailed by an increasing overlap of their respective work on risks (e.g. work on CDS, money market funds, forbearance, etc.; see also the work delivered by the Risk Sub-Committee of the Joint Committee on cross-sectoral risk assessments).

1.5 Establishing a macro-prudential framework at the EU and national level

With macro-prudential supervision being a relatively new policy area and the ESRB acting mainly through policy tools that are not legally binding, an important strand of work consisted of developing a comprehensive framework involving both the EU and national levels. Work took place along three main lines: (i) developing a set of “guiding principles” for the macro-prudential mandate of national authorities which were formalised in Recommendation ESRB/2011/3; (ii) establishing a process for the selection of macro-prudential tools (with general work to be concluded in early 2013); and (iii) considering coordination mechanisms for possible cross-border spillovers of national macro-prudential policies. The ESRB has already provided a useful forum for Member States to learn from each other and the network which is being established can be expected to provide more visibility for the ESRB and macro-prudential policy in the EU. This strand of work, which will gain in prominence, is still in a preliminary phase, and therefore difficult to assess. It might also be strongly affected by the Banking Union, in particular the role to be played by the ECB in macro-prudential supervision (see Section 3).

1.6 Review of the macro-prudential aspects of forthcoming EU legislation

Also related to the development of a basis for macro-prudential policies in the EU, the ESRB reviewed the macro-prudential aspects and implications of forthcoming EU legislation, in particular, the three key pieces of draft EU sectoral legislation, which will have major implications - in terms of scope of intervention - for macro-prudential oversight in the period ahead: the “CRDIV/CRR”, the “EMIR” and the Omnibus II Directive. This gave rise to the submission of either (i) “policy advice” issued on the ESRB's own initiative, or (ii) answers to consultations by the legislative/regulatory bodies. The latter are likely to increase in number, with the possibility of the ESRB providing added value in the form of impact assessments of the options being considered by the Commission. The former has raised the issue of whether it is part of the ESRB's prerogatives. It can be argued that the ESRB should intervene whenever there are possible systemic risk implications; for instance the letter sent in June 2012 to the legislative authorities, warning against the structural incentives for undercapitalisation and the concentration of risks contained in the long-term guarantee package of Solvency II/Omnibus II, could be seen as contributing to the decision of the Trilogue parties to launch an impact assessment. The Group therefore sees merit in a clarification of this role by the legislative authorities.

1.7 Accountability requirements

The ESRB is regularly required to provide information about its actions. Many exchanges take place between the ESRB and the Parliament, even beyond the statutory requirements (e.g. presentations to ECON of the ATC work by the ATC Chair in May 2011, and of the ASC work by the ASC Chair/Vice-Chairs on 6 November 2012). However the interplay with and reporting to the EFC, as emphasised in the de Larosière Report (see pages 45–46) and recalled in Recital 19 of the ESRB Regulation, did not function well during the ESRB's first year of existence. While procedural issues (relating to confidentiality rules and the publication of documents) have been settled and a number of steps have been taken at staff level since the beginning of 2012 to ensure that EFC information on systemic risks is provided more regularly, no stable solution has yet been found to the issue of high-level representation of the ESRB General Board at the EFC. Given the importance of the EFC in financial sector work this should be remedied.

1.8 Coordination of actions with those of relevant international financial organisations

While it is appropriate for the ESRB to have a strong role in implementing the recommendations of the IMF, the FSB and the Basel Committee on Banking Supervision within the EU, it is important that the ESRB avoids unnecessarily duplicating work. In this respect, concerning in particular the interplay with the FSB, the Group considers that the current focus is adequate. Nevertheless, the ESRB will have to cope with an increasing number of FSB topics maturing and gaining direct relevance.

1.9 Communication activities

Communication is all the more important for the ESRB as it can only intervene through “soft tools”. The Group is of the view that the trade-off between making authorities and the informed public aware of its own concerns (for both accountability and efficiency/credibility reasons) and worsening the overall perception of risk has been addressed in an appropriate way by the ESRB since its establishment. But the ESRB still lacks a clear strategy regarding communication. The ESRB has developed an extensive set of communication tools though, with an increasing amount of ESRB work being published. Examples include the two ASC reports on “Forbearance, resolution and deposit insurance” (July 2012) and on the European Commission's Banking Union proposals (October 2012), the *ESRB Macro-prudential Commentaries* (on “the macro-prudential mandate of national authorities” in March 2012, “systemic risk due to retailisation” in June 2012, “lending in foreign currencies as a systemic risk” in December 2012, and two other issues in preparation) and the *Occasional Paper* on “Money market funds in Europe and financial stability” published in June 2012. Given that the current mix of publications can already be seen to be reaching the various possible audiences of the ESRB and based on resource-related considerations, the question of a flagship publication to elaborate on macro-prudential issues in general is still seen as premature.

Concerning the issue of a “colour-coded system” corresponding to situations of different risk levels mentioned in the ESRB Regulation under “*warnings and recommendations*” as a way to “*enhance the awareness of risks in the economy of the Union and to prioritise such risks*”, the Group noted that priority had so far been given to the establishment of the ESRB Risk Dashboard (the first issue of which was published in September 2012) with an acknowledgement of the analytical challenges entailed. Additionally, the legislation is not totally clear on what is intended with the colour coded system.

1.10 The functioning of the ESRB framework (governance issues)

Taking into account that in the de Larosière report supervisors were expected to be involved only on an ad hoc basis (in place of the respective national Governor), the legislators' decision to include all national supervisory authorities represented a major challenge, in addition to the need for the institutional and logistical framework to become operational very quickly in the context of the financial crisis. The Group shares the view of members that the ESRB framework functions well given the large number of participants involved (yet there is still room for improvement). This includes a general agreement among members that the composition of the ESRB's membership is a very important and distinctive strength of the ESRB for the long term. It ensures that its assessment of systemic risks is based on a uniquely wide range of views and a broad set of information across all parts of EU financial systems. A modus operandi has therefore been found with little room envisaged or requested for any streamlining of the composition of the ESRB (e.g. the exclusion of one category of participants).

Since its establishment, the ESRB has been confronted in its functioning with the challenge of having to combine short-term and long-term policy action. With its large membership and the complex processes involved, the ESRB is not structured to address short-term issues, and it was not meant to be a crisis-management body. It should therefore focus on the medium term in line with the legislative emphasis on crisis prevention. At the same time, acting only on medium-term risks has proven impossible in the prevailing environment with the sovereign debt crisis breaking out at the same time as the ESRB being established. A clear focus on medium-term issues would alleviate many of the difficulties experienced, be it the risks of negative market reactions affecting the ESRB's communication policy, or the need for arrangements to facilitate urgent decision-making. However, the Group shares the view that short-term reactivity is likely to remain essential in the future, in particular as part of the coordination of macro-prudential instruments: the draft CRDIV already foresees very tight one-month deadlines to provide opinions on capital buffers. As a result there is a strong pressure to improve effective and swift decision-making by the ESRB.

Another general issue that has become apparent through experience relates to the length of the ESRB preparatory process from the moment a risk is identified to the formal adoption of a recommendation/warning, with the probability of missing the risk or leaning against the wind of the risk materialising. Even though one possible way forward in case of urgency could be to have recourse to instruments other than warnings and recommendations, this situation calls for efforts to speed up the activation of the two main tools foreseen in the ESRB Regulation. The Group is of the view that part of the difficulty is related to requirements imposed by the Regulation, such as the consultation of the Council before publishing any warning or recommendation, which in practice implies that around three weeks are needed between the adoption of the recommendation and its publication.

1.11 Support provided by the ECB in accordance with Regulation No 1096/2010⁶

In the context of a preliminary discussion on the review of the ESFS at the EFC-FST meeting in March 2012, the Commission saw the issue of the ESRB having relatively few resources as a key

⁶ Article 3 of Regulation 1096/2010: "*The ECB shall provide sufficient human and financial resources for the fulfilment of its task of ensuring the Secretariat*".

challenge, explaining “the current structure, interactions and interdependencies with the ECB” require reflection in order to “secure adequate support for the ESRB”.

As part of its analytical, statistical, logistical and administrative support, the ECB created 58 full-time equivalent (FTE) staff positions in 2010, allocated to the ESRB Secretariat (22 FTEs) and the business areas involved in the ESRB activities (36 FTEs). The latter resources come on top of the pre-existing workforces that are also involved in supporting the ESRB; on the other hand, as with other ECB resources, they have been exposed to the general pressure experienced by the ECB over recent years (e.g. country missions). Nevertheless, the ECB has responded to all the requests for data or analysis submitted by the ESRB. The ECB business areas provide key input into the work of the ESRB such as the Surveillance Note, the Risk Analysis Report and the White Book which serve as background material for the regular ATC and General Board assessments of risks and vulnerabilities. The support also encompasses the development of analytical tools (supported by the ESCB Macro-prudential Research Network) and statistical efforts to provide data or fill the gaps identified in the data, which are required for the purpose of conducting macro-prudential analysis, all very resource-intensive tasks. Furthermore, as is the case for staff members from other member institutions, ECB staff members contribute to specific studies initiated by the ESRB.

It is, however, difficult in some cases to assess the direct input of the 36 FTEs into the ESRB’s work. For instance, it is uncertain how much of the work that is performed by the 3 FTEs allocated to the ECB’s Directorate General Economics for ESRB purposes feeds directly into ESRB work. For the FTEs allocated outside the ESRB Secretariat and the ECB’s General Directorates Financial Stability and Statistics, the issue of a possible lack of incentive to contribute directly to ESRB work could also be raised, given that their respective business areas report to Board members not involved in the ESRB. More generally, in the context of this Group’s consultations, a number of stakeholders suggested that the ECB’s analytical capacities were not used to the maximum. By contrast, the resources allocated to the ESRB Secretariat are overstretched; more importantly, they do not seem viable in the long run, taking into account the additional tasks to be performed by the ESRB (coordination of macro-prudential policies in the EU, assessment of compliance with recommendations, consultations by the legislative/regulatory bodies).

The Group noted that, in parallel, other member institutions besides the ECB have been providing a significant amount of resources. This high level of involvement (with a lowest estimate being 14 equivalent FTEs through input in expert groups, chair positions, etc., which does not include the input provided within permanent working groups) stems from the fact that a lot of expertise on macro-prudential developments is national; to some extent it is also due to the dynamics of the institution: while it was initially thought that the ESRB would essentially be dependent on the ECB for support, in practice more resources from the system were mobilised by the ATC and its working and expert groups.

Against this background, the Group shares the view (put forward by member institutions during the consultation) that a situation whereby the ECB could increase the degree of support it has been providing to the ESRB for specific tasks should be explored.

Furthermore, while the meetings of the Macro-Prudential Group provide a framework for regular exchanges between the ESRB Secretariat and the ECB business areas involved in ESRB-related work, the question of synergies between the ESRB and the ECB in general can be raised, given that the current set-up was designed (according to the de Larosière report) to have the ESRB as a whole benefit from the ECB’s expertise, building on the organisation and infrastructure adopted for performing the ECB’s financial stability tasks. Indeed it seems that so far the potential for synergies

has not been fully exploited, as evidenced for instance in the fact that (i) the ESRB Secretariat does not benefit from the regular monitoring of FSB work performed by the ECB as an FSB member, and (ii) it has not yet been invited to the meetings of the Eurosystem Financial Stability Committee, in spite of the latter's focus on assessing the shock-absorbing capacity of the euro area financial system (there have only been occasional exchanges of information on an informal basis).

2. RECOMMENDATIONS FOR IMPROVEMENTS

In this Section, based on the earlier assessment of achievements in the various strands of work and the need for streamlining, the report suggests some possible improvements to the ESRB framework as it currently stands. Following the same order of work streams, it combines general and specific recommendations as well as different levels of implementation, i.e. the legislative authorities (Commission, European Parliament, Council), the General Board, the ECB's Executive Board, Steering Committee, Advisory Scientific and Technical Committees and the ESRB Secretariat.

2.1 The collection (and processing) of data

- **Streamline Article 15 of the ESRB Regulation** [Commission, European Parliament, Council]

In view of the difficulties encountered when making information requests both on a permanent and ad hoc (aggregate or firm-specific) basis, the general objective should be to grant more powers to the ESRB. At the current stage, the Group would recommend these four minimal changes to Article 15, in relation to the provision of firm-specific data:

1. *The Group would welcome a review of Article 15 (6) and (7) of the ESRB Regulation to make procedures for the provision of individual data less restrictive, since the current provisions represent a significant obstacle to the provision of statistical support to the ESRB. A clause could be included implying that Articles 15 (6) and (7) only apply to supervisory information not distributed to the public.*

Financial statements (balance sheets and P&L) or similar reports containing individual institutions' aggregate positions (so-called "I-to-A positions") that are usually published cannot be seen as having the same level of confidentiality as bilateral exposures between individual institutions (so-called "I-to-I" data).

2. *In paragraph 6, words in bold could be added as follows: "If the ESRB requests information that is not in summary or aggregate form, the reasoned request – **which shall be justified and proportionate** – shall explain **in particular** why data on the respective individual financial institution is deemed to be systemically relevant, and necessary, considering the prevailing market situation".*

Justification: for the sake of consistency between paragraphs 6 and 7, the dual criterion of a request being "justified and proportionate" would be mentioned in paragraph 6 as well.

3. *In paragraph 7, certain elements could be redrafted as follows: "~~Before each request for information 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 request has been made to a national supervisory authority and** the relevant European Supervisory Authority does not consider the request to be justified and proportionate, it shall 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."*

Justification: the suggested amendment would enable one of the two steps currently required as part of the consultation of the ESAs for data which is not in summary or aggregate form to be abandoned. Its current form is deemed overly burdensome by, among others, the Secretariats of the ESAs (which have to consult their respective Boards of Supervisors twice). The ESAs would still be allowed to object to a request if it was not deemed “justified and proportionate”. The amendment would also clarify that the consultation of the ESAs would not apply where the source of the information is not the supervisory authorities (e.g. ESCB, national statistical authorities, Member States).

4. *Clarify the scope of Article 15 (7)*

It is not clear from Article 15 (7) whether the ESRB is also entitled to request information which is not in summary or aggregate form from the ESCB (i.e. not just from the supervisory authorities). The wording could clarify this, together with the issue of whether the ESAs should also be involved in the event that disaggregated information is requested from the ESCB central banks, possibly along the lines of point 3 above.

- ***Provide the ESRB with more formal opportunities to contribute to the work on statistical reporting*** [Commission, European Parliament, Council, ESAs]

It should be emphasised that the difficulties experienced with the flow of permanent/regular information are just as strongly linked to the insufficient consideration of ESRB requirements in the drafting of supervisory reporting as they are to delays in the adoption/implementation of legislation. As a minimum, the ESRB’s replies to consultations by ESAs on supervisory reporting should be given more weight so as to better reflect macro-prudential requirements.

- ***Review of the ESRB Decision of 21 September 2011 which defines the information to be submitted on a regular basis by the ECB and the ESAs over the period from 2011 to 2013*** (ESRB/2011/6) [General Board; Contact Group on Data Issues]

The “Contact Group on Data Issues” consists of nominees of the institutions represented in the Steering Committee established at the end of 2011 inter alia to facilitate the identification of data requirements for 2013 and beyond.

Decision ESRB/2011/6 was drafted as an interim solution with minimum requirements, based on the data available at that time from the recently established ESAs. Pending the adoption of legislation (and implementing measures), under Decision 2011/6 the data must be reported on a best-effort basis and therefore it has limited binding power. This has caused many delays and sometimes only partial provision of data. Consequently, there is a need to review Decision ESRB/2011/6 in order to consider including more binding power regarding the provision of data, in order for the ESRB to perform its tasks properly. Additionally, more data should be available on a regular basis, without the need to resort to ad hoc requests, because obtaining information at one point in time is not always sufficient to monitor a risk (e.g. data on asset encumbrance).

- ***Streamline the procedures for ad hoc requests*** [General Board]

The efficiency in the performance of the ESRB’s tasks would increase if the data-collection process were made less formal. The high level of formality has sometimes led to substantial delays in the analytical work. The Group is of the view that the ESRB is now entering a more stable phase (with an established track record in the collection and processing of data) where over-formality to accommodate the possible concerns of stakeholders can be avoided. It is nonetheless important to ensure that less formality does not imply an excessive demand for data. This could be avoided

through the elaboration of a well-defined programme [see 2.2]. Leaving aside the possibility of the General Board delegating powers to other ESRB bodies on data collection – which would require amending the ESRB Regulation [see relevant recommendation under 2.10] – the Group has identified the following possible improvements:

-for all ad hoc requests (both aggregate and firm-specific data): make greater use of majority voting instead of launching a formal vote when it is not required under the ESRB Rules of Procedure [see also 2.10]. For instance, approval of ad hoc requests by the General Board should no longer involve a formal vote in addition to the prior written procedure just because one member raises a comment in the context of the written procedure;

-for aggregate data: discontinue the practice of formal letters being sent by the Head of Secretariat to the Executive Directors of the ESAs to check whether they have the data (the requests have already been discussed in the Contact Group on data, where the respective institutions are all represented)⁷.

2.2 The analytical process (risk identification, assessment and prioritisation)

- **Develop a clearer and more formal procedure for identifying and prioritising risks** [General Board]

The Group strongly recommends that the rationale for the choice of topics and recommendations be made more explicit. Besides the strict macro-prudential orientation (i.e. possible impact on the financial system), one selection criterion that may be appropriate before work is launched (in a dedicated substructure) could involve the value added compared to the work being done by the ESAs, NSAs and NCBs in particular in terms of “cross-sectoral view” and the potential synergies of cooperation. This would also help prevent potential overlaps with the work of the ESAs (and their Joint Committee) on specific risks [see 2.4]. The Group also sees large benefits in preparing a well-defined work programme to avoid a multiplication of topics for analysis.

- **Increase the ESRB Secretariat’s input into the discussion on risks and vulnerabilities** [General Board]

As part of efforts to make full use of the various inputs and provide added value, the “issues note” prepared by the ESRB Secretariat should extract the most important issues from the submitted material and aim to provide its own risk analysis and judgment; furthermore, it should give rise to a presentation by the Chair (in the absence of a Chief Economist in the ESRB framework) to provide a focal point for the discussion. Under this item the ESAs should comment on the ESRB Secretariat issues note but not systematically provide their own presentations (as has too often been the case thus far).

2.3 The policy-making process (issuance of warnings and recommendations)

- **Review the process for informing the Council of warnings or recommendations prior to their publication (Article 18 (1) of the ESRB Regulation)⁸** [Commission, European Parliament, Council]

⁷ Annex III of ESRB Decision 2011/6, which details the modalities for ad hoc requests, would need to be adjusted accordingly (also because the investigation phase which it foresees has never been formally respected).

As part of efforts to reduce the length of the ESRB preparatory process from the moment a risk is identified to the formal adoption of a recommendation/warning, as well as to avoid unnecessary formalities, the “information” process foreseen in the ESRB Regulation provides a good case in point.

In practice, this information requirement has become a kind of consultation process that starts when the General Board approves the recommendation (and sends it to the Council) and ends when the General Board can take a second decision on the publication (only after informing the Council, according to the Regulation). The delays in this procedure have been around three weeks from the formal adoption, with ten working days usually set aside for a possible reaction from the Council and an additional three to five days to conduct a written procedure for the agreement to publish. Furthermore, the written procedure has proved difficult to organise as a quorum of two-thirds applies, meaning the ESRB Secretariat must ensure that all voting members participate.

On the five occasions where the Council was consulted for the publication of a recommendation, it answered positively with no further comment (only one request to extend the deadline of the consultation was made).

In order to accelerate the process, it is suggested that the General Board should be allowed to take the decisions relating to (i) the approval of the recommendations/warnings and (ii) their publication (the latter with the two-thirds quorum) at the same time, whilst foreseeing publication only after ten calendar days, a period in which the Council could react (and the ESRB could, if necessary, rediscuss the issue of publication).

The relevant paragraph in the ESRB Regulation would be redrafted accordingly:

Article 18 (1) of ESRB Regulation: *“The General Board shall decide on a case-by-case basis, ~~after having informed the Council sufficiently in advance so that it is able to react,~~ whether a warning or a recommendation should be made public. Notwithstanding Article 10 (3), a quorum of two-thirds shall always apply to decisions taken by the General Board under this paragraph. Publication should take place no sooner than ten calendar days after the above-mentioned decision, a period in which the Council should be informed of the forthcoming publication and should be given the opportunity to react”.*

- **Add reference in ESRB Regulation to (i) the ECB in its capacity as banking supervisory authority, and (ii) “authorities with a macro-prudential mandate” as potential addressees of warnings and recommendations (in connection with the establishment of the SSM) [Commission, European Parliament, Council]**

According to Article 16(2) of the ESRB Regulation, warnings and recommendations of the ESRB shall be addressed, “in particular”, (i) to the Union as a whole, (ii) to one or more Member States, (iii) to one or more ESAs, (iv) to one or more of the national supervisory authorities or (v) to the Commission. Article 17 of the ESRB Regulation states that the ESRB shall pursue a follow-up on the implementation of its recommendations done by (i) the Commission, (ii) one or more Member States, (iii) one or more ESAs or (iv) one or more of the national supervisory authorities. In this case, there is no statement “in particular”.

⁸Article 18 (1) of ESRB Regulation: *“The General Board shall decide on a case-by-case basis, after having informed the Council sufficiently in advance so that it is able to react, whether a warning or a recommendation should be made public. Notwithstanding Article 10 (3), a quorum of two-thirds shall always apply to decisions taken by the General Board under this paragraph”*

While the statement “in particular” in Article 16 could imply that the list of addressees is not exhaustive, the same does not apply for Article 17; therefore Articles 16 and 17 need to be amended to clarify the situation. This could involve eliminating the term “national” preceding the term “supervisory authorities”, and aligning the reference with the current version of Article 1.3 (f) of the ESRB Regulation (i.e. naming them “competent or supervisory” authorities).

This should ensure that the ESRB can also address warnings and recommendations to both (i) the ECB and (ii) national authorities in charge of macro-prudential supervision and perform a follow-up on such recommendations. Concerning the “authorities with a macro-prudential mandate”, in view of the establishment of a macro-prudential framework at national level (see 2.5.), the ESRB will increasingly interact with them (the need was already felt to refer to them as addressees in the ESRB Recommendation on bank funding (ESRB/2012/2)).

The inclusion of the ECB as a potential addressee should be without prejudice to the primary objective of the ESCB of maintaining price stability according to Article 127 (1) TFEU.

- ***Review provisions relating to emergency situations (Article 3 (2)(e) of the ESRB Regulation)*** [Commission, European Parliament, Council]

Article 3 (2)(e) of the ESRB Regulation allows the ESRB to ask the Council to adopt a decision determining the existence of an emergency situation. The concerns (and even scepticism) about this tool – which has not been used in spite of the tensions experienced in financial markets since the ESRB was established – relate in particular to the number of institutions which would be informed/involved as this is not in line with standard crisis-management practices. In the context of the consultation it was mentioned that in its current form the very name of the provision makes it difficult to activate; more specifically, it is inadequate when compared to the substance of measures that it activates. The Group would suggest reviewing the definition and procedures of “emergency situation”, as well as clarifying their implications, once the banking union framework and the powers and governance of the ESAs have been clarified. No drafting is proposed as this proposal would have implications not only for the ESRB Regulation but also for the Regulations of the ESAs.

- ***Address a formal inconsistency between Article 3(2)(e) of the ESRB Regulation and Article 18 of the ESAs Regulations on the nature of the ESRB legal act to be submitted to the Council*** [Commission, European Parliament, Council]

Article 3(2)(e) states that, when the ESRB determines that an emergency situation may arise, it may issue a confidential warning addressed to the Council, and provide it with the assessment of the situation, while Article 18(2) of the ESAs’ Regulations (as referred to in Article 3(2)(e) of Regulation 1092/2010) states that when the ESRB considers that an emergency situation may arise, it shall issue a confidential recommendation addressed to the Council and provide it with an assessment of the situation.

Taking into account the respective definitions of warnings and recommendations in the ESRB Regulation (including the “act or explain” mechanism in the latter case), the adoption of a warning would seem to be more in line with the intention of the legislators; therefore it would appear that there is a need to adjust the ESAs’ Regulations on this point.

- ***Make greater use of the majority rule to contain the risk of politicisation and inaction bias*** [General Board]

While it can be argued that in its period of establishment the ESRB was to some extent bound to focus on issues likely to meet the variety of interests (due to the heterogeneity in membership) and steer clear of certain controversial issues to foster a more consensus-driven approach, the General Board should not be seen as shying away from difficult topics. A process of politicisation, with the ESRB's work eventually delivering blank conclusions would undermine the ESRB's efforts to defeat policy inaction. The Group is of the view that a more systematic application of the majority rule (as opposed to the above-mentioned more consensus-driven approach) would help contain the risk of politicisation as well as the inaction bias.

2.4 Cooperation with the ESAs

- ***Address possible overlaps of work [Commission, European Parliament, Council, General Board, Joint Committee of the ESAs]***

This issue must also be considered against the background of the (ongoing) review of the ESAs, with the ESAs' Regulations (see Article 81) foreseeing an evaluation of the "Authorities' role as regards systemic risk" and the examination of "whether it is appropriate to simplify and reinforce the architecture of the ESFS in order to increase the coherence between the macro and the micro levels...".

While in theory the ESRB and ESAs follow a different perspective (bottom-up as opposed to top-down) the overlaps in their respective work on specific risks has increased lately (e.g. work on CDS, money market funds, forbearance, etc.). The suggestion made in this report (see 2.2) to better prioritise analytical work – with one possible selection criterion being the value added compared to the work being done by ESAs, NSAs and NCBs – should help in this respect. Nevertheless, since there is also an emphasis on the ESRB taking a more cross-sectoral approach, due attention must be given to the breakdown of responsibilities with the Risk Sub-Committee of the Joint Committee in order to avoid overlaps (see in particular future work on the cross-sectoral implications of sectoral legislation, in which both the ESRB and Risk Sub-Committee are expected to be involved).

2.5 Establishing a macro-prudential framework at the EU and national level

- ***Consider ways in which national authorities in charge of macro-prudential supervision could be involved in the work of the ESRB [General Board]***

As part of the implementation of Recommendation 2011/03 on national mandates and the establishment of national macro-prudential authorities by mid-2013, the ESRB should further elaborate on the interplay with national macro-prudential authorities; this should also include liaising effectively, where appropriate, with non-ESRB members (e.g. Ministries of Finance) likely to be involved in the frameworks established in the 27 countries. Regular and smooth interaction is all the more important as the new network will contribute to the visibility of the ESRB and of macro-prudential policy across the EU.

2.6 Review of macro-prudential aspects of forthcoming EU legislation

- ***Clarify in the ESRB Regulation the extent to which the ESRB should review the macro-prudential aspects of forthcoming EU legislation [Commission, European Parliament, Council]***

As a follow-up to the policy advice provided by the ESRB on its own initiative and as part of a preliminary discussion on the review of the ESFS at the EFC-FST meeting in March 2012, a

Commission note suggested that “*any involvement by the ESRB in regulatory issues should be focused on the period ahead of adoption by the Commission of legislative proposals. Any subsequent intervention once those proposals are already in discussion by the co-legislators in the co-decision process should always be very carefully considered*”; hence the suggestion to “rebalance” the ESRB work programme towards the assessment of potential systemic risks in the market and developing macro-prudential tools.

However, one of the ESRB’s duties is to intervene if legislative projects or acts appear to raise systemic risk, a view supported by most members at the above-mentioned EFC/FST meeting on 23 March 2012. As a matter of fact, the ESRB Regulation itself states that the ESRB may address recommendations to the Commission “*in respect of the relevant Union legislation*” (Article 16 (2)).

Against this background, the Group supports the request for clarification of the ESRB Regulation in order to ensure that the ESRB is able to effectively address the macro-prudential aspects of EU legislation, possibly in the form of a consultation by the Commission before the adoption of legislative proposals on issues which are likely to directly impact systemic risk.

2.7 Accountability requirements

- ***Follow up on the European Parliament request for a comprehensive review of the systemic risks across the financial sector [General Board]***

At the 31 May 2012 ECON hearing on the Annual Report, a request was made for a comprehensive review of the systemic risks across the financial sector capturing the links between sectors, which was not provided in the Annual Report, on the grounds that the ESRB was established – alongside the three ESAs – specifically to gain a cross-sectoral overview of systemic risks. Taking into account that launching an ESRB flagship publication (which could meet this request) is currently not seen as a priority, there is a case for further investigating the option of upgrading the ESRB Annual Report (see 3.9). The request also supports a greater emphasis being put in ESRB analytical work, on the “big picture” and a more cross-sectoral approach.

- ***Ensure stable high-level representation of the ESRB General Board at the EFC [Executive Board of the ECB; General Board]***

No stable solution to this issue has yet been found. According to the EFC President, regular communication between a high-level representative of the ESRB General Board and the EFC would contribute to improvements in the interplay with Governments. Until the end of 2011, the ESRB was represented by the ECB Vice-President (also representing the ECB). Since the beginning of 2012 when Mr Asmussen was assigned the responsibility of representing the ECB at the EFC meetings in general, the ECB Board member at the EFC is no longer a member of the ESRB General Board; the requirements mentioned by the EFC President are therefore no longer met. Representation at the level of the Head of Secretariat does not allow for the sometimes rather controversial ideas that might be expected from the ESRB representative, as the Head of Secretariat does not enjoy the same degree of latitude as for instance, the chair of an authority. One option (to be decided by the ECB) could be to reintroduce the previous arrangement, whereby the ECB Vice-President, being a member of the ESRB, represents the ESRB (and the ECB) in EFC-FST meetings. Under this option, however, it would need to be clear on behalf of which organisation – the ECB or the ESRB – the ECB Vice-President was intervening in order to reduce potential confusion, which has frequently arisen in the ESRB’s communication. An alternative option would be to designate another member of the ESRB General Board, or a more far-reaching suggestion, and one that would require a change to the

regulation, would be to have the ESRB represented at the level of a non-ECB Chair (if this option were to be investigated, see 3.2) or the equivalent of a permanent Managing Director.

2.8 Coordination of actions with those of relevant international financial organisations

- ***The ESRB Secretariat should monitor the flow of work within international fora more systematically (G20, FSB) [Secretariat]***

Taking into account the increasing flow of topics maturing and gaining direct relevance, it would be desirable for the ESRB to aim for a more proactive approach in terms of assessing possible implications for the EU as well as the extent to which the issues are of relevance to the ESRB (with a view to a possible translation into ESRB recommendations or warnings). Important issues detected as part of this monitoring process would be brought to the attention of the General Board.

2.9 Communication activities

- ***Develop communication on risk identification [General Board]***

In order to enrich the ESRB's external message on risks, a single note prepared by the Secretariat on risk identification (i.e. basically a "sanitised" version of the presentation made by the Secretariat in the discussion on risks and vulnerabilities) could be a valuable piece of information to attach to the press release.

- ***Develop the ESRB's communication strategy to ensure compliance with its recommendations [General Board]***

The ESRB only has soft tools at its disposal. Therefore, a better-defined communication policy regarding its recommendations would be useful as it could be used as a tool to foster compliance with the recommendations.

- ***Investigate the option of upgrading the ESRB Annual Report to bring it in line with the more substantive FSOC Annual Report [General Board]***

The ESRB Annual Report currently serves mostly accountability purposes. There is currently limited appetite among members for an annual ESRB Macro-prudential Review as a flagship publication, not least due to tensions on resources, yet there are also valid arguments for more communication on macro-prudential issues, for example on the need to educate the general public (for both accountability and efficiency/credibility reasons); on the need to influence risk-taking behaviour, which eventually has an impact on the effectiveness and credibility of the organisation; and on the European Parliament's request for a comprehensive review of the systemic risks across the financial sector. One option in terms of increasing communication on macro-prudential issues would be to upgrade the ESRB Annual Report to bring it in line with the more substantive FSOC Annual Report, which has a significant impact on wider discussions in the United States. It should, however, be ensured that there are no overlaps with the many Financial Stability Reviews which are produced in the EU. Another option would be to publish press releases with more substance.

- ***Clarify the requirement in the ESRB Regulation for a "colour-coded system" [Commission, European Parliament, Council, General Board]***

Article 16 (4) of the ESRB Regulation requires a colour-coded system to be applied to warnings and recommendations. It would be appropriate to clarify the intention of the legislators behind this

requirement, in particular whether the colour-coded system is primarily intended to make it easier to assess risks or as a means to enhance communication.

- ***Follow up on ESRB Regulation requirement for a “colour-coded system” [General Board]***

Given the analytical challenges associated with the requirement to introduce a colour-coded system (identified by the Joint Group on Systemic Risk in 2011), priority was given to the elaboration of the Risk Dashboard (also mentioned in the regulation), the first issue of which was published in September 2012. At the current stage, subject to possible further clarifications from the legislators [see above recommendation], the Group would suggest developing, based on the experience of devising a quantitative Risk Dashboard, a coherent analytical framework for the colour-coded system, possibly starting with a note that explains the process leading to a selection of colours rather than a fully-fledged analytical framework.

- ***Simplify the approval process for the publication of ATC work [General Board]***

While communication can be considered one important policy area where the intervention of the decision-making body is justified, the Group would see merit in simplifying the decision-making process to ensure that a regular flow of work is published. Under the current situation, as a rule, all publications are both approved and commented upon at the level of the General Board. The Group suggests that for the publication of the work of the ATC (where all member institutions are represented and therefore already have a chance to comment) the General Board would no longer be involved in the process of providing comments and instead would only be involved in the final approval. Accordingly, comments on draft texts would be provided (only) at the level of the ATC (as well as by the editors) although, to ensure quality control, it would still be useful to keep two rounds of comments at ATC level, one on initial drafts and one shorter round on final drafts.

2.10 The proper functioning of the ESRB framework (governance issues)

- ***Improve swift decision-making in the ESRB Regulation by allowing for the delegation of powers from the General Board to other ESRB bodies [Commission, European Parliament, Council]***

Given the need to carry out short-term tasks as well the rigidities linked to the quarterly (three-month) cycle of meetings (ATC – ASC – Steering Committee – General Board), the Group believes it is of key importance that swift decision-making by the ESRB be improved. Beyond a greater recourse to written procedures of the General Board (which help reduce the number of items in the meeting agendas and address issues on a more timely basis, but are themselves burdensome), two options consisting of delegating some of the General Board’s responsibilities were discussed in the context of the consultation of member institutions (they do not necessarily exclude each other):

- strengthening the guidance function of the Steering Committee regarding identification and reaction to short-term risks, taking into account that its current role is basically to “assist in the decision-making process of the General Board by preparing the meetings of the General Board, reviewing the documents to be discussed and monitoring the progress of the ESRB’s ongoing work”. A strengthened role could involve meetings on a more regular basis. The format of the Steering Committee creates a level of comfort conducive to discussions on confidential issues. Improvements (except those consisting of formal delegations) could be achieved without changes to the ESRB Regulation. It has, however, been observed that the Steering Committee did not meet regularly in

2012 (with some initially planned meetings cancelled). More fundamentally, the fact that not all (voting) members are represented in the Steering Committee (notwithstanding the three-year rotation rule for some of its members) is felt by ESRB members as an argument against the wider delegation of responsibilities to the Steering Committee.

-empowering the ATC on a number of operational issues such as data collection as this ultimately feeds into ATC analysis (the ATC would be given the authority to sign off data requests). The fact that a lot of the ESRB's added value originates from the ATC and that the latter is very closely involved with the issues is an argument in favour of this option.

Taking into account that, according to the ESRB Regulation, the General Board is the only ESRB decision-making body, any delegation of powers in the current set-up could be challenged, especially when there are implications outside the ESRB (e.g. data requests).

Given that short-term reactivity is likely to remain essential in the future, notably as part of the coordination of macro-prudential instruments, the Group sees a case for legislative authorities to consider the possibility that – based on clear provisions in the Regulation – the General Board may need to delegate some of its tasks to other ESRB bodies (with the General Board retaining the authority to reconsider such delegations of responsibility).

For example, in view of the complexity of the data collection process, Article 13 (3) could be complemented as follows: *“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. **The Advisory Technical Committee shall take decisions on requests for information in accordance with Article 15.**”*

- ***Avoid recourse to a formal vote when it is not required by the ESRB Rules of Procedure (see also 2.1) [General Board]***

A number of member institutions have pointed to the repeated recourse to formal votes by the ESRB decision-making body since its establishment, beyond the few cases where it is compulsory (e.g. appointments). Use of the voting procedure is indeed made more frequently than within other bodies, such as the ECB Governing Council. A decision was taken in 2011 to allow voting in the case of written procedures. A formal vote by the General Board carries considerable weight. Therefore the practice has been used in particular for the adoption of the “policy advice” it issued on its own initiative and for ad hoc data requests (including for firm-specific data), two sensitive areas where the recently established ESRB was eager to establish a non-controversial track record. However, over time, regular voting has become too strong a constraint (each member must personally complete a voting slip and a two-thirds member quorum exists).

Now that the ESRB has entered a more stable phase, the Group would suggest limiting its recourse to voting. This is all the more feasible as the current practice goes far beyond the Rules of Procedure requirements⁹ (based in particular on a misunderstanding of paragraph 4 of Article 6, which is interpreted as implying the need for an approval by each Member in the context of written

⁹ For instance (see part on data collection), in some cases the approval of ad hoc requests for data by the General Board involved a formal vote (by written procedure) only because one member had raised a comment in the context of the initial written procedure.

procedures).¹⁰ Accordingly and in line with the Rules of Procedure, a single-round written procedure would be sufficient if the relevant majority (simple or two-thirds) is reached, unless comments deemed essential are raised; in the latter case, recourse would be made to a second-round written procedure (instead of a vote). The possibility would remain for one member to formally request a voting procedure. With the ESRB now a more mature institution and with an established track record (including in terms of collecting data) the Group is of the view that such a shift would contribute to enhancing the efficiency of the ESRB's decision making.

- **Address the issue of the designation of the ESRB Chair, taking into account the changes in the EU micro- and macro-prudential supervision framework** [Commission, European Parliament, Council]

Article 20 of the ESRB Regulation requires the European Parliament and the Council to address the modalities for the designation or election of the Chair of the ESRB (based on the report of the Commission). This issue will have to be addressed taking into account the announced changes in the institutional environment dealing with micro- and macro-prudential supervision (see Section 3).

- **Limit the amount of documentation submitted to the decision-making body (General Board)** [Steering Committee, Advisory Technical Committee, Secretariat]

Taking into account that most members of the General Board participate in a high number of international and European meetings and have to digest a lot of material, further steps should be taken in this field. The Group suggests the following measures: (i) for items submitted by the ATC, a number of key issues should be systematically selected on the basis of which Steering Committee and General Board discussions should take place; (ii) the Steering Committee and Secretariat should apply a stricter discipline in the number of documents submitted as part of the regular discussion on risks, with the Secretariat having the option to classify those not prepared specifically for the meetings as “background documents”; and (iii) the ESAs should be encouraged to provide more unique cross-sector documents.

2.11 Resources of the ESRB

- **Optimise the resources allocated to the ESRB and consider the necessity of increasing the number of staff working at the ESRB Secretariat** [ECB Executive Board]

Working conditions at the ESRB Secretariat seem unsustainable in the long term (also taking into account further tasks resulting from the activation of macro-prudential instruments). In order to facilitate its work in preventing and mitigating systemic risks, the Group considers it imperative that the Secretariat be given the resources required to provide its own analytical contribution to the work done by the different working and expert groups. To this end, an increase in the number of staff at the Secretariat should be considered, with additional support from up to ten professionals.

- **Develop the potential for synergies between the ECB and the ESRB more systematically** [ECB Executive Board, ESRB Secretariat]

¹⁰ In fact, all that is requested is the formal signature of each member. According to paragraph 1 of Article 6, any member may formally request a voting procedure, a provision which was meant primarily for the decision-making process during the meetings.

While noting the recent initiatives for greater interaction between the ESRB and ECB, the Group would support, in particular, the following:

-the ESRB Secretariat could benefit – possibly in the context of the meetings of the Macro-Prudential Group – from the regular monitoring of FSB work being performed by the ECB as an FSB member. This is all the more important given the increasing relevance of FSB topics for the ESRB [see 1.8 and 2.8].

-for items of direct relevance, the ESRB Secretariat could be invited to participate as an observer in the meetings of the Eurosystem Financial Stability Committee (subject to the revised mandate and composition of the FSC in the light of the establishment of the SSM).

- ***Increase collective efficiency by making use of the knowledge and resources of all ESRB institutions [General Board]***

One major advantage of the ESRB is that it can use expertise that already exists within its broad membership. Whenever institutions (e.g. ESAs) identify an issue that is important for systemic stability, they should consider initiating work at the ESRB more systematically by setting up a dedicated expert group, rather than by establishing separate streams of work.

3. POSSIBLE IMPLICATIONS OF THE SINGLE SUPERVISORY MECHANISM (SSM) FOR THE ESRB

Following the political agreement reached by the Council in December 2012 on the draft Council Regulation conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions (hereafter referred to as “SSM Regulation”), the High-Level Group was mandated by the General Board to consider, in consultation with the Commission as part of its contribution to the ESRB Review, the possible implications of the SSM for the ESRB. To that end, a meeting took place on 27 February in Brussels. While the work conducted by the Group and covered in the first two sections of this document has been very backward looking, aiming to improve the ESRB’s input based on concrete experience, this third strand of work is of a more speculative nature, considering that the SSM Regulation has not yet been adopted at the time this report is being finalised.

Any effort – even a preliminary one – to identify the possible implications for the SSM is, however, all the more warranted as the draft SSM Regulation does not refer to the role that the ESRB should play in the new framework. Furthermore, the final report of the European Council, Commission, Eurogroup and ECB, entitled “*Towards a genuine economic and monetary union*” (dated 5 December 2012) makes no reference to the ESRB, while the interim version of 12 October 2012 contained favourable indications¹¹.

Through the consultation of ESRB member institutions, the Group has identified a number of issues to be given due consideration in the process of designing and implementing the SSM. This includes: (i) the role of the ESRB in the new EU macro-prudential policy framework, and (ii) potential conflicts of interest stemming from the new role of the ECB as (micro and macro) supervisor.

3.1 The role of the ESRB in the future EU macro-prudential policy framework

While the ESRB involves the EU as a whole and covers not only banking but also insurance and financial markets, as well as cross-sectoral issues, the SSM could affect banking-sector-related macro-prudential policy in participating Member States. This could also have implications for the EU macro-prudential coordination framework in general.

One direct consequence of the draft SSM Regulation (see in particular Article 4a (2)) is a more fragmented EU macro-prudential policy framework with three – instead of two – different levels of responsibilities to be combined in SSM-participating countries (EU/ESRB, national and SSM/ECB). Concerning the interplay between the three layers, the SSM Regulation only provides guidance on the relationship between the relevant national authorities and the ECB, but remains silent about the ESRB and its relationship with the other two layers. This is all the more problematic as this third layer draws exclusively on “non-legally binding” powers.

¹¹ See page 3 (“it is important that centralised supervision allows a seamless continuity between micro-prudential and macro-prudential policy and contributes to reinforce the working of the ESRB”) and page 7 (“Providing macro-prudential policy tools to a future single supervisor ... would significantly improve the impact of macro-prudential policy. It could help in better managing the development of especially country-specific credit and asset price risks. In this context, the ESRB should play an increased role”).

Beyond the general question of whether the new framework will in itself enhance macro-prudential policy in the EU or whether, on the contrary, its complexity could act as a bias towards inaction, the issue of the exact role to be played by the ESRB in this new configuration is clearly one that needs attention.

- **For banking-sector-related issues, the SSM is likely to affect the voluntary macro-prudential policy coordination framework being developed by the ESRB**

It has now been widely acknowledged that cross-border externalities and financial stability concerns provide the rationale for macro-prudential policy coordination mechanisms. In some cases, the legislation foresees a formal coordination role for the ESRB, for instance in the guidance to be provided under the forthcoming CRD under Article 125, which discusses the modalities competent authorities may use to activate counter-cyclical capital buffers. Furthermore, Member States are obliged to notify the ESRB of their plans for implementing stricter national requirements for a number of macro-prudential instruments (as specified in the forthcoming CRR under Article 443a), whereby the ESRB (and the EBA) are obliged to provide opinions to the Commission, the Council and the Member State concerned on the appropriateness of the measure. The ESRB must provide its opinion within one month of receiving the notification.

Aside from such specific legal assignments, the ESRB is also developing a voluntary ex ante coordination framework to consider the cross-border implications of national measures. It should be based on advance notifications to the ESRB for the cases where national macro-prudential measures have the potential for material spillovers. This is part of the work on establishing a comprehensive macro-prudential framework involving both the EU and national levels which also includes the Recommendation on the macro-prudential mandate of national authorities and the upcoming Recommendation on macro-prudential instruments (see 1.5 and 2.5).

However, the SSM could elect to develop its own macro-prudential policy coordination framework. While the future institutional set-up for the conduct of macro-prudential policy within the Banking Union is still unclear, a system of dual competence, where both the ECB and national authorities are able to take macro-prudential decisions, could involve the establishment of a coordination mechanism that goes beyond the notification procedures between the ECB and each national authority provided for in the SSM Regulation. The SSM could therefore affect the voluntary coordination framework which the ESRB has started to develop.

This provokes the question of whether the involvement of the ESRB in macro-prudential-policy coordination remains relevant both within the SSM and more generally. In the case of the SSM, while the ESRB should interact with the ECB as it does with national agencies¹², a key question seems to be whether there is a role for the ESRB in the coordination process between the ECB and the national authorities of the SSM. Looking more generally, the ESRB, in contrast with the ECB and the national authorities, does not and will not have any binding instruments, having only the option of issuing warnings and recommendations; as a result, there is no certainty that it will remain the main forum for macro-prudential oversight and discussions on macro-prudential actions in the EU.

¹² The need to add the ECB as potential addressee of warnings and recommendations in the ESRB Regulation is addressed under 2.3 The policy making process (issuance of warnings and recommendations).

The Group consulted ESRB member institutions on their views about the future role of the ESRB in European macro-prudential discussions, which provided the following comments.

Some members advocated the full involvement of the ESRB in the coordination process, considering that SSM members, as well as the ECB in its function as a designated authority, should be obliged to consult the ESRB in line with Recital 9 and Recommendation B.4 of the ESRB Recommendation on the macro-prudential mandate of the national authorities. Some of them also argue that there is scope for the intervention of both the ESRB and SSM at different stages, owing to differences in mandates and governance. The coordination tasks of the ESRB should take place in an earlier phase of the decision-making process, rather than using the system of cooperation within the SSM, which is foreseen immediately before the implementation of macro-prudential instruments.

Other members are of the view that the ESRB should only be involved in the coordination of macro-prudential policies between the ins and outs. Along this line of reasoning, for intra-SSM issues, the ESRB would focus on designing and the general calibration of tools (also taking into account specific regional or sectoral issues), leaving implementation and application to the ECB and Member States.

Irrespective of whether the ESRB will be formally involved in the banking-sector-related macro-prudential-policy coordination process involving SSM members, the way members of the SSM will organise themselves and their input within the ESRB – in particular in the General Board, as the decision-making body – will also have implications. Whether they will tend to apply common positions on SSM and non-SSM relevant issues addressed by the ESRB will have a bearing on its functioning.

Beyond the limited guidance provided by the draft SSM regulation, part of the difficulty in trying to devise the future coordination framework comes from the fact that the review is taking place at an early stage in the development of macro-prudential policy, with the framework and tools still in the process of being designed and very little experience having been gained so far. It is also challenging to discuss a general breakdown of responsibilities between the ESRB, the SSM and the national level since, for instance, the CRD/CRR foresees different procedures and actors depending on the instruments.

Against this background, the Group considers that it is premature to assess the implications of the establishment of the SSM for the macro-prudential discussions of the ESRB and to suggest a clear delineation of responsibilities between the ESRB, the SSM and the national authorities.

Rather, as its input into the preliminary reflection, the Group has sought to identify the **pros and cons of the ESRB's involvement in macro-prudential coordination among all EU countries**.

On the one hand, the Group has identified a number of arguments in favour of involving the ESRB in macro-prudential-policy coordination (within the SSM and more generally):

- The ESRB has a unique expertise , given its large EU27 membership and cross-sectoral reach. Risk assessment and policy coordination require a comprehensive view of the financial system in the EU as a whole, also to avoid regulatory arbitrage. A coordination role for the ESRB reduces the risk of fragmentation across the EU.
- The ESRB is perceived as a well-established and independent institution. In this respect, the fact that it acts only through soft law can be seen as an additional strong point. It acts through moral suasion based on expert judgement.

- Coordinating macro-prudential policy within the EU is likely to be a lengthy and time-consuming process requiring considerable lead time to collect information, evaluate data and discuss needs and options for action. Given its (i) far-reaching mandate (with workload entailed), and (ii) composition (the Supervisory Board of the SSM essentially includes micro-supervisory authorities), the SSM is likely to focus more on micro-supervision and the current risks to be mitigated as they emerge. The ESRB (the core voting membership of which is composed of central banks) takes a more medium-term perspective, analysing the evolution of systemic risk over time.
- The draft CRD IV/CRR gives the ESRB a role in assessing national macro-prudential actions. In order to be able to do this, the ESRB needs to monitor and discuss possible cross-border aspects in a forum where all EU member states are represented.
- The ESRB, or member states, may also consider a wider set of instruments than those which the ECB can activate (and in one direction only).

On the other hand, there are also arguments against involving the ESRB in macro-prudential coordination in SSM countries. Having three different layers involved (including the ESRB) carries the following risks in particular: (i) potential conflicts between the different layers, (ii) the ESRB could be seen to be unnecessarily duplicating work – in the event that the SSM/ECB adopts an active coordination process on macro-prudential-policy measures – putting an additional burden of coordination on authorities, and (iii) too much complexity and fragmentation in the breakdown of responsibilities could also increase the bias for inaction, which has impaired macro-prudential policies in the past, or could at least lead to delays, therefore undermining preventive policies.

In the absence of a clear legal background, the Group is of the view that the question of whether the role of the ESRB will be changed dramatically largely depends on the macro-prudential role that the various stakeholders, including the ECB, will want the SSM to assume. As the draft SSM Regulation does not refer to the role to be played by the ESRB in the new framework, there is a case for providing more clarity through revisions to the ESRB Regulation.

3.2 Conflicts of interest: a true risk or a false risk?

- ***General considerations***

With the establishment of the SSM, the current EU macro-prudential set-up based on the ECB supporting the ESRB may be seen as having the potential to give rise to conflicts of interest.

In theory, there appear to be at least two potential sources of conflict arising from the connections between the ESRB and the ECB: one stemming from the ECB being a potential addressee of ESRB warnings and recommendations as micro-and macro-supervisor; the other related to the fact that the ECB as macro-prudential player in SSM countries is also involved in the coordination of macro-prudential policy for the EU as a whole, thus allowing for the perception that too prominent a role is given to the ECB/SSM at the expense of non-participating countries. Concerning the latter issue, the Group is of the view that the provisions already contained in the ESRB Regulation aimed at ensuring a balanced representation between euro area and non-euro area countries (see rules for the appointment of the first Vice-Chair and members of the Steering Committee) would reduce concerns regarding the balance between SSM countries and non-participating countries, which does not, however, exclude ensuring a balanced approach in day-to-day processes.

Concerning the first dimension mentioned above (the ECB becoming a potential addressee of ESRB warnings/recommendations), the new set-up would indeed seem to indicate that the ECB, as provider of the analyses, is not best placed to draw the ESRB's attention to shortcomings in the SSM, or that the ECB as addressee of ESRB warnings and recommendations will be seen as being favoured above other supervisory institutions. Furthermore, there is a risk that General Board voting members that are part of the SSM may feel bound by the supervisory decisions (both on micro- and macro-prudential issues) taken in their capacity as members of the ECB's Governing Council.

On the other hand, it can be argued that the ESRB has already provided evidence of its independence vis-à-vis the ECB with different positions being taken by the two institutions in the context of ESRB's votes (albeit on issues where the ECB's direct interests were not at stake).

Nevertheless, the Group believes it is important to reassure the various stakeholders that no conflicts of interest on macro-prudential issues, including anything relating to monetary policy, could alter the quality of the ESRB's policy advice.

To that end, measures to be considered include: (i) *strengthening the ESRB Secretariat* by allocating more analytical resources to it, thus giving it a stronger analytical independence from one of its potential addressees of warnings and recommendations; (ii) giving the ESRB a *separate Chair* in the medium-term, an issue the Regulation requires to be addressed as part of the review.

- ***An important dimension to be taken into account in this debate: the review (required by the Regulation) of the designation of the Chair of the ESRB***

The ESRB Regulation requires an assessment of whether the ECB President should remain Chair of the ESRB at the end of the five-year mandate following the entry into force of the Regulation (see Article 5.1). With the prospect of the ECB emerging as a major micro- and macro-prudential actor, considerations should include the possible conflict of interest between the two functions. For example, the question can be raised, at least in theory, whether the ECB President, as ESRB Chair, is best placed to deliver a warning or a recommendation to the ECB.

At this early stage, the Group considers that it is not in a position to assess whether, with the new situation created by the SSM Regulation (compared to the prevailing environment when the ESRB Regulation was drawn up), arguments pointing to the risks entailed by the ECB President keeping this task, in particular potential conflicts of interest, together with those relating to the issue of the visibility of the ESRB (to the outside world the Chair is perceived first and foremost as the President of the ECB), would outweigh those in favour of keeping an ECB Chair at the end of the initial five-year mandate. There are indeed also valid arguments to retain the current set-up.

In addition to the arguments contained in the de Larosière report (i.e. high-profile leadership, international credibility), these involve the ESRB Chair gaining additional credibility from the combination of responsibilities in the new supervisory areas.

Furthermore, arguments pointing to the practical difficulties arising from one single person acting de facto as Chair of different functions/institutions relating to monetary policy, micro-supervision and macro-supervision seem to be less relevant since the Regulation assigns the Chair of the ECB Supervisory Board to a different person.

Finally, it should be noted, leaving aside the ESRB/ECB specificities in terms of multinational reach, euro area/non-euro area disconnect and number of credit institutions involved, that concerns relating to a possible conflict of interest do not seem to prevent the UK from moving towards a framework with the Governor of the Bank of England (who chairs the Monetary Policy Committee) also envisaged as the Chair of the Prudential Regulation Authority (PRA) (micro-prudential) and the statutory Financial Policy Committee (FPC) (macro-prudential, with powers that include the possibility of giving binding directions on selected macro-prudential tools or addressing recommendations to the PRA).

If, however, the decision were taken to change the Chair after the initial five-year mandate, the Group sees two main options, taking into account the fact that the philosophy underlying the ESRB (see the *de Larosière Report*) would argue in favour of selecting a candidate from an NCB: (i) an acting Governor (i.e. an expert yielding his expertise from national responsibilities) who could, for instance, be appointed by the General Board for a period of three years (with the possibility of renewing the mandate once), or (ii) a full-time Chair. The selection process of the Chair should involve the General Board voting on NCB candidates.

- **Possible conflicts of interest at the level of staff allocated to ESRB functions**

Just as the possibility for opposing views to emerge between the ESRB and the ECB would increase in the event that the latter takes over micro- and macro-prudential responsibilities, it can also be claimed that the staff members provided by the ECB would be more exposed to potential conflicts of interest, as mentioned in Part I of the draft report (e.g. on the communication side where there is already a natural or objective pressure to try to align ESRB and ECB messages, or at least to avoid contradictions/discrepancies between them).

The risk stemming from the existing functional dependence of the ESRB Secretariat vis-à-vis the ECB (i.e. one of its potential addressees of warnings and recommendations) can indeed be seen as an argument in favour of the ESRB Secretariat acquiring more independent analytical capacity.

At the same time, it is important not to call into question – on the basis of possible conflicts of interests – the support provided by the ECB business areas, since access to the ample resources of the ECB (data, analysis, expertise, staff, perspectives) is seen as a vital precondition for the ESRB's work.

Against this background and having considered all arguments, the Group is of the view that concerns about possible conflicts of interest further confirm the need, as formulated under 2.11, to increase the number of staff members at the Secretariat, and to provide additional support from professionals. Furthermore, providing more analytical resources with expertise in areas other than the banking sector would help mitigate the “banking sector bias” issue mentioned in Section 1, which is further compounded by the fact that the ECB, alongside the SSM, is becoming a major supervisor in this sector.

3.3 Arrange for better ESRB access to information and data

In addition to the above, the Group also identified issues to be duly considered in connection with the establishment of the SSM, among which was the need to ensure the ESRB's access to information and data. As mentioned under Section 1, the work of the ESRB has in some cases been hampered by complex processes for accessing data and late deliveries of data. These aspects need to be given

due attention when establishing the new institutional structure with additional responsibilities for the ECB. Therefore, evolving regulations need to ensure smooth processes for the ESRB's access to the information and data that it deems necessary.

In this respect, other "SSM implications" requiring some adjustment to the existing framework include the need to modify the Recommendation on macro-prudential mandates addressed to Member States at the end of 2011 to reflect the relationship between the national macro-prudential authorities and the ECB (and the ESRB) in terms of exchanging information and more generally to consider the ECB as an independent player.
