



February 2010  
AK Position Paper

Draft report of the Economic and Monetary Affairs Committee of the European Parliament on the Proposal of the European Commission – Regulation of the EC on Community macro prudential oversight of the financial system and on establishing a European Systemic Risk Board, COM (2009) 499 final dated 23.09.2009

## About us

**The Federal Chamber of Labour is by law representing the interests of about 3.2 million employees and consumers in Austria. It acts for the interests of its members in fields of social, educational, economical and consumer issues both, on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership.**

**The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.**

### **Organisation and Tasks of the Austrian Federal Chamber of Labour**

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour, social insurance and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 – amongst others unemployed, persons on maternity (paternity) leave, community and military service – of the 3.2 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Herbert Tumpel  
President

Werner Muhm  
Director

## Executive Summary

Dear Member of Parliament, The Austrian Federal Chamber of Labour (AK) in its capacity as the statutory representation of all persons working under employment contract in Austria welcomes the efforts of the European Commission to institutionalize macroeconomic cooperation and supervision at European level, through which a looming systemic crisis should be recognized at an early stage. The European Systemic Risk Board (ESRB) had been planned to monitor and assess the interactions between macroeconomic developments and the broader financial system. From the point of view of the European Commission this was not or not sufficiently carried out by the national supervisory authorities. Hence, the causes of the crisis were not recognized and countermeasures were not taken early enough as a result. The AK is favourably disposed towards establishing an ESRB, however, with the following **central points of criticism**:

- The mandate of the ESRB must be clearly limited to the financial sector.
- The institutional architecture proposed does not give enough consideration to important macroeconomic players. It is therefore necessary to integrate the European social partners within the scope of the new European Systemic Risk Board, as in particular the partici-

pation of workers and consumer provides valuable expertise from a different perspective than the one provided for in the Directive proposal.

- Finally, the aspect of publicity and of cooperation with the Parliament should be significantly improved in the proposal at stake.

## The AK position in detail

Against this background, dear Member of Parliament, the AK is asking you to **support** in particular the following **Amendment Applications (AA) proposed by MEP Ms. Sylvie Goulard**, parliamentary rapporteur of the Economics Committee in charge:

### AA 29

An open definition of financial players, who will be subject to macroeconomic supervision, seems to be necessary in view of the creativity of the Financial sector.

### AA 30

Taking the legislative level in the Member States, among others with regard to bankruptcy and accounting standards, into account is a precondition for the timely prevention of regulatory arbitrage and for the early detection of systemic crises.

### AA 41

The hearing of new chief executives, who perform significant tasks for the European finance system via the European Parliament, is to be welcomed.

### AA 66

The integration of stakeholders from the consumer protection sector and market participants as contact partners for the consultation is good news.

### AA 76

The introduction of a colour risk code for depicting and assessing financial products seems to be an innovative idea.

### AA 78 and AA 79

Concerning democratic control, extending the information duty to the European Parliament is a move in the right direction.

### AA 85

The publication of the reports of the ESRB is to be welcomed. It will strengthen the legitimacy of this new supervisory body.

### AA 86 and AA 87

Making the expertise of the ESRB available to all European institutions and especially to the European Parliament should be a matter of course, as well as an enhanced co-operation.

The AK would also ask to **reject** the following **Amendment Applications** of the rapporteur of the Economics Committee for the following reasons:

### AA 27

The legislative definition of the players of the European System of Financial Supervisors (ESFS) at a stage, where

expertise within the micro and macroeconomic supervisory area has to be collected at European level first, is premature. Apart from that, important players of the civil society, who had to pay the costs for the current crisis, are not included – such as representatives of the labour force and consumers.

AA 38

Such a restriction for mandating the chairman of the ESRB – without any prior experiences of the workings and the interaction of this new supervisory system – does not appear to make sense.

AA 51

It is of fundamental democratic concern that warnings of the new supervisory body can be kept secret. On that basis, the idea that a qualified majority is required to achieve a publication of the warning, must be even more rejected.

AA 57

The Chairman of the Economic and Social Committee represents the civil society in a more balanced and representative manner than experts.

AA 81

Warnings or recommendations of the ESRB must be published. The non-publication should only be possible in exceptional cases and with increased voting quorum. Exactly the opposite principle shall now apply to the representational AA, whereby any publication can only be decided

with increased quorum. This has to be rejected.

**The AK believes that in addition to the amendments contained in the draft report of the Economics Committee, the following Amendment Applications should be included within the meaning of the points of criticism specified:**

#### **Tasks and Powers**

The mandate, which refers to monitoring of and commenting on macro-prudential risks from the financial sector, must be clearly limited to this sector. The considerations of the draft proposal should therefore include the following clarification.

Consideration 7 of the draft proposal should be amended as follows:

*“...Therefore a European Systemic Risk Board (ESRB) should be established as a new independent body, which is responsible for the macro-prudential supervision at European level. **The analyses of the ESRB are limited to the financial sector and do not refer to fiscal or wage-policy issues.**”*

*Explanation:*

*In addition to the micro-prudential supervision institution, the ESRB represents progress in comparison with the current situation. In its current composition as an extended body of the Chairmen of the Central Banks, however, it is by no means suitable to make a contribution to the stability in Europe, which goes beyond the financial system.*

## Structure

The current proposal of the European Commission with regard to the composition of the ESRB has to be regarded more as the establishment of a macroeconomic monitor. Due to the fact that there is no broader integration of economic actors and that no extended economic competence would justify the establishment of such a body, this body, in its proposed form, is largely redundant with regard to existing structures.

That is why Art 12 (1) should be amended as follows:

**“Art 12 (1) (c): a representative of the European social partner umbrella organisations”**

*Explanation:*

*In its proposed composition, the ESRB is equivalent to an extended Board of the ECB; expanded by 4 members with voting rights as well as by two observers (Commission representative and one of the three chairmen of the yet to be established EU financial supervisory authorities). From the point of view of AK there is no indication as to what extent such an adaptation would affect an improvement of the macroprudential supervision.*

Any monitoring of macroeconomic imbalances within the EU considered necessary can only be carried out within the scope of a comprehensive macroeconomic dialogue. To achieve this, however, the ESRB to be established should at least include the European Social partners. Only then it would be possible to create a broad

economic basis for macroeconomic coordination.

## Task

Article 3 (Mandate, Objectives and Tasks) of the draft proposal should be amended by the general objectives of the EU as specified in Article 2 EU Treaty (resp. in analogue Article 3 of the Lisbon Treaty) as follows:

Article 3 (1) should be:

**“The ESRB is responsible for the macroprudential supervision of the financial system within the EU to prevent or mitigate systemic risks within the financial system in order to **avoid periods of widespread financial distress, to ensure a sustainable contribution of the financial sector to economic growth, thereby contributing to achieving the targets of the Union pursuant to Article 2 of the EU Treaty.**”**

*Explanation:*

*Financial crises do not only have an impact on both internal market and growth but on all objectives of the Union. Therefore all objectives have to be appropriately considered when assessing these risks.*

## Publication

The publication of analyses and recommendations should be standard; any non-disclosure should only be permitted on the basis of a separate resolution and explanation.

Article 18 (1) – Public warnings and recommendations – should be amended as follows:

“The General Board of the ESRB decides from case to case whether a warning or a recommendation **should be kept secret. Deviating from Article 10 Paragraph 2, the non-disclosure of a warning or recommendation requires a qualified two-third majority of the votes cast.**”

*Explanation:*

*Any regulation, which would suggest that it is left to the autonomous decision of the ESRB not to disclose analyses, would be an illusion in case of a body of this size. It is in particular not reconcilable with the principle of full accountability to the European population, which ultimately has to bear the consequences of any successful or failed stabilisations.*

Article 18 (2) and (3) can remain in this form.

The following Article 18 (4) should be added:

**“Any data, on which the Council is basing its analyses before issuing any warnings or recommendations, has to be made publically available for analyses in an appropriately anonymised form.”**

*Explanation:*

*Such a regulation is necessary due to the fact that a public but also scientific debate about the quality of the committee recommendations is only possible if the relevant data is generally available. The possibility to comprehend recommendations contributes to both quality development and to the credibility of the entire institution.*

## **Responsibility**

The ESRB has been set up in such a way that it is not accountable to anyone. This is a significant construction mistake, which contradicts the principle of the separation of powers. That is why no authority is possible, which would go beyond a recommendation. In order to give the European Parliament the opportunity to access the expertise of the members of the ESRB and its office, the European Parliament must be granted relevant powers.

Article 19 (2) should therefore be amended as follows:

“At the request of **the Parliament**, the Council or the Commission, the ESRB will also review specific issues.”

*Explanation:*

*With regard to a balanced integration of the ESRB into the European institutions, it has to be guaranteed that the European Parliament will receive the same extended powers as the Council and the Commission, enabling it to independently instruct the ESRB with carrying out examinations.*

The Austrian Federal Chamber of Labour hopes that you, dear Member of Parliament, will share these contemplations and that take them into account when voting in the European Parliament.

Yours faithfully,

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President

Maria Kubitschek  
on behalf of the Director

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