

# Procedure file

Basic information		
CNS - Consultation procedure Decision	<a href="#">2009/0141(CNS)</a>	Procedure completed
European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)		
Subject 2.50.10 Financial supervision 5.20.03 European Central Bank (ECB), ESCB 8.40.08 Agencies and bodies of the EU		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs	ALDE <a href="#">TREMOSA I BALCELLS Ramon</a>	20/10/2009
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">3045</a>	17/11/2010
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">3030</a>	07/09/2010
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">3027</a>	13/07/2010
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2967</a>	20/10/2009
European Commission	Commission DG	Commissioner	
	<a href="#">Economic and Financial Affairs</a>	REHN Olli	

Key events			
23/09/2009	Initial legislative proposal published	<a href="#">COM(2009)0500</a>	
20/10/2009	Debate in Council	<a href="#">2967</a>	Summary
11/11/2009	Final act published in Official Journal		
02/12/2009	Additional information		Summary
21/01/2010	Legislative proposal published	<a href="#">05551/2010</a>	Summary
08/02/2010	Committee referral announced in Parliament		
10/05/2010	Vote in committee		Summary
21/05/2010	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0167/2010</a>	
06/07/2010	Debate in Parliament		

			
07/07/2010	Results of vote in Parliament		
07/07/2010	Decision by Parliament	<a href="#">T7-0275/2010</a>	Summary
13/07/2010	Debate in Council	<a href="#">3027</a>	Summary
22/09/2010	Decision by Parliament	<a href="#">T7-0338/2010</a>	Summary
17/11/2010	Act adopted by Council after consultation of Parliament		
17/11/2010	End of procedure in Parliament		
15/12/2010	Final act published in Official Journal		

### Technical information

Procedure reference	2009/0141(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 127-p6
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/01053

### Documentation gateway

Document attached to the procedure	<a href="#">SEC(2009)1234</a>	23/09/2009	EC	
Document attached to the procedure	<a href="#">SEC(2009)1235</a>	23/09/2009	EC	
Initial legislative proposal	<a href="#">COM(2009)0500</a>	23/09/2009	EC	
European Central Bank: opinion, guideline, report	<a href="#">CON/2009/0088</a> <a href="#">OJ C 270 11.11.2009, p. 0001</a>	26/10/2009	ECB	Summary
Legislative proposal	<a href="#">05551/2010</a>	21/01/2010	CSL	Summary
Committee draft report	<a href="#">PE438.515</a>	10/02/2010	EP	
Amendments tabled in committee	<a href="#">PE439.846</a>	19/03/2010	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0167/2010</a>	21/05/2010	EP	
Text adopted by Parliament, partial vote at 1st reading/single reading	<a href="#">T7-0275/2010</a>	07/07/2010	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T7-0338/2010</a>	22/09/2010	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2010)7193</a>	13/10/2010	EC	

### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

The Council discussed two legislative proposals on the establishment of a European Systemic Risk Board (ESRB). Without prejudice to ongoing national parliamentary procedures, there was broad agreement on the substance on both the [regulation establishing the ESRB](#) and the Council decision entrusting the European Central Bank with specific tasks in relation to the ESRB.

As a consequence of this support, the Council invited the presidency to start negotiations with the European Parliament on the regulation on the basis of this approach with a view to reaching agreement at first reading.

Furthermore, the Council invited the presidency to take the necessary steps to initiate the process with the European Parliament on the Council decision, while taking note of the need for further political negotiations before reaching a final agreement in December 2009 on the complete package setting up a new supervisory structure for the EU.

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

OPINION OF THE EUROPEAN CENTRAL BANK on a [proposal for a regulation of the European Parliament and of the Council](#) on Community macro-prudential oversight of the financial system and establishing a European Systemic Risk Board and a [proposal for a Council decision](#) entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board.

On 6 October 2009 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on this proposal. The ECB broadly supports the decision proposed by the Commission, which are aimed at establishing a new body responsible for the conduct of macro-prudential oversight in the EU, namely the ESRB.

The ECB has decided that it stands ready to ensure the Secretariat of the ESRB and to support the ESRB and suggests referring to this in a recital of the proposed regulation. The ECB is prepared to bring to the benefit of the ESRB, with the participation of all the members of the ECB's General Council, the macroeconomic, financial and monetary expertise of all EU central banks. This contribution will be underpinned by the activities of the ECB and ESCB in the areas of financial stability monitoring, macroeconomic analysis, collection of statistical information, and by the overall synergies in terms of expertise, resources and infrastructure in the context of existing central banking activities in the EU.

In the area of statistics, the ECB is prepared to provide the necessary information to the ESRB relating to the macroeconomic and macro-financial environment and has the necessary expertise to do so. This includes in particular information on market conditions and market infrastructures.

The involvement of the ECB and ESCB in the ESRB will not alter the primary objective of the ESCB under Article 105(1) of the Treaty, which is to maintain price stability.

The ECB makes the following specific observations:

Procedure for the issuance and follow-up of risk warnings and recommendations: the ECB fully supports the proposed regulation which provides that the ESRB risk warnings and recommendations will be directly transmitted to the respective addressees, with parallel transmission to the Ecofin Council. Changes to these provisions that would lead to an 'indirect route' for the transmission of risk warnings and recommendations would undermine the effectiveness and timeliness of the recommendations as well as the independence and credibility of the ESRB.

Organisational aspects of the ESRB: the ECB considers it particularly important that the composition of the ESRB's Steering Committee adequately reflects that of the ESRB's General Board in order to ensure that the Committee is representative of the Board, whose meetings it is meant to prepare. However, as the composition of the euro area will change with time, it would not be advisable to lay down in a legal act a specific, immutable allocation of seats between euro area and non-euro area central banks. The ECB supports the Commission's approach under which only the chair of the ESRB gives directions to the head of the secretariat.

Chair and the vice-chair of the ESRB's General Board: these should be elected on the basis of the same procedures and by the same group of voting members, as the vice-chair should be fully able to deputise for the chair, if necessary. Consequently, the vice-chair should also be elected, as stated in the Commission's proposal, by and from the members of the General Board who are also members of the General Council of the ECB. Different procedures for the election of the chair and vice-chair would add undue complications and could give the unwarranted impression that they represent different groups within the ESRB.

Composition of the ESRB's General Board: the ECB supports the Commission's proposal that the president and vice-president of the ECB be voting members of the ESRB's General Board. This is in line with the principle that the ECB's General Council provides the basis for the voting members of the General Board. Indeed, if he were not a member of the ESRB's General Board, the vice-president would be prevented from voting in this election. In view of the systemic importance of certain European non-EU countries for the EU financial system, it may be considered appropriate to invite representatives from these countries to attend some of the ESRB's meetings and/or the technical committees as observers when relevant issues are being discussed.

The observations contained in this opinion are without prejudice to the future ECB opinion on the three draft proposals for Regulations of the European Parliament and of the Council establishing a [European Banking Authority](#), a [European Insurance and Occupational Pensions Authority](#) and a [European Securities and Markets Authority](#), which form part of the legislative package adopted by the Commission on 23 September 2009 reforming European financial supervision.

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

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The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis ? Treaty/EC/Art.105(6) - became Article 127(6) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old assent procedure (AVC), was classified as an interinstitutional non-legislative procedure (NLE).

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

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**PURPOSE:** to entrust the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board (ESRB).

**PROPOSED ACT:** Council Regulation.

**CONTENT:** the Council adopted a general approach with regard to the proposal for a Council Regulation entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board. The text has been modified to comply with the Treaty on the Functioning of the European Union (TFEU).

It should be recalled that experience of the financial crisis has exposed important failures in financial supervision, both in particular cases and in relation to the financial system as a whole. The Commission proposed a [regulation establishing a European Systemic Risk Board](#) (ESRB) with aim to reinforce financial supervision in Europe. The Council reached a broad agreement on the substance of the regulation.

Given its expertise on macro-prudential issues, the European Central Bank (ECB) can make a significant contribution to the effective macro-prudential oversight of the EU financial system. As a consequence, the proposed regulation provides that:

- the President of the European Central Bank shall be Member of the General Board of the European Systemic Risk Board;
- the European Central Bank shall ensure a Secretariat, and thereby provide analytical, statistical, logistical and administrative support to the ESRB. The mission of the Secretariat shall prepare the ESRB meetings and ensure the collection and processing of information, including statistical information, on behalf and for the benefit of the fulfilment of the tasks of the ESRB;
- the ECB shall ensure sufficient, human and financial resources for the fulfilment of its task of ensuring the Secretariat;
- without prejudice to the application of criminal law, any confidential information received by the Secretariat whilst performing its duties may not be divulged to any person or authority whatsoever outside the ESRB, except in summary or aggregate form, such that individual financial institutions cannot be identified;
- the Secretariat shall ensure that documents are submitted to the ESRB in a manner which ensures the confidentiality of these documents. The ECB shall ensure the confidentiality of the data received by the Secretariat for the performance of the tasks of the ECB under this Regulation.

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

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The Committee on Economic and Monetary Affairs adopted the report drawn up by Ramon TREMOSA i BALCELLS (ALDE, ES) on the proposal for a Council regulation entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board. It made some amendments to the proposal under the consultation procedure. The main amendments are as follows:

**Membership:** the Chair of the ESRB shall be the President of the ECB. The first Vice-Chair shall be elected by the members of the General Council of the ECB for the same term as that of his or her membership of the General Council, with regard to the need for a balanced representation of Member States, and those within and outside the euro area. The second Vice-Chair shall be the Chair of the Joint Committee of European Supervisory Authorities (Joint Committee). Before taking office, the Chair and the first Vice-Chair shall present to the European Parliament, during a public hearing, how they intend to discharge their duties under this Regulation. The second Vice-Chair shall be heard by the European Parliament in his or her role as Chair of the Joint Committee. The Chair shall also be invited to an annual hearing in the European Parliament marking the publication of the annual report of the ESRB, which shall take place in a different context from the monetary dialogue between the European Parliament and the President of the ECB.

**Secretariat:** the committee made certain amendments clarifying the provisions on the Secretariat. It added that the Secretariat may request information, in individual, summary or collective form, relating to financial institutions or markets relevant for the tasks of the ESRB from the European Supervisory Authorities and, in the cases specified in Article 15 of the ESRB regulation (see [COD/2009/0143](#)), the national supervisory authorities, the national central banks, other authorities of the Member States or, on the basis of a reasoned request, directly from the financial institutions. This information may include data relating to the European Economic Area, the Union or the euro area, or national aggregated and individual data. National data shall be collected only on a reasoned request. Before a request for data is made, the Secretariat shall first take account of the existing statistics produced, disseminated and developed by both the European Statistical System and the ESCB and then consult the relevant European Supervisory Authority, in order to ensure that the request is proportionate.

**Report:** lastly, the Commission's report must assess 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 as well as between the ESAs;
- it is appropriate to increase the regulatory powers of the ESAs;
- the evolution of the ESFS is consistent with that of global developments in this area;
- there is sufficient diversity and excellence within the ESFS ;
- accountability and transparency in relation to publication requirements are adequate.

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

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The European Parliament adopted amendments, by 620 votes to 27 with 35 abstentions, under the consultation procedure, to the proposal for a Council regulation entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board (ESRB).

The vote on the legislative resolution was postponed to a future plenary session. The main amendments to the Commission's proposal were as follows:

**Membership:** Parliament proposes that the Chair of the ESRB shall be the President of the ECB. His or her term of office shall be the same as his or her term of office as President of the ECB. The first Vice-Chair shall be elected by the members of the General Council of the ECB for the same term as that of his or her membership of the General Council, with regard to the need for a balanced representation of Member States, and those within and outside the euro area. He or she may be re-elected. The second Vice-Chair shall be the Chair of the Joint Committee of European Supervisory Authorities (Joint Committee) Before taking office, the Chair and the first Vice-Chair shall present to the European Parliament, during a public hearing, how they intend to discharge their duties under this Regulation. The second Vice-Chair shall be heard by the European Parliament in his or her role as Chair of the Joint Committee. The Chair shall be invited to an annual hearing in the European Parliament marking the publication of the annual report of the ESRB, which shall take place in a different context from the monetary dialogue between the European Parliament and the President of the ECB.

**Secretariat:** Parliament made certain amendments clarifying the provisions on the Secretariat. The ECB shall ensure that the Secretariat has high-quality staff reflecting the broad scope of the ESRB and the composition of the General Board. The ECB shall ensure a fair financing of the Secretariat from its own resources. All members of the Secretariat shall be required not to disclose information subject to professional secrecy, even after their duties have ceased, in accordance with ESRB Regulation. Members added that the Secretariat may request information, in individual, summary or collective form, relating to financial institutions or markets relevant for the tasks of the ESRB from the European Supervisory Authorities and, in the cases specified in Article 15 of the [ESRB regulation](#), the national supervisory authorities, the national central banks, other authorities of the Member States or, on the basis of a reasoned request, directly from the financial institutions. This information may include data relating to the European Economic Area, the Union or the euro area, or national aggregated and individual data. National data shall be collected only on a reasoned request. Before a request for data is made, the Secretariat shall first take account of the existing statistics produced, disseminated and developed by both the European Statistical System and the ESCB and then consult the relevant European Supervisory Authority, in order to ensure that the request is proportionate.

**Report:** lastly, the Commission's report must assess 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 as well as between the ESAs;
- it is appropriate to increase the regulatory powers of the ESAs;
- the evolution of the ESFS is consistent with that of global developments in this area;
- there is sufficient diversity and excellence within the ESFS ;
- accountability and transparency in relation to publication requirements are adequate;
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## European Central Bank (ECB): specific tasks concerning the functioning of the European

## Systemic Risk Board (ESRB)

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The Council adopted a political guideline with a view to continuing negotiations with the European Parliament on a package of measures which are intended to reform the European framework for supervision of the financial system, in the wake of the global financial crisis.

The proposals, presented by the Commission in the autumn of 2009, are:

- draft Regulations on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Board (ESRB), and entrusting the European Central Bank (ECB) with specific tasks concerning the functioning of that Board;
- draft Regulations establishing a European Banking Authority (EBA) a European Insurance and Occupational Pensions Authority (EIOPA) and a European Securities and Markets Authority (ESMA);
- a draft Directive intended to amend existing legislation in respect of the powers of these three new authorities.

Most of these texts are subject to the ordinary legislative procedure (formerly co decision) between the Parliament and the Council. The negotiations with Parliament are intended to allow them to be adopted at first reading, so that the European Systemic Risk Board and the three new supervisory authorities can be operational from 1 January 2011.

There is now a large degree of convergence between the two institutions, thanks to the negotiations which have already taken place, but it has not proven possible to find an overall agreement in time to enable Parliament to hold its first reading on 8 July, as originally intended. Parliament has therefore decided to postpone the vote to a subsequent plenary session.

On the basis of the general approaches already defined, the Council has agreed on the compromise proposals submitted by the Presidency with a view to facilitating continuing negotiations. It has thus strengthened the negotiating mandate given to the Presidency, while allowing it the necessary degree of flexibility.

## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

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The European Parliament adopted a resolution under the consultation procedure on the proposal for a Council regulation entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board. Parliament approves the proposal as amended by Parliament on 7 July 2010. To recall, the main points are as follows:

**Membership:** Parliament proposes that the Chair of the ESRB shall be the President of the ECB. His or her term of office shall be the same as his or her term of office as President of the ECB. The first Vice-Chair shall be elected by the members of the General Council of the ECB for the same term as that of his or her membership of the General Council, with regard to the need for a balanced representation of Member States, and those within and outside the euro area. He or she may be re-elected. The second Vice-Chair shall be the Chair of the Joint Committee of European Supervisory Authorities (Joint Committee) Before taking office, the Chair and the first Vice-Chair shall present to the European Parliament, during a public hearing, how they intend to discharge their duties under this Regulation. The second Vice-Chair shall be heard by the European Parliament in his or her role as Chair of the Joint Committee. The Chair shall be invited to an annual hearing in the European Parliament marking the publication of the annual report of the ESRB, which shall take place in a different context from the monetary dialogue between the European Parliament and the President of the ECB.

**Secretariat:** Parliament made certain amendments clarifying the provisions on the Secretariat. The ECB shall ensure that the Secretariat has high-quality staff reflecting the broad scope of the ESRB and the composition of the General Board. The ECB shall ensure a fair financing of the Secretariat from its own resources. All members of the Secretariat shall be required not to disclose information subject to professional secrecy, even after their duties have ceased, in accordance with ESRB Regulation. Members added that the Secretariat may request information, in individual, summary or collective form, relating to financial institutions or markets relevant for the tasks of the ESRB from the European Supervisory Authorities and, in the cases specified in Article 15 of the [ESRB regulation](#), the national supervisory authorities, the national central banks, other authorities of the Member States or, on the basis of a reasoned request, directly from the financial institutions. This information may include data relating to the European Economic Area, the Union or the euro area, or national aggregated and individual data. National data shall be collected only on a reasoned request. Before a request for data is made, the Secretariat shall first take account of the existing statistics produced, disseminated and developed by both the European Statistical System and the ESCB and then consult the relevant European Supervisory Authority, in order to ensure that the request is proportionate.

**Report:** lastly, the Commission's report must assess 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 as well as between the ESAs;
- it is appropriate to increase the regulatory powers of the ESAs;
- the evolution of the ESFS is consistent with that of global developments in this area;
- there is sufficient diversity and excellence within the ESFS;
- accountability and transparency in relation to publication requirements are adequate;
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## European Central Bank (ECB): specific tasks concerning the functioning of the European Systemic Risk Board (ESRB)

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**PURPOSE:** to entrust the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board (ESRB).

**LEGISLATIVE ACT:** Council Regulation (EU) No 1096/2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board.

**CONTENT:** the Council adopted a decision entrusting the European Central Bank with specific tasks with regard to the day-to-day running of

the ESRB.

The regulation is part of a package of 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. The package consists of the following regulations establishing:

It adopted regulations establishing:

- a [European Systemic Risk Board \(ESRB\)](#), which will provide macro-prudential oversight of the financial system;
- a [European Banking Authority \(EBA\)](#) for the supervision of banking services;
- a [European Insurance and Occupational Pensions Authority \(EIOPA\)](#) for the supervision of insurance services;
- a [European Securities and Markets Authority \(ESMA\)](#) for the supervision of the securities industry.

The Council also adopted:

- this regulation entrusting the European Central Bank with specific tasks with regard to the day-to-day running of the ESRB;
- a [directive](#) amending 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 in respect of the powers conferred on the three European authorities.

Given its expertise on macro-prudential issues, the European Central Bank (ECB) can make a significant contribution to the effective macro-prudential oversight of the EU financial system. As a consequence, the proposed regulation provides that:

- the President of the European Central Bank shall be Member of the General Board of the European Systemic Risk Board;
- the European Central Bank shall ensure a Secretariat, and thereby provide analytical, statistical, logistical and administrative support to the ESRB. The mission of the Secretariat shall prepare the ESRB meetings and ensure the collection and processing of information, including statistical information, on behalf and for the benefit of the fulfilment of the tasks of the ESRB;
- the ECB shall ensure sufficient, human and financial resources for the fulfilment of its task of ensuring the Secretariat;
- without prejudice to the application of criminal law, any confidential information received by the Secretariat whilst performing its duties may not be divulged to any person or authority whatsoever outside the ESRB, except in summary or aggregate form, such that individual financial institutions cannot be identified;
- the Secretariat shall ensure that documents are submitted to the ESRB in a manner which ensures the confidentiality of these documents. The ECB shall ensure the confidentiality of the data received by the Secretariat for the performance of the tasks of the ECB under this Regulation.

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.

ENTRY INTO FORCE: 16/12/2010.