



Plenary sitting

A8-0124/2017

30.3.2017

REPORT

on discharge in respect of the implementation of the budget of the European
Securities and Markets Authority for the financial year 2015
(2016/2188(DEC))

Committee on Budgetary Control

Rapporteur: Inés Ayala Sender

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2015 (2016/2188(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2015, together with the Authority's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 21 February 2017 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2015 (05873/2017 – C8-0074/2017),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC⁴, and in particular Article 64 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of

¹ OJ C 449, 1.12.2016, p. 162.

² OJ C 449, 1.12.2016, p. 162.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 84.

⁵ OJ L 328, 7.12.2013, p. 42.

the Committee on Economic and Monetary Affairs (A8-0124/2017),

1. Grants the Executive Director of the European Securities and Markets Authority discharge in respect of the implementation of the Authority's budget for the financial year 2015;
2. Sets out its observations in the resolution below;
3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Executive Director of the European Securities and Markets Authority, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on the closure of the accounts of the European Securities and Markets Authority for the financial year 2015
(2016/2188(DEC))**

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2015, together with the Authority's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 21 February 2017 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2015 (05873/2017 – C8-0074/2017),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC⁴, and in particular Article 64 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of

¹ OJ C 449, 1.12.2016, p. 162.

² OJ C 449, 1.12.2016, p. 162.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 84.

⁵ OJ L 328, 7.12.2013, p. 42.

the Committee on Economic and Monetary Affairs (A8-0124/2017),

1. Approves the closure of the accounts of the European Securities and Markets Authority for the financial year 2015;
2. Instructs its President to forward this decision to the Executive Director of the European Securities and Markets Authority, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2015
(2016/2188(DEC))**

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2015,
 - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A8-0124/2017),
- A. whereas, according to its financial statements, the final budget of the European Securities and Markets Authority (the ‘Authority’) for the financial year 2014 was EUR 34 031 603, representing an increase of 2,3 % compared to 2014 due to the additional tasks entrusted to the Authority,
- B. whereas the overall contribution of the Union to the budget of the Authority for 2015 amounted to EUR 9 703 423, representing a decrease of 12,35 % compared to 2014,
- C. whereas the Court of Auditors ("the Court"), in its report on the annual accounts of the European Securities and Markets Authority for the financial year 2015 ("the Court's report") has stated that it has obtained reasonable assurances that the Authority's annual accounts for the financial year 2015 are reliable and that the underlying transactions are legal and regular,
- D. whereas in the context of the discharge procedure, the discharge authority stresses the special importance of further strengthening the democratic legitimacy of the institutions of the Union by improving transparency and accountability, implementing the concept of performance based budgeting and good governance of human resources,
1. Underlines that the Authority's role is essential in fostering the consistent application of Union law and better coordination between national authorities, and in ensuring financial stability, transparency, better integrated and safer financial markets, as well as a high degree of consumer protection and convergent supervisory practices in this area;
 2. Recalls that the European Parliament was a driving force behind the establishment of a new and comprehensive European System of Financial Supervision (ESFS), including the three European Supervisory Authorities (ESAs), to ensure a better financial supervision system after the financial crisis;

Follow-up of 2011, 2012 and 2014 discharge

3. Notes with concern from the Court's report that regarding the three comments made in the Court's 2011 and 2012 reports, the status of corrective action is still marked as

ongoing; urges the Authority to implement the corrective action as quickly as possible and to communicate the results of that implementation to the discharge authority;

4. Notes moreover that the status of the corrective action for the Court's 2014 comment regarding the fees charged to supervised entities appearing as revenue which are based on estimates rather than actual costs, is marked as ongoing; acknowledges that, in order to implement the Court's recommendation, the Authority developed an activity-based costing system for the calculation of fees of supervised entities; notes that the Authority and the discharge authority are still waiting for the Court's observation on the status of this corrective action;

Budget and financial management

5. Acknowledges that the budget monitoring efforts during the financial year 2015 resulted in a budget implementation rate of 99,64 %, representing an increase of 0,08 % compared to 2014, and that the payment appropriations execution rate was at 84,54 %, representing an increase of 3,38% compared to 2014;
6. Notes the reduction in the 2015 budget through two subsequent budget amendments, thereby using Union funds rationally; stresses the importance of ensuring an appropriate level, prioritisation and efficiency as regards resource allocation; emphasises that any potential increases in the Authority's means must be accompanied by adequate prioritisation measures; suggests that, as the Authority's workload is increasingly shifting from legislative tasks to supervisory convergence and enforcement, the Authority's budget and manpower should be allocated accordingly;

Commitments and carryovers

7. Observes from the Court's report that the level of committed appropriations carried forward to 2016 was at 26 % for Title II (administrative expenditure) and at 33 % for Title III (operational expenditure); notes that those carry forwards are mainly related to the multiannual nature of the Authority's large IT projects, as well as to mission expenses that could only be reimbursed in 2016; notes that the carryovers may often be partly or fully justified by the multiannual nature of the Authority's operational programmes, and do not necessarily indicate weaknesses in budget planning and implementation nor are they always at odds with the budgetary principle of annularity, in particular if they are planned in advance by the Authority and communicated to the Court;

Transfers

8. Notes with satisfaction that according to the Authority's annual activity report, the level and nature of transfers in 2015 remained within the limits of the financial rules; observes that the Authority's budget decreased by EUR 372 709 following the amending budget; observes furthermore that the Authority executed transfers in the amount of EUR 650 423 from Title I (Staff expenditure) and EUR 1 068 357 from Title III (operating expenditure) to cover budgetary needs of Title II (infrastructure and administrative expenditure);

Procurement, recruitment procedures and rules on obligations after leaving the service

9. Notes that the Authority employed 186 staff members in 2015, compared to 168 staff in the previous year, representing a 10,7 % increase; observes that the Authority adopted new implementing rules on the engagement of temporary agents under Article 2(f) of the Conditions of Employment of Other Servants of the European Union; notes that the staff turnover rate for 2015 was 8,9 %, below the Authority's target of 10 %;
10. Acknowledges that the Authority amended its recruitment guidelines, outlining the various steps in the recruitment process and addressing several recommendations from the Court and other audit reviews; takes note that the Authority adopted a new traineeship policy, seeking more transparency in the selection of trainees and simplifying the rules on traineeship grants;
11. Takes note that the Authority aims to reach the best possible gender and geographical balance during its recruitment process; notes that the Authority's global gender balance was at 44 % female and 56 % male; observes that the Authority's staff includes 22 different Union nationalities, and 1 national from the European Economic Area (Norway);
12. Takes note with satisfaction that the Authority has set up a number of important rules on obligations after leaving the service for its experts and staff, involving the signature of a declaration acknowledging their awareness of their continuing obligations to the Authority;

Prevention and management of conflicts of interests and transparency

13. Takes note that, in 2015, the Authority implemented a policy on conflict of interest for non-staff, including the members of its Board of Supervisors, Management Board and Board of Appeal; acknowledges from the Authority that that policy was developed using the conclusions of the workshop on "Better avoidance of conflict of interest" organised by the European Parliament in February 2013, the recommendations from the Court's Special Report 15/2012, as well as the draft guide-lines for a common approach on decentralised Union agencies; notes moreover that, in 2015, the Authority implemented a policy on conflict of interest for staff, which *inter alia* requires all staff members to fill out an annual declaration regarding potential conflicts of interest; notes that the CVs and declarations of interest of all of the Authority's Board Members and senior management are published on its website;
14. Notes that, in January 2015, the Authority's Management Board adopted the Anti-Fraud Strategy 2015-2017, which aims at enhancing the Authority's capabilities in preventing, detecting, investigating and sanctioning potential fraud cases;
15. Notes that Management Board members of the Authority are required to sign a declaration of the absence of conflict of interest in contrast to a declaration of interests, regrets, however, that the declarations and the CVs of its Board members are not published on the Agency's website; calls on the Authority to remedy the situation by publishing such documents to ensure necessary public oversight and scrutiny of its management;
16. Notes with satisfaction that the factual correctness of the declarations of interests are assessed regularly, at least once a year, and that *ad hoc* declarations are also assessed

when received by the ethics team, and that where factual inaccuracies and inconsistencies are identified relevant steps are taken to provide clarifications;

17. Notes that the conclusion of internal rules on whistleblowing is foreseen by the Authority in the first half of 2017; asks the Authority to report to the discharge authority on the establishment and implementation of its whistleblowing rules;
18. Notes with satisfaction that the Authority has taken specific initiatives in order to increase transparency relating to its contacts with stakeholders and that are governed by its ethics rules; notes also that engagements with stakeholders are centrally coordinated and recorded as part of its external communications policy and procedures; observes that the Authority publishes the agendas of the Chairman and the Executive Director on its website, indicating their participation in conferences, meetings with stakeholders, media representatives as well as any other institutions and relevant activities, and furthermore since July 2016, the Authority also publishes on its website meetings between external stakeholders and the Authority's staff;
19. Considers that the minutes of meetings of the Board of Supervisors and of the Stakeholder Groups, which are publicly available, should be published immediately after the meeting to reduce the current time lag of up to three months between meetings and disclosure of minutes and to provide better insight into the discussions held, members' positions and voting behaviour; believes that outreach to Union citizens could also be enhanced by web streaming events; is concerned about *de facto* unequal accessibility of documents and information from internal meetings to different stakeholders, including the European Parliament; is of the opinion that the Authority should establish a secure channel for whistle-blowers in the framework of its action plan for the years to come;
20. Notes that the Authority undertakes an active and targeted policy aimed at raising awareness amongst Union citizens about its objectives, challenges and activities; notes also that a Joint Consumer Protection Day is held in conjunction with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA);

Internal audit

21. Takes note that the Commission's Internal Audit Service (IAS) performed in 2015 an audit on "Stakeholder Management and External Communication"; notes that the Authority, based on the five recommendations issued by the IAS, developed an action plan which was accepted by the IAS; acknowledges that the implementation of actions described in the action plan is being followed up regularly by the Authority;
22. Acknowledges from the Authority that all critical or very important recommendations issued by the IAS in previous years were closed;

Performance

23. Takes note that the Court performed an audit on Credit Rating Agencies supervision in the Authority; acknowledges that the Authority set up an action plan following the audit in order to implement the Court's recommendations; calls on the Authority to report to

the discharge authority on the implementation of the action plan and results achieved;

Other comments

24. Stresses that, while ensuring that all assignments are carried out in full and within the deadline, the Authority should carefully adhere to the tasks assigned to it by the European Parliament and the Council; believes that the Authority should fully use its mandate to effectively foster proportionality in all its activities; notes that, wherever the Authority is authorised to draw up Level 2 and Level 3 measures, it should pay particular attention when drafting these standards to the specific features of the various national markets and that market participants and consumer protection organisations concerned should be involved at an early stage in the standard-setting process and during drafting and implementation stages;
25. Notes with concern that the Authority does not exercise all the prerogatives established in its legal framework; underlines that the Authority should ensure that resources are maximised in order to fully fulfil its legal mandate; notes in this connection that a closer focus on the mandate given to it by the European Parliament and the Council could result in a more efficient use of its resources and a more effective achievement of its objectives; stresses that, while carrying out its work and in particular when drafting implementing legislation, the Authority needs to inform the European Parliament and the Council about its activities in a timely, regular and comprehensive manner;
26. Concludes that the Authority's financing arrangement is to be reviewed; calls on the Commission to examine the possibility of modifying the current financing arrangement by introducing additional appropriately and proportionately calibrated fees for market participants, possibly replacing in part the contributions of national competent authorities whilst ensuring its autonomy and supervisory action;
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- ◦
27. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2017]¹ [on the performance, financial management and control of the agencies].).

¹ Texts adopted of that date, P[8_TA(-PROV)(2017)0000].

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2015
(2016/2188(DEC))

Rapporteur: Sander Loones

SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Underlines that ESMA's role is essential in fostering the consistent application of Union law and better coordination between national authorities, and in ensuring financial stability, transparency, better integrated and safer financial markets, as well as a high degree of consumer protection and convergent supervisory practices in this area;
2. Acknowledges that, in the opinion of the Court of Auditors, ESMA's transactions underlying the annual accounts for the year ended 31 December 2015 are legal and regular in all material aspects; notes, however, that the Court of Auditors' assessment is very brief and offers few suggestions for improving the efficiency of the ESMA's budget management; underlines that ESMA's follow-up on the Court's comments made in its 2011 and 2012 reports have still not been fully implemented;
3. Recalls that the European Parliament was a driving force behind the establishment of a new and comprehensive European System of Financial Supervision (ESFS), including the three European Supervisory Authorities (ESAs), to ensure a better financial supervision system after the financial crisis;
4. Stresses that, while ensuring that all assignments are carried out in full and within the deadline, ESMA should carefully adhere to the tasks assigned to it by the European Parliament and the Council; believes that ESMA should fully use its mandate to effectively foster proportionality in all its activities; notes that, wherever ESMA is authorised to draw up Level 2 and Level 3 measures, it should pay particular attention when drafting these standards to the specific features of the various national markets and that market participants and consumer protection organisations concerned should be involved at an early stage in the standard-setting process and during drafting and implementation stages;

5. Notes the reduction in the 2015 budget through two subsequent budget amendments, thereby using Union funds rationally; stresses the importance of ensuring an appropriate level, prioritisation and efficiency as regards resource allocation; emphasises that any potential increases in ESMA's means must be accompanied by adequate prioritisation measures; suggests that, as ESMA's workload is increasingly shifting from legislative tasks to supervisory convergence and enforcement, ESMA's budget and manpower should be allocated accordingly;
6. Notes with concern that ESMA does not exercise all the prerogatives established in its legal framework; underlines that ESMA should ensure that resources are maximised in order to fully fulfil its legal mandate; notes in this connection that a closer focus on the mandate given to it by the European Parliament and the Council could result in a more efficient use of its resources and a more effective achievement of its objectives; stresses that, while carrying out its work and in particular when drafting implementing legislation, ESMA needs to inform the European Parliament and the Council about its activities in a timely, regular and comprehensive manner;
7. Concludes that ESMA's financing arrangement is to be reviewed; calls on the Commission to examine the possibility of modifying the current financing arrangement by introducing additional appropriately and proportionately calibrated fees for market participants, possibly replacing in part the contributions of national competent authorities whilst ensuring its autonomy and supervisory action;
8. Considers that the minutes of meetings of the Board of Supervisors and of the Stockholder Groups, which are publicly available, should be published more swiftly to reduce the current time lag of up to three months between meetings and disclosure of minutes and that they should provide better insight into the discussions held, members' positions and voting behaviour; believes that outreach to EU citizens could also be enhanced by web streaming events, deplores the de facto unequal accessibility of documents and information from internal meetings to different stakeholders, including the European Parliament; welcomes that ESMA has established a whistle-blower channel.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	28.2.2017
Result of final vote	+: 42 -: 1 0: 4
Members present for the final vote	Gerolf Annemans, Burkhard Balz, Hugues Bayet, Esther de Lange, Fabio De Masi, Anneliese Dodds, Markus Ferber, Jonás Fernández, Sven Giegold, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Petr Ježek, Barbara Kappel, Georgios Kyrtos, Alain Lamassoure, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Marisa Matias, Gabriel Mato, Costas Mavrides, Bernard Monot, Luigi Morgano, Stanisław Ożóg, Dimitrios Papadimoulis, Dariusz Rosati, Pirkko Ruohonen-Lerner, Molly Scott Cato, Pedro Silva Pereira, Peter Simon, Theodor Dumitru Stolojan, Paul Tang, Ramon Tremosa i Balcells, Tom Vandenkendelaere, Miguel Viegas, Beatrix von Storch, Jakob von Weizsäcker
Substitutes present for the final vote	Eva Joly, Thomas Mann, Joachim Starbatty, Nils Torvalds
Substitutes under Rule 200(2) present for the final vote	Cécile Kashetu Kyenge

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	22.3.2017
Result of final vote	+: 23 -: 6 0: 0
Members present for the final vote	Inés Ayala Sender, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Luke Ming Flanagan, Ingeborg Gräßle, Cătălin Sorin Ivan, Jean-François Jalkh, Bogusław Liberadzki, Monica Macovei, Notis Marias, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Hannu Takkula, Derek Vaughan, Joachim Zeller
Substitutes present for the final vote	Richard Ashworth, Gerben-Jan Gerbrandy, Benedek Jávor, Karin Kadenbach, Julia Pitera, Patricija Šulin
Substitutes under Rule 200(2) present for the final vote	Raymond Finch, Jens Geier, Susanne Melior, Piernicola Pedicini, Janusz Zemke

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

23	+
ALDE	Martina Dlabajová, Gerben-Jan Gerbrandy, Hannu Takkula
GUE/NGL	Luke Ming Flanagan, Dennis de Jong
PPE	Tamás Deutsch, Ingeborg Gräßle, Julia Pitera, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Joachim Zeller, Patricija Šulin
S&D	Inés Ayala Sender, Jens Geier, Cătălin Sorin Ivan, Karin Kadenbach, Bogusław Liberadzki, Susanne Melior, Derek Vaughan, Janusz Zemke
VERTS/ALE	Benedek Jávor, Bart Staes

6	-
ECR	Richard Ashworth, Monica Macovei, Notis Marias
EFDD	Raymond Finch, Piernicola Pedicini
ENF	Jean-François Jalkh

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention