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**TEXTS ADOPTED**

*Provisional edition*

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**Discharge 2014 : European Banking Authority (EBA)**

**1. European Parliament decision of 28 April 2016 on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2014 (2015/2188(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Banking Authority for the financial year 2014,
- having regard to the Court of Auditors' report on the annual accounts of the European Banking Authority for the financial year 2014, together with the Authority's reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 2014, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 12 February 2016 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2014 (05584/2016 - C8-0086/2016),
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European

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<sup>1</sup> OJ C 409, 9.12.2015, p. 111.

<sup>2</sup> OJ C 409, 9.12.2015, p. 111.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC<sup>1</sup>, and in particular Article 64 thereof,

- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>,
  - 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 Council<sup>3</sup>, and in particular Article 108 thereof,
  - having regard to Rule 94 of and Annex V 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 (A8-0090/2016),
1. Grants the Executive Director of the European Banking Authority discharge in respect of the implementation of the Authority's budget for the financial year 2014;
  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 Banking 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).

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<sup>1</sup> OJ L 331, 15.12.2010, p. 12.

<sup>2</sup> OJ L 357, 31.12.2002, p. 72.

<sup>3</sup> OJ L 328, 7.12.2013, p. 42.

## **2. European Parliament decision of 28 April 2016 on the closure of the accounts of the European Banking Authority for the financial year 2014(2015/2188(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Banking Authority for the financial year 2014,
- having regard to the Court of Auditors' report on the annual accounts of the European Banking Authority for the financial year 2014, together with the Authority's reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 2014, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 12 February 2016 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2014 (05584/2016 – C8-0086/2016),
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC<sup>4</sup>, and in particular Article 64 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>5</sup>,
- 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 Council<sup>6</sup>, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex V to its Rules of Procedure,

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<sup>1</sup> OJ C 409, 9.12.2015, p. 111.

<sup>2</sup> OJ C 409, 9.12.2015, p. 111.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 331, 15.12.2010, p. 12.

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

<sup>6</sup> OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A8-0090/2016),
- 1. Notes that the final annual accounts of the European Banking Authority are as annexed to the Court of Auditors' report;
- 2. Approves the closure of the accounts of the European Banking Authority for the financial year 2014;
- 3. Instructs its President to forward this decision to the Executive Director of the European Banking 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. European Parliament resolution of 28 April 2016 with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2014 (2015/2188(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2014,
  - having regard to Rule 94 of and Annex V 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 (A8-0090/2016),
- A. whereas, according to its financial statements, the final budget of the European Banking Authority (the 'Authority') for financial year 2014 was EUR 33 599 863 representing an increase of 29,39 % compared to 2013, due to the Authority's recently established nature; whereas the Authority is financed by the contribution of the Union (40 %), and contributions from Member States (60 %);
- B. whereas the Court of Auditors (the 'Court'), in its report on the annual accounts of the European Banking Authority for the financial year 2014 (the 'Court's report') states that it has obtained reasonable assurances that the Authority's annual accounts for the financial year 2014 are reliable and that the underlying transactions are legal and regular;

#### ***Follow-up of 2013 discharge***

1. Notes from the Court's report that regarding one comment made in the Court's 2012 report and marked as 'Ongoing' in the Court's 2013 report, corrective actions were taken and for the most part finalised and the comment is now marked as 'Ongoing'; notes furthermore that two comments made in the Court's 2013 report are now marked as 'Not Applicable';

#### ***Budget and financial management***

2. Notes with satisfaction that the budget monitoring efforts during the financial year 2014 resulted in a budget implementation rate of 99,81 %, representing an increase of 2,28 % compared with 2013, and that the payment appropriations execution rate was 83,94 %, representing an increase of 8,60 %; acknowledges from the Authority that the increase in budgetary execution rates resulted from improvements in budget planning and monitoring;

#### ***Commitments and carryovers***

3. Notes that the Authority further reduced the overall rate of committed appropriations carried over from 16,50 % in 2013 to 15,90 % in 2014; recognises that the committed appropriations carried over for Title II were EUR 3 431 070 and related mainly to the Authority's move to its new premises in December 2014;
4. Notes with satisfaction that the Authority brought its IT contracts more into line with the financial year in order to reduce the level of carry-overs related to the planned procurement of IT infrastructure and IT services; points out that the carry-over percentage related to IT contracts decreased by 9 % compared with 2013;

5. Highlights the execution rate of committed appropriations carried over from 2013 which stood at 92 %; points out that the Authority's target of 95 % was not reached due only to a price reduction in its IT infrastructure services;

### ***Transfers***

6. Notes from the Authority's annual accounts that its Management Board approved the five budgetary transfers implemented during the year 2014 which exceeded the limit referred to in the Article 27 of the 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 Council<sup>1</sup>;

### ***Procurement and recruitment procedures***

7. Notes from the Authority's annual accounts that the number of occupied posts is 146; welcomes the Authority's focus on allocating its resources to its core business areas; points out that for each four posts linked to the direct implementation of the Authority's mandate there is only one administrative post;
8. Asks the Authority to apply strictly the measures pertaining to discretion and exclusion in public procurement, with proper background checks being carried out in every instance, and to apply the exclusion criteria so as to debar companies in the event of any conflict of interest, this being essential to protect the financial interests of the Union;

### ***Prevention and management of conflicts of interests and transparency***

9. Acknowledges that the declarations of intent as well as the declarations of interest of the members and observers of the Authority's Board of Supervisors, the Management Board and the Authority's management have been published on its website; notes that the declarations of interest for staff are collected annually and are evaluated by the ethics officer;
10. Encourages the Authority further to raise awareness of the conflict-of-interest policy among its staff, alongside ongoing awareness-raising activities and the inclusion of integrity and transparency as an obligatory item to be discussed during recruitment procedures and performance reviews;
11. Calls for an overall improvement in the prevention of and the fight against corruption through a holistic approach, commencing with better public access to documents and more stringent rules on conflicts of interest, the introduction or strengthening of transparency registers and the provision of sufficient resources for law enforcement measures, and also through improved cooperation among Member States and with relevant third countries;
12. Notes that the Authority's anti-fraud strategy was adopted in April 2015 and will be implemented between 2015 and 2017;
13. Notes that the processes related to the policy on independence and decision-making processes were implemented by the Authority in order to ensure that the necessary declarations are provided by new members and observers; notes furthermore that the resigned members and observers are reminded about their continuing obligations;

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<sup>1</sup> OJ L 328, 7.12.2013, p. 42.

14. Requests that the Authority implement Article 16 of the Staff Regulations by publishing information about senior officials who have left the service and a list of conflicts of interest on an annual basis;

### ***Internal audit***

15. Notes that in 2014, the Commission's Internal Audit Service performed a limited review on the Authority's IT project management; notes furthermore that out of four identified findings, none were considered as critical; acknowledges that the agreed action plan addressing those findings has already been fully implemented by the Authority; acknowledges that during the year 2014, no critical recommendations were issued or closed and on 1 January 2015 there was no open critical recommendation;

### ***Performance***

16. Notes that the Authority closely cooperates with the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority across all support functions in order to reduce administrative costs where possible, to leverage synergies and to share best practices; looks forward to further efforts from the Authority to enhance cooperation with other decentralised agencies;
17. Notes that the Authority uses the accounting systems provided by the Commission, which were validated by the accounting officer on the basis of work carried out by an independent accounting firm covering the systems, the financial circuits and a review of the accounting schemes; notes moreover that during the year 2014 and with a view to increasing efficiency of those systems, the changes to the implementation of mass payments for missions were implemented and the electronic receipt of invoices was introduced and successfully tested;

### ***Other comments***

18. Recalls that the Parliament was a key driver in the efforts to set up a new and comprehensive European System of Financial Supervision (ESFS) in the aftermath of the financial crisis and in creating, as part of ESFS, the Authority in 2011;
19. Underlines that the Authority's role in promoting a common supervisory regime across the internal market is essential in order to ensure financial stability, a better integrated, more efficient and safer financial market, as well as a high degree of consumer protection in the Union by promoting fairness and transparency on the product and financial services market;
20. Stresses that the Authority's work is of a purely technical nature and that key political decisions are the prerogative of the Union legislator;
21. Points out that the Authority, when carrying out its activities, needs to pay particular attention to upholding the safety and soundness of the financial sector, ensuring compatibility with Union law, respecting the principle of proportionality and complying with the fundamental principles of the internal market for financial services; underlines that the Authority, on that basis, must strive to achieve outcomes that are unambiguous, consistent, coherent and free of superfluous complexity;
22. Points out that it is of particular importance that provisions drafted by the Authority are designed in a way that allows them to be equally applied by smaller entities;

23. Emphasises that, on all issues linked to the Authority's resources, it has to be ensured that the mandate can consistently be fulfilled and that the practical limits of independent, reliable and effective supervision are not set by budgetary constraints;
24. Notes the conclusion of the Court, in its special report 2014/05, that, overall, the Authority's resources during its start-up phase were insufficient to allow it to fulfil its mandate; acknowledges that the setting-up phase of ESFS has still not been completed and therefore notes that the tasks already entrusted to the Authority, as well as additional tasks envisaged in ongoing legislative work, require an adequate level of staff, in terms of both numbers and qualifications, and funding to allow for satisfactory supervision; underlines that, in order to uphold the quality of the supervisory work, it is very often the case that an expansion of tasks has to be matched by an expansion of resources; emphasises, however, that any potential increase in the Authority's means must be explained thoroughly and accompanied by rationalisation measures wherever possible;
25. Stresses that, while making sure that all assignments are carried out in full, the Authority must carefully stick to the tasks assigned to it by the Union legislator and must not seek to *de facto* broaden its mandate beyond those assignments; stresses that, when carrying out its work and in particular when drafting technical standards and technical advice, the Authority needs to regularly and comprehensively inform the Parliament on a timely basis about its activities; regrets that this has not always been done in the past;
26. Stresses that when drafting implementing legislation, guidelines, questions and answers or similar measures, the Authority must always respect the mandate attributed by the Union legislator and must not seek to set standards in areas where legislative processes are still pending;
27. Regrets to acknowledge that the Authority has not managed to keep the Union legislator informed in a sufficient and comprehensive manner about all details of its ongoing work;
28. Regrets to acknowledge that, on some occasions, documents have only been transmitted to the Union legislator after they have been leaked to the wider public and deems this to be unacceptable;
29. Concludes that the Authority's mixed financing arrangement, which relies heavily on contributions from national competent authorities, is inadequate, inflexible, burdensome and a potential threat to its independence; therefore calls on the Commission, in the White Paper planned for Q2 2016 and in a legislative proposal to be presented by 2017, to launch a different financing arrangement based on a separate budget line in the budget of the Union and on the complete replacement of the contributions from national authorities by fees paid by market participants;
30. Calls on the Authority to supplement communication with the Parliament on draft advice or technical standards relating to the calibration of prudential formulae with a full description of the data and methodology used in such calibrations;
31. Welcomes the increased transparency about the Authority's meetings with stakeholders;

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32. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 28 April 2016<sup>1</sup> on the performance, financial management and control of the agencies.

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<sup>1</sup> Texts adopted of that date, P8\_TA-PROV(2016)0159.