



**COUNCIL OF
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Financial supervision: Council adopts legal texts establishing the European Systemic Risk Board and three new supervisory authorities

The Council today¹ adopted legal texts underpinning a reform of the EU framework for supervision of the financial system, aimed at eliminating deficiencies that were exposed during the financial crisis (*docs [39/10](#), [40/10](#), [41/10](#), [42/10](#), [43/10](#) and [13694/10](#)*).

It adopted regulations establishing a European Systemic Risk Board (ESRB), which will provide macro-prudential oversight of the financial system, and three new supervisory authorities at the micro-financial level, namely:

- a European Banking Authority (EBA);
- a European Insurance and Occupational Pensions Authority (EIOPA); and
- a European Securities and Markets Authority (ESMA).

The four new bodies will be part of a European system of financial supervisors, which will include the supervisory authorities of the member states. The ESRB and the EIOPA will be sited in Frankfurt, the EBA in London and the ESMA in Paris.

The new system will be operational as from 1 January 2011.

Adoption by the Council follows an agreement reached with the European Parliament on the key elements of the reform, as endorsed by the Council at its meeting on 7 September.

¹ The decision was taken without discussion at a meeting of the Economic and Financial Affairs Council.

P R E S S

The Council today also adopted a regulation conferring specific tasks upon the European Central Bank (ECB) with regard to the day-to-day running of the ESRB, as well as a directive amending existing legislation¹ in respect of the powers conferred on the three supervisory bodies.

European Systemic Risk Board

The ESRB's role will be to monitor and assess potential threats to the stability of the financial system. Where necessary, it will issue risk warnings and recommendations for remedial action and will monitor their implementation.

Risks warnings and recommendations will either be of a general nature or of a specific nature. They may be addressed to the EU as a whole or to one or more member states, or to one or more of the European supervisory authorities (ESAs), or to one or more national supervisory authorities.

The ESRB's recommendations are expected to exert a major influence on addressees, with a high quality of analysis, while addressees will be required to provide adequate justification ("act or explain") in the event of them not following its recommendations. If the ESRB judges the reaction to be inadequate, it will inform the addressees, the Council and, where relevant, the ESA concerned. On a case-by-case basis, it could decide to make the recommendations public after informing the Council.

The ESRB will be chaired by the President of the ECB for an initial term of five years. For subsequent terms, the ESRB's president will be designated in accordance with modalities to be determined following a review.

A steering committee will set the ESRB's work agenda and prepare decisions. It will comprise the board's chairperson and first vice-chairperson, the vice-president of the ECB, four other members of the general board who are also members of the ECB's general council, the chairpersons of the three ESAs, a member of the Commission, the chairpersons of two advisory committees and the president of the economic and financial committee (EFC).

The board's general council will comprise the president and vice-president of the ECB, the governors of the central banks of the member states, the chairpersons of the three ESAs, a member of the Commission, chairpersons and vice-chairpersons of two advisory committees and (as non-voting members) the president of the EFC and representatives of each of the national supervisory authorities.

EBA, EIOPA and ESMA

The three European supervisory authorities (ESAs) will work in tandem with the supervisory authorities of the member states.

¹ Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC.

They will replace three existing committees of supervisors at EU level (CEBS, CEIOPS and CESR¹) and will have legal personality under EU law.

The ESAs will comprise high-level representatives of all of the member states' supervisory authorities under permanent chairmanships. National authorities will remain responsible for the day-to-day supervision of individual firms, and a joint committee will be set up to ensure cooperation and to coordinate the sharing of information between the ESAs and the ESRB.

The ESAs will be responsible for ensuring that a single set of harmonised rules and consistent supervisory practices are applied by supervisory authorities of the member states.

They will have the power:

- to investigate alleged breaches of EU law. In the event of non-compliance by a national authority, the ESA may, in certain circumstances, take an individual decision addressed to a financial institution, requiring that the necessary action be taken to comply with its obligations under EU law;
- in emergency situations where coordinated action by national authorities is needed, to adopt individual decisions requiring the competent authorities to take the necessary measures. It would be for the Council, in consultation with the Commission and the ESRB (and where appropriate the ESAs), to determine the existence of an emergency situation. If the competent authority doesn't comply with the ESA's decision, the ESA may, in certain circumstances, take an individual decision addressed to a financial institution requiring the necessary action to be taken;
- in the event of disagreements between competent authorities of different member states, and where mediation by the ESA has failed, to take binding decisions requiring them to take specific action in order to settle the matter, in order to ensure compliance with EU law. If the competent authority doesn't comply with the ESA's decision, the ESA may, in certain circumstances, take an individual decision addressed to a financial institution requiring the necessary action to be taken.

However, on account of the financial liabilities that may be involved for the member states, decisions taken by the ESAs must not impinge in any way on the fiscal responsibilities of the member states. Any binding decision taken by the ESAs will be subject to review by the EU courts.

The ESAs will also be responsible for fostering coherence in the application of EU law amongst colleges of supervisors. In this context, it may collect and share information, promote risk evaluations and initiate and coordinate EU-wide stress tests to assess the resilience of financial institutions.

¹ Committee of European Banking Supervisors, Committee of European Insurance and Occupational Pensions Supervisors, Committee of European Securities Regulators.

Colleges of supervisors are permanent structures for cooperation and coordination amongst authorities involved in the supervision of cross-border financial groups.
