



*Final EACB response
to the Commission consultation on ESFS review*

26 July 2013

The EACB is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.200 locally operating banks and 63.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 160 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 50 million members and 750.000 employees and have a total average market share of about 20%.

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The voice of 4,000 local and retail banks, 50 million members, 181 million customers

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1. The European Supervisory Authorities (ESAs)

1.1. Effectiveness and efficiency of the ESAs in accomplishing their tasks

1.1.a. How do you assess the impact of the creation of the ESAs on the financial system in general and on (i) financial stability, (ii) the functioning of the internal market, (iii) the quality and consistency of supervision, and (iv) consumer and investor protection in particular?

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As an association representing the interests of the co-operative banks in Europe, the EACB has established close working relationships with both the EBA and ESMA.

The EACB appreciates the important contribution that the EBA provides in the creation of the European Single Rulebook in banking, as well as in promoting convergence of supervisory practices. In particular EBA and ESMA turned out to be very productive in this regard measured to the output in a relatively short time frame.

Albeit this the ESAs should consider the limitations and conditions of their mandate. We see with some concern that the differences between Level 1 law (with the involvement of the Council and the European Parliament) and level II rules (standards and guidelines etc.) become blurred. The limits of level 1 legislation should be respected strictly. Respected.

Over and above this there should better coordination between the different ESAs with regard to overlapping issues (e.g. Guidelines on remuneration policies and practices, Compliance) to avoid inconsistencies and doublings. Furthermore we notice also an increasing number of inconsistencies between the interpretation of rules between the European Commission and the ESAs.



Finally attention should be paid to the fact that the European-wide harmonisation of requirements is first of all just in the interest of cross-border active market actors. Most of the European credit institutions e.g. are however small and just regional active banks. Therefore their business models and aspects of proportionality have to be considered more strictly.

1.1.b. Do the ESAs' mandates cover all necessary tasks and powers to contribute to the stability and effectiveness of the financial system? Are there elements which should be added or removed from the mandate? Please explain?

The EACB has not so far identified any deficits in the tasks and powers resp. Mandates vested in the ESAs. In contrast, the mandate seems to be very broad.

Possibly, their tasks could be more positively defined by EU legislation (tasks clearly linked to mandates vested in the EBA by the EU Directives and Regulations).

For the rest cp. our answer to question 1.1.a

1.1.c. In your view, do the ESAs face any obstacles in meeting their mandates? If yes, what do you consider to be the main obstacles? Please explain.

Yes. The ESAs have received the important mandates of defining and harmonizing practices and standards across European States. Banks have supported the role of the ESAs, which is essential to enhance the Single Market. But considering the total resources employed, their mandates are excessively hard to achieve. National supervisors are involved in the work of the ESAs but they may have different interpretations of different data received from banks, they may give different instructions etc. As a result, European standards may have different effects at national level instead of fostering convergence.

Moreover, the EACB sees the following circumstances that would result in obstacles: The fact the ESAs only publish consultation documents in English result in smaller institutions outside the UK and Ireland being almost excluded from the participation in consultations and from following technical developments at any stage. While EU legislation generally stipulates that different degrees of complexity, size and business volume have to be taken into account also when drafting standards, the ESAs are prevented from properly considering the situation of the less complex institutions due to their language regime. Thus, in order to remove this obstacle, the language regime of the ESAs should be reconsidered.

1.1.1. Work towards achieving a single rulebook - regulatory activities
1.1.1.a. Do you consider that the technical standards and guidelines/recommendations developed by the ESAs have contributed to further harmonise a core set of standards in the area of supervision (the single rulebook)? If you have identified shortcomings, please specify how these could be addressed.

The EACB welcomes the work and commitment of the EBA and ESMA in developing draft technical standards.



The EACB notes that the EBA cannot always align its work programme with the EU legislative process, notably due to very strict timelines imposed on the EBA to deliver its standards on the one hand and the limited human resources they avail of on the other.

Although we cannot offer a solution to this problem, we would only wish to mention that launching consultations before the underlying legislation is adopted risks developing standards which are not in line with the underlying legislation, and which may require some further adjustments / consultations. Also, there is a risk of pre-supposing the existence of a mandate which can then be deleted/transformed in the course of the legislative process (e.g. delegated power deleted; power to issue standards transformed into guidelines, etc.). Finally, such approach carries a risk of indirectly influencing the legislative process.

On another note, the EACB would like to call on the ESAs, and in particular to the EBA, to take due account of the proportionality clauses in the processes of formulating the implementing and regulatory technical standards. In the situation where the underlying legislative text contains a general proportionality clause (e.g. as is under the CRDIV), this should be duly translated into more specific proportionality clauses in the draft standards. Even where there is no specific reference to proportionality in the legislative act, the ESAs should still take into account the different business models.

In this context, the EACB welcomes the initiative of the EBA to hold a Workshop on Proportionality, and to consult with the relevant stockholders on the possibilities to take a proportionate approach in the context of the single rulebook.

In the context of drafting a single rulebook we would like to mention that characteristics on the national level can not be simply negated on European level (e.g. different business models between private, public and co-operative banks).

1.1.1.b. What is your assessment of the work undertaken by the ESAs as regards providing opinions (e.g. technical advice) to the EU institutions?

The ESAs should just provide opinions according to their mandates stipulated in EU legislation in order to avoid that they develop a policy shaping role.

1.1.2. Common supervisory culture/convergence of supervisory practices

1.1.2.a. In your view, did the ESAs contribute to promoting a supervisory culture and convergence of supervisory practices? If you have identified shortcomings how could these be addressed?

The EBA's predecessor, CEBS, already played an important role in promoting the convergence of supervision, and the EACB believes that the EBA will continue this role. Given the extent of its mandates envisaged in the CRD IV/CRR, as well as in the Bank Recovery and Resolution Directive (BRRD), and its commitment to the preparatory work, we are confident that the EBA will provide an important contribution to the convergence of the supervisory practices.

However, it is still too early to formulate a full-fledged assessment of the EBA's contribution in this regard. Indeed, the CRD IV and CRR are only at the stage of the publication in the Official Journal of the EU, and the EBA will now have the mandate to issue implementing and regulatory technical standards.



While the members of the EACB strongly support convergent prudential standards, they would also recall that this should not result in uniformity, implying a "one size fits all"-approach in regulation.

Furthermore the ESAs could improve regarding transparency. E.g. the ESMA just publishes in a small footnote on the website the fact that the starting of the reporting obligations according to EMIR will be delayed (probably). The result is unnecessary uncertainties at supervised entities level.

For the rest cp. our answer to question 1.1.a.

1.1.3. Consistent application of EU law

1.1.3.a. In your view, do the procedures on breaches of EU law (Article 17 ESAs Regulations) and binding mediation (Article 19 ESAs Regulations) ensure the consistent application of EU law? If you have identified shortcomings how could these be addressed?

The procedures on breaches of EU law, as well as on the binding mediation, as envisaged in the EBA Regulation, seem to be sufficient. However, the EACB has no practical experience in this regard.

It remains to be seen how those procedures will be affected by the Single Supervisory Mechanism performed by the ECB.

1.1.4. Emergency situations

1.1.4.a. Do you consider the ESAs' role in emergency situations appropriate? Please explain.

What is necessary are clear competence criteria to clearly define the roles of the ESAs, the national authorities, the ECB and of the resolution authorities for those situations. With regard to the progress of the legislative processes/the implementation of recently adopted rules, we do not think that it is possible to make any assessment on the role of the ESAs in emergency situations at this moment in time.

1.1.5. Coordination function (Art 31 ESAs Regulations)

1.1.5.a. Do you think that the coordination role of the ESAs is appropriate? If you have identified shortcomings, please specify how these could be addressed.

We have no experience on this issue.

1.1.5.b. In your experience, to what extent have coordination activities carried out by the ESAs contributed to promoting a coordinated EU response to adverse market conditions? Please explain.

We have no experience on this issue.

1.1.6. Tasks related to consumer protection and financial activities

1.1.6.a. How do you assess the role and achievements by the ESAs in the field of consumer protection? Please specify the main achievements by each ESA.

The EACB takes note of the initiatives on organising consumer days by the three ESAs, and the initiative to closely co-operate by organising a joint day by all three



ESAs. At the end of the day there are just less experiences on this field. Furthermore it has to be acknowledged that on European as well as on national level a sufficient degree on consumer protection already exists so that there is no or at least a very limited scope for the ESAs to work on this field. The ESAs could have the competence for a consumer protection aspects from a more "general" perspective, but not a competence to deal with individual cases or complaints.

1.1.6.b. Are you aware of the warnings that were issued by the ESAs so far? If yes, please specify which ones and whether they have contributed to improve consumer protection or any other objective of the ESAs.

EBA and ESMA had published a warning on "Contracts for Difference" published in February 2013. We have no awareness of the effects.

1.1.6.c. What are the main strengths and weaknesses of the current framework on consumer protection (Article 9 ESAs Regulations) and what would you suggest to address any possible shortcomings?

The EACB would like to stress the need for the regulators and supervisors to focus on the activities and products offered by non-banks, and other non-regulated entities (shadow banking).

1.1.7. Direct supervisory powers

1.1.7.a. How do you assess ESMA's direct supervisory powers? If you have identified shortcomings, please specify how these could be addressed.

We welcome the direct supervisory activity of the ESMA with regard to rating agencies. We are not aware of other effects of a direct supervision of the ESAs.

1.1.7.b. How do you assess ESMA's performance for the registration and supervision of credit rating agencies (CRAs)?

We welcome the direct supervisory activity of the ESMA with regard to rating agencies.

1.1.7.c. Do you consider that further responsibilities of direct supervision should be entrusted on one or more of the ESAs, particularly with regard to institutions or infrastructures of pan-European reach? Please explain.

We would welcome ESAs being more engaged in supervision of shadow banking institutions and their activities. The EASs should not only ensure a single rule book and hence level playing field among banks, but also between banks and other financial institutions competing with banks.

1.2. Governance of the ESAs

1.2.1. General governance issues

1.2.1.a. Are the governance requirements sufficient to ensure impartiality, objectivity and autonomy of the ESAs?

Yes. However, the governance of the ESAs should be designed and maintained with the view of ensuring that the voice of the various banking models, including a co-operative banking model, can be heard. This can be achieved, for example, through a balanced composition of the Banking Stakeholder Group, as well as transparency of the establishment and functioning of any EBA internal committees



or panels. E.g. in the Banking Stakeholders Group of EBA 3 of the 10 industry representatives come from the cooperative and savings banks whereas their total market share is much more.

1.2.1.b. How do you assess the accountability requirements? If you have identified shortcomings, please specify how these could be addressed.

The assignment of the accountability of the ESAs - and in the SSM framework also of the ECB for the exercise of its supervisory tasks - to the European Parliament and the Council, should be strengthened, and should be made more transparent. It is too early to assess the effectiveness of the accountability regime. However, we understand that a balance between independence and accountability is hard to find. Moreover, it seems that, at least at the beginning, national influences have tried to hinder EBA's attempts to harmonization. Therefore, EBA's authority and arbitrage powers could be enhanced.

1.2.2. Decision-making bodies and voting modalities

1.2.2.a. Does the current composition of the Board of Supervisors (BoS) ensure that it acts efficiently? If you have identified shortcomings, please specify how these could be addressed.

There are no deficits visible.

1.2.2.b. Does the composition of the Management Board ensure that the ESAs are run effectively and perform the tasks conferred on them? If you have identified shortcomings, please specify how these could be addressed.

There are no deficits visible.

1.2.2.c. Does the mandate of the Management Board ensure that the ESAs are run effectively and perform the tasks conferred on them? If you have identified shortcomings, please specify how these could be addressed.

There are no deficits visible.

1.2.3. Financing and resources

1.2.3.a. How do you assess the arrangements on financing and resources? If you have identified shortcomings, please specify how these could be addressed.

EBA does not avail of sufficient funds in order to grow its headcounts to levels commensurate with their working load.

1.2.4. Involvement and role of relevant stakeholders

1.2.4.a. How would you assess the impact of the relevant stakeholder groups within the ESAs on the overall work and achievements of the ESAs?

While the EACB very much appreciates the role and the work performed by the Banking Stakeholder Group, as an association we do not see whether the BSG has a real chance to impact the processes of developing and formulating the draft EBA technical standards.



Some difficulties for the EBA's BSG to effectively influence the process may result from the limited involvement of the BSG in the pre-drafting stage and the limitations on information-sharing by the BSG members with other stakeholders not directly represented in the BSG (please refer to question 1.2.4.f). Also EBA should explain to the BSG when it does not follow its consults.

1.2.4.b. Are you satisfied with the quality and timeliness of consultations carried out by the ESAs?

However, it is not always transparent how the issues are progressing at the level of the relevant EBA committee, Board of Supervisors or other internal EBA bodies. Furthermore the deadlines for consultations are sometimes far too short.

Furthermore considering the highly technical content of EBA's work, and the very significant impacts all RTS/ITS and guidelines have on banks' activities, it would be useful for the ESAs to envisage a stronger coordination with banks through enhanced disclosure of draft working groups conclusions and final RTS/ITS/guidelines before submission to the Commission for approval.

In addition, the use of only English language in the consultation processes (and for the EBA website) is problematic for many stakeholders. While we understand the challenges related to the use of all official EU languages, we would encourage further elaboration of possible solutions. As a minimum, it could be useful if the stakeholders' responses to the EBA consultations could be submitted in local languages.

In addition, it would be recommended to envisage a second consultation process in the case where the main points are expected to be subject to change by the EBA. Such a second consultation process would enhance the democratic legitimization of a delegated act.

We finally consider that banks should be more systematically consulted and informed with respect to the preparation of stress tests and asset valuation reviews (methodology, calendar, communication, etc.).

1.2.4.c. Are you satisfied with the appointment procedures for the stakeholder groups?

The EACB is concerned that the co-operative business model is under-represented in the BSG, with only 3 out of 10 industry seats being jointly assigned to co-operative and savings banks. This represents 30% assigned for the co-operative savings bank sector which in total their market share will be about 40 to 50% in European markets.

It is not clear, for example, why in the selection the following applies: "*Regarding entities, a general preference should be given to European entities versus national ones, nonetheless, and to large cross-border banking groups, with European/International presence, versus national ones*" [selection procedure note of 17 May 2013, EBA].

In addition, the rules on compensation for participation in the BSG, which envisage no reimbursement of any costs for the industry representatives, can be discriminating for smaller banks, located in the geographical outskirts of the EU territory.



1.2.4.d. In your experience, does the composition of stakeholder groups ensure a sufficiently balanced representation of stakeholders in the relevant sectors? If not, which areas appear to be insufficiently/overly represented?

Please refer to our response to Q 1.2.4.b.

1.2.4.e. Is the work undertaken by the stakeholder groups sufficiently transparent? Do you see areas where the approach towards transparency needs to be revisited?

The tasks and the work of the BSG could be made more transparent. For the time being, it is not clear for outsiders at what stage of the process the BSG is involved in the work of the EBA and to what extent. It would be useful to disclose the agenda and minutes of the meetings of the BSG in a more timely manner (e.g. agendas in due time before the meetings)

1.2.4.f. In your experience, are the ESAs, and in particular the ESAs stakeholder groups, sufficiently accessible for stakeholders not directly represented in these stakeholder groups?

The following obstacles to achieve an appropriate level of accessibility should be addressed:

- Industry associations which would naturally provide access to the information to a wide group of stakeholders and could efficiently streamline their members' input, should in our view be granted more participation in the EBA's BSG.
- Members of the BSG are participating in the work in their personal capacity and are constrained from sharing the information, documents, etc. with, for example, other representatives of organisations which are members of the same industry association.
- The publication of the agendas often takes place after the BSG meeting. The publication of the minutes is delayed by months. This makes this information irrelevant by the time it is available to stakeholders not directly represented in the BSG.
- All other working documents should not be automatically classified as falling under the professional secrecy, and a wider access to the such documents – where possible - would be appreciated.

1.2.5. Joint bodies of the ESAs

1.2.5.a. How do you assess the functioning of the Board of Appeal (BoA)? If you have identified shortcomings, please specify how these could be addressed.

We are of the opinion that the scope for making an appeal according to Art 60 of the Regulation 1093/2010 could be broadened. We consider that any person who is directly or indirectly concerned by a standard, regulation or decision of the EBA could render the exceeding of the powers by the authority.

Also, it happens quite often that it remains unclear if certain provisions in a delegated act are still within the scope of the authorizing legal act. Therefore, another task of the Board of Appeal could be to supervise the ESAs' compliance with their assigned competences.



1.2.5.b. What is your assessment of having one joined BoA for all ESAs as compared to a dedicated BoA for each ESA respectively?

One issue worth considering is whether a joint BoA can ensure the relevant level of expertise in all three fields of responsibility of the ESAs. In other words, it could be questionable whether, for example, an expert in the area of insurance can provide the right level of expertise to address the issues related to banking, and vice versa, in cases brought before the BoA. We have doubts whether a joint BoA is meaningful against this background.

1.2.5.c. How do you assess the functioning of the Joint Committee (JC)? If you have identified shortcomings, please specify how these could be addressed.

Overall the work of the Joint Committee could be made more transparent. In particular, more clarity concerning the functioning of the Sub-Committees would be welcome.

1.2.5.d. Does the JC ensure cross-sectoral cooperation and consistent approaches between the three ESAs? If you have identified shortcomings, please specify how these could be addressed.

Based on the regulatory set up of the JC it has the capacity to provide cross-sectoral cooperation.

The possibility of co-operation between the ESAs through a Joint Committee has already been captured, for example, through the organisation of a common Consumer Strategy Day.

2.1. ESRB's mandate and experience

2.1.1. Risk identification and prioritisation

2.1.1.a. What are your views on the ESRB mandate? If you think it should be amended please specify how.

ESRB works without attracting attention. There is no public statement of the ESRB known, where there was a warning for specific macroeconomic risks, even though, there was in fact a need of addressing macroeconomic risks (e. g. low interest rates).

2.1.1.b. What are your views on the definition of systemic risk, as provided by the ESRB Regulation? If you think it should be amended, please specify how.

There cannot be a final definition of systemic risk. A thorough and transparent macroeconomic analysis is important. Therefore, there is a need for more regular reports specifying some macroeconomic risk factors and more dialogue with the credit sector.

The ESRB should indicate to the ESAs the macro-prudential consequences of their delegated acts. It should analyse every the macro-prudential impact of each single standard and should try to adjust the different standards. It often remains unclear if the main macro-prudential effects of certain requirements are scrutinised before they are published.



2.1.1.c. Do you think that the ESRB has developed a sufficiently preventive and forward-looking approach? Please comment on the successes and shortcomings and how they could be, respectively strengthened or addressed.

No, the methods and procedures are not published and explained to the credit sector.

2.1.1.d. What aspects of EU financial stability should be addressed by the ESRB as a priority?

The low interest rates are the biggest risk for the economy. Other risks like an increasing debt-ratio should also be addressed.

2.1.1.e. What is your assessment of the ESRB's coordination with other economic or financial policy areas or economic governance procedures, for example on macroeconomic imbalances?

There is a need for more transparency with e. g. a macroeconomic scoreboard with key indicators for imbalances, e. g. current account, the structure of its financing, and so forth.

2.1.1.f. Please outline and comment on the areas in which the ESRB has been most effective.

There are no experiences with regard to the effectiveness of the ESRB.

2.1.1.g. Should the ESRB specific mandate be adapted in light of the Single Supervisory Mechanism? If yes, how?

It would be premature to call for adapting the ESRB mandate under the influence of the SSM. On face value, it seems that the tasks, the objectives and the scope of the SSM and ESRB are different, except for macro-prudential oversight. Cooperation between the ESRB and the ESAs could be reinforced, especially concerning reporting. Clarity should furthermore be provided on the division of tasks between national authorities, the ECB and the ESRB in relation to macro-prudential oversight.

2.1.2. Timeliness and appropriateness of warnings and recommendations
2.1.2.a. What are your views on the powers conferred to the ESRB by the ESRB Regulation (i.e. the power to issue warnings and recommendations)? Are they sufficient? Please explain. What are your views on the use the ESRB has made of these powers in practice?

No comment.

2.1.2.b. What is your assessment of the ESRB's public recommendations in terms of content and timeliness? What is their impact on the direct addressees, and indirectly on the relevant market/market participants? If you identify any potential improvements, please specify how these could be delivered.

Since the ESRB has been created, it does not seem to have warned against risks that have occurred. For instance, with respect to the speeding-up of



implementation of the capital ratios by the EBA that resulted in the sovereign debt crisis, but also the Cyprus crisis that presented a potentially systemic nature. The recapitalization exercise led by the EBA has encouraged banks to diminish their exposure to sovereign debt of peripheral States, which contributed in deepening the crisis. The ESRB should have played a role by warning against this type of risks

There should be more transparency and an intensive dialogue with the credit sector before public recommendations are made.

2.1.2.c. Did the recommendations adequately address the relevant policy makers in alerting them to, and advising them on, the necessary measures for risk mitigation?

There are no experiences with regard to this point.

2.1.2.d. Were the recommendations specific enough and did they address the main specific risks that could be identified in the period under review? If not, where would you identify the shortcomings and how could these be improved?

No comment.

2.1.3. Implementation of warnings and recommendations

2.1.3.a. How do you assess the non-binding character of warnings and recommendations? Could such tools be strengthened? If yes, please specify how.

Warnings and recommendations should have also in the future a non-binding character. This would allow the ESRB more flexibility and freedom to formulate its messages.

2.1.3.b. What is your assessment of the 'act or explain' mechanism chosen by the Regulation? If you identify any room for improvement please specify how this could be addressed.

It is important to discuss and explain the identified risks with market participants.

2.1.3.c. What impact did public recommendations have on the market or public in general? Please outline your experience.

No comment.

2.2. Institutional framework and governance of ESRB

2.2.1. General governance issues

2.2.1.1. Key principles for good governance

2.2.1.1.a. Do the regulations provide ESRB with the right structures to follow the good governance model in terms of openness, participation, accountability, effectiveness and coherence and to promote a common supervisory culture? Please explain your answer.

There is a need for more transparency and dialogue with the market participants.



2.2.1.1.b. Has ESRB contributed to establishing a common macro-prudential policy framework and convergence of macro-prudential supervisory practices within EU? Please explain your answer.

It is still too early for an assessment.

2.2.1.1.c. Has the ESRB acted as an impartial body in the interests of EU as a whole? Please explain your answer.

There are no experiences with regard to this point.

2.2.1.2. Accountability and transparency

2.2.1.2.a. Are the ESRB's accountability and reporting obligations, (including the frequency), to the European Parliament and the Council sufficient and transparent enough? If not, please explain how they should be improved.

We would welcome more transparency with regard to this issue. We were not involved in public or internal hearings so far.

2.2.1.2.b. What is your assessment of the nature of these public hearings?

There are no experiences with regard to this point.

2.2.2. Decision-making bodies and voting arrangements

2.2.2.1. Voting arrangements for the designation or election of the Chair of the ESRB

2.2.2.1.a. What are your views on the fact that the President of the ECB is by rule the Chair of the ESRB? If you think this rule should be amended, please specify how the ESRB Chair should be appointed. For example, should it be defined in the Regulation or should she/he be appointed by an EU institution or the ESRB itself? If by an EU institution, by which one and how?

We see no need for modifications at the moment.

2.2.2.1.b. Do the governance arrangements ensure that the Chair carries out his tasks with sufficient independence? If not, please specify where there is room for improvement and how this could be addressed.

No comment.

2.2.2.2. Composition, mandate and functioning of the General Board

2.2.2.2.a. What is your assessment of the composition, size and mandate of the General Board? If you identify any shortcomings please specify how these could be addressed.

There are no experiences with regard to this point.

2.2.2.2.b. What is your assessment of the relative representation of central banks on the General Board?

Central banks should be further involved because it is necessary to find a common view to the macroeconomic risks.



2.2.2.2.c. What is your assessment of the participation of the European Supervisory Authorities (EBA, EIOPA, ESMA)?

No comment.

2.2.2.2.d. What is your assessment of the presence of non-voting members at General Board meetings?

No comment.

2.2.2.3. Internal organisation

2.2.2.3.a. What is your assessment of the supporting activities of the ECB to the ESRB, according to the relevant regulation (Council Regulation 1096/2010)? What are the key advantages and disadvantages of this set-up? If you identify any room for improvement, please specify how this could be addressed.

No comment.

2.3. Access to data

2.3.a. In your view, has the ESRB had adequate access to relevant data and financial information for the fulfilment of its mandate?

No comment.

2.3.b. For the analysis of systemic risk, what is the balance needed between, on the one hand, data in summary or aggregate form and, on the other hand, firm-specific data?

No comment.

2.3.c. How do you assess the data access procedures foreseen in the ESRB Regulation? If you identify any room for improvement, please specify how this could be addressed.

Duplication of requirements have to be avoided in any case.

2.4. ESRB external relations and communication

2.4.1. Positioning of ESRB as an authoritative policy institution focused on monitoring and preventing systemic risks

2.4.1.a. What is your assessment of ESRB communications?

More visibility of the ESRB would be welcome.

2.4.1.b. What is your assessment of the ESRB's reputation as the body responsible for identifying and helping to mitigate systemic risk?

More visibility of the ESRB would be welcome.

2.4.2. Interaction with other international bodies (e.g. G20/FSB)

2.4.2.a. What is your assessment of the ESRB interactions with the International Monetary Fund (IMF); the Financial Stability Board (FSB); the G20 Group; macro-prudential authorities in any other relevant non-EU



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countries? If you identify any room for improvement, please specify how this could be addressed

More visibility of the ESRB would be welcome.



**2. Cooperation and interaction
between the ESAs (micro level)
and ESRB (macro level)**

3.1. Assessment of market developments

3.1.a. What is your assessment of the past stress test exercises that were initiated and coordinated by EIOPA and EBA? If you have identified any shortcomings, please specify how these could be addressed.

The past stress test and the way of performance had shown significant deficits resulting in uncertainty of the market participants. It is not comprehensible why the taxonomy of the stress test was changed again and again.

3.1.b. Did the stress tests and EBA's recapitalization exercise contribute to increase confidence in the stability of the financial system and increase the resilience of financial institutions? Please explain.

No. The confidence in the stability of the market had been damaged. Cp. Answer to Q3.1.a.

3.2. Aspects of macro-micro interaction

3.2.a. What is your assessment of the cooperation between ESRB and the ESAs? In which areas has cooperation been successful? If you identify room for improvement, please specify how this could be addressed.

See our answer 2.2.1.1.b.

3.2.b. What is your assessment of the ESAs' follow-up actions on the ESRB recommendations? Please explain.

No comment.

3.2.c. Has ESRB contributed to the work of the ESAs by bringing a macro-prudential perspective into micro-prudential activities? If so, please comment on key successes and/or shortcomings.

See our answer 2.2.1.1.b.



3. Structure of the ESFS

4.a. What is your assessment of the structure of the ESFS?

The ESFS is a relatively young structure, which has been developed based on extensive discussions and negotiations, and has been in place for 2 and a half years now. The structure has been created to address the weaknesses in the structure and exercise of supervision of national institutions, by bringing together financial supervisory authorities at national and EU level. The effects of the SSM had also be to awaited.

So far the EACB did not identify any major shortcomings in the ESFS structure.

4.b. Does the structure of the ESFS facilitate the identification, monitoring and mitigation of systemic risk in the EU financial sector? Please explain.

Yes. The creation of the ESRB allows for macro-prudential oversight of the EU financial system- across Member States and financial sectors – with due consideration of also global developments. The identification and monitoring should be possible thanks to the availability of information on the financial system, which is ensured through the obligation of the European Supervisory Authorities (ESAs), the European System of Central Banks, the Commission, the national supervisors and the national statistical authorities to cooperate closely with the ESRB. The mitigation can be achieved through the power of the ESRB to issue risk warnings and policy recommendations.

4.c. Do you consider that the ESFS can be further simplified in order to tangibly enhance coherence between the ESAs and the ESRB? Please explain and add concrete suggestions, where possible.

The ESFS is a very ambitious and a relatively young project, not long enough in place to assess the need for structural changes. In particular, the SSM which is yet to be brought into existence, would have to first be operational for some time, to monitor and assess its cooperation with the EBA, and its impacts on the ESFS as a whole.

At this occasion we would like to stress that even if the structural reform was carried out, any identified shortcomings in the cooperation between the ESRB and the ESAs would not necessarily automatically vanish.

4.d. Do you consider that the structure of the ESFS, in particular the roles of EBA and ESRB, will need to be revisited in light of the establishment of the Single Supervisory Mechanism (SSM) and the new role of the ECB within the ESFS? Please explain and add concrete suggestions, where possible. How should synergies in terms of supervision within ESFS including ECB be exploited? Please explain.

It is unavoidable that the existence of the SSM will influence the functioning of the ESFS. However, with the SSM not in place for at least another year, and ahead of the ECB Framework Regulations, it is very difficult at this stage to assess the need to revisit the roles of the EBA. The impact of the SSM on the ESFS will depend on many future aspects,



for example, how many Member States decide to join. We expect that some challenges will probably include coordination between the ECB and the EBA, membership overlaps, the issue of how to address differences resulting from the membership in the future Single Resolution Mechanism (SRM).

The role of the EBA as the “guardian of the single rulebook” on the one hand, and - according to the SSM - as “an ambassador of the non-participating member states” on the other, remains unclear and bears the risk of incompatibility.

However, we are convinced that no changes to the EBA or ESFS should be made based on the expected impacts of the SSM on the ESFS. Sufficient time should be allowed for the parallel functioning of the ESFS and the EBA to fully assess the actual relationships, and possibly identify and address problems or shortcomings.

4.e. From your experience, do you think that the ESAs and ESRB attract a sufficient number of diverse and excellent staff? If not, why not? If you identify room for improvement, please specify how this could be addressed.

According to our contacts, the EACB positively assesses the performance of the EBA staff and identified no shortcomings.

4. Miscellanea

5.a. Do you have any other comment on the effectiveness and efficiency of the ESAs and ESRB within ESFS and on ESFS in general? Please indicate whether the Commission may contact you for further details on the information submitted, if required.

The impacts of the SSM on the ESFS is expected to be significant, and the ECB in its supervisory function and the ESFS will need to be considered as a whole in future reviews. Thus, the EACB would like to suggest aligning the review timelines as envisaged in the ESAs Regulations (by 2 January 2014 and then every 3 years), and the ECB Regulation (by 31 December 2015 and then every 3 years). Unless those are aligned, the review would need to take place every 1-2 years, as demonstrated below:

- January 2014
- December 2015
- January 2017
- December 2018
- January 2020
- Etc.