



TEXTS ADOPTED

Provisional edition

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Discharge 2016: European Securities and Markets Authority (ESMA)

1. European Parliament decision of 18 April 2018 on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2016 (2017/2173(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2016, 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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 20 February 2018 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0083/2018),
- 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

¹ OJ C 417, 6.12.2017, p.176.

² OJ C 417, 6.12.2017, p. 176.

³ OJ L 298, 26.10.2012, p. 1.

repealing Commission Decision 2009/77/EC¹, 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 Council², 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 the Committee on Economic and Monetary Affairs (A8-0101/2018),
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 2016;
 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).

¹ OJ L 331, 15.12.2010, p. 84.

² OJ L 328, 7.12.2013, p. 42.

2. European Parliament decision of 18 April 2018 on the closure of the accounts of the European Securities and Markets Authority for the financial year 2016 (2017/2173(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2016,
 - having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2016, 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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
 - having regard to the Council's recommendation of 20 February 2018 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0083/2018),
 - 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 the Committee on Economic and Monetary Affairs (A8-0101/2018),
1. Approves the closure of the accounts of the European Securities and Markets Authority

¹ OJ C 417, 6.12.2017, p.176.

² OJ C 417, 6.12.2017, p. 176.

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.

for the financial year 2016;

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. European Parliament resolution of 18 April 2018 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 2016 (2017/2173(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 2016,
 - 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 (A8-0101/2018),
- A. whereas, in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources;
- B. whereas, according to its statement of revenue and expenditure¹, the final budget of the European Securities and Markets Authority (the “Authority”) for the financial year 2016 was EUR 39 398 106, representing an increase of 7,11 % compared to 2015; whereas the Authority is financed by a contribution from the Union (EUR 10 203 000), contributions from national supervisory authorities of the Member States and observers (EUR 16 180 250) and fees (EUR 10 550 293);
- 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 2016 (the “Court’s report”) has stated that it has obtained reasonable assurances that the Authority’s annual accounts are reliable and that the underlying transactions are legal and regular;

Budget and financial management

1. Acknowledges that the budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 99,97 %, representing an increase of 0,33 % compared to 2015, and that the payment appropriations execution rate was 87,29 %, representing an increase of 2,75 % compared to 2015;

Commitments and carry-overs

2. Notes with satisfaction that 92,8 % of the 2015 budget credits carried forward to 2016 were paid within the year;
3. Observes that the carry-over rate was relatively low with the exception of Title III (operational expenditure), which was at 38,09 %;
4. Asks the Authority to keep volume to be carried over to the next year as low as possible;

¹ OJ C 84, 17.3.2017, p.192.

5. Points out that carry-overs are often 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 annuality, in particular if they are planned in advance by the Authority and communicated to the Court;

Transfers

6. Notes with satisfaction that, according to the Authority's annual activity report, the level and nature of transfers in 2016 remained within the limits of the financial rules; observes that the Authority executed transfers in the amount of EUR 553 743,41 from Title III (operating expenditure) and EUR 182 131,59 from Title II (infrastructure and administrative expenditure) to cover the budgetary needs of Title I (staff expenditure);

Staff policy

7. Notes that the Authority employed 204 members of staff (136 temporary agents out of 140 posts authorised under the Union budget) in 2016, compared to 186 staff in the previous year; notes that the staff turnover rate for 2016 was 8 %, below the Authority's target of 10 %;
8. Notes that out of 204 members of staff in 2016 the Authority was employing 86,3 (FTEs) seconded national experts, contract staff, interim staff and consultants;
9. Notes that the Authority's global gender balance was at 46 % female and 54 % male; regrets, however, the significant imbalance in the composition of the management board, where the ratio was 17 % female and 83 % male;
10. Notes that, on average, each member of the Authority's staff was on sick leave for six days in 2016; observes that the Authority organised team-building sessions and staff away-days focusing on environmental sustainability, on-site supervisory workshop, institutional law, burnout prevention, physical and mental well-being of staff including workshops on emotional intelligence, desk fit training, mindfulness, introduction to yoga and dietary requirements;
11. Notes with satisfaction that the Authority has established a network of confidential counsellors and held awareness sessions for staff and for managers on protecting the dignity of the person and preventing psychological harassment and sexual harassment;
12. Notes that in March 2015 the Authority's executive director mandated investigators to conduct an administrative inquiry following allegations of harassment made by an external IT consultant against a member of staff and that the inquiry was completed in March 2016; notes that the evidence collected did not support the allegations of harassment; notes also that no other cases of harassment were reported, investigated or taken before the Court in 2016;
13. Notes that the Authority does not use any official vehicles;

Prevention and management of conflicts of interests, transparency and democracy

14. Notes that the declarations of interest and CVs of the management board members are published on the Authority's website;

15. Welcomes the fact that in the course of 2016, the Authority began to publish a register of staff meetings with external stakeholders;
16. Acknowledges from the Authority that the whistleblowing rules have been successfully implemented as envisaged in the first half of 2017;
17. Expresses the need to establish an independent disclosure, advice and referral body with sufficient budgetary resources, in order to help whistleblowers use the right channels to disclose their information on possible irregularities affecting the financial interests of the Union, while protecting their confidentiality and offering needed support and advice;
18. Notes that in 2016 the Authority received six requests for access to documents pursuant to Regulation (EC) No 1049/2001¹ to which the Authority granted a full access in four cases while in two cases the Authority decided to grant only partial access to the documents due to protection of privacy and the integrity of the individual and to protection of the purpose of inspections, investigations and audits; calls on the Authority to treat all such requests with as much openness as possible, in the spirit of transparency and accountability;
19. Asks the Authority to inform the discharge authority about alleged and confirmed infringements of ethics rules, about how it has dealt with such infringements, and how it will avoid them in the future;

Main achievements

20. Welcomes the three main achievements and successes identified by the Authority in 2016, namely:
 - helping to better protect investors by coordinating a number of national regulators' activities relating to high-risk speculative products offered to retail clients across the Union;
 - contributing to the Capital Markets Union by issuing the work on closet indexing and addressing an opinion to Parliament and the Council on what should be the key principles for a European framework on loan origination by funds;
 - contributing to financial stability by conducting the global first EU-wide stress test for central counterparties;

Internal audit

21. Notes that the Authority implemented an action plan in response to the Internal Audit Service (IAS) audit on "Stakeholder Management and External Communication"; notes that in 2016 the Authority began to develop and implement an integrated approach to the planning, management and execution of the Authority's communications activities towards its internal and external stakeholders, which will result in a number of synergies, including greater coordination of stakeholders' activities across all

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43.).

communications channels;

22. Acknowledges from the Authority that all critical or very important recommendations issued by the IAS in previous years have been implemented;

Performance

23. Welcomes the fact that the Authority, together with the European Banking Authority and the European Insurance and Occupational Pensions Authority, forms part of the Joint Committee which works to ensure cross-sector consistency and joint positions in the area of supervision of financial conglomerates and on other cross-sector issues; notes moreover that the Authority has also worked on building its cooperation with the Single Supervisory Mechanism and the European Central Bank in areas of mutual interest such as market infrastructures and financial stability;
24. Notes that the Court performed a performance audit on the supervision of credit rating agencies in the Authority and published its final report in February 2016; acknowledges that the Authority set up an action plan following the audit in order to implement the Court's recommendations; notes that seven of the eight recommendations made by the Court, have already been addressed and that the eighth one is currently being addressed;

Other comments

25. Stresses that, while making sure that all assignments resulting from the regulatory framework laid down by Parliament and the Council are carried out in full and within deadline, the Authority should carefully adhere to the tasks, should not go beyond the mandate assigned to it by Parliament and the Council and should pay particular attention to the principle of proportionality, so as to optimise the use of resources and to achieve the objectives mandated it by Parliament and the Council;
26. Points to the central role of the Authority in ensuring better oversight of the Union financial system to ensure financial stability, the necessary transparency and greater security for the Union financial market in particular by coordinating supervision between national supervisory authorities, by cooperating where necessary with institutions responsible for international supervision, as well as by overseeing consistent application of the Union law; emphasises that such cooperation should be based on an atmosphere of trust; underlines the role of the Authority in contributing to and promoting convergent supervisory practices at a high-level in the area of consumer protection, further underlines that attention should be devoted to the specific features of the various national markets when formulating Level 2 and Level 3 measures, and that the market participants concerned should be involved sufficiently promptly in the process of their application, as well as in the individual design and implementation stages; notes the need to properly assess the Authority's work on a regular basis in the effort to allocate and make the use of its resources more effective, transparent and credible;
27. Notes that, as the Authority's workload is increasingly shifting from regulatory tasks to enforcing and applying the Union law, the Authority's budget and manpower should be reallocated internally; regards it as essential that the Authority have sufficient resources to carry out its assignments in full, including dealing with any additional workload necessitated by those assignments, whilst ensuring an appropriate level of prioritisation

as regards resource allocation and budgetary efficiency; in addition points out that any increase in the Authority's workload may be dealt with internally through the reallocation of budgetary resources or manpower, provided that such reallocation does not impair the full exercise by the Authority of its mandate and ensures the Authority's independence in the performance of its supervisory tasks;

28. Notes with satisfaction that in 2016 the Authority was engaged in the eco-management and audit scheme certification for various activities to lower the environmental footprint;
29. Notes that, according to the Court's report that withdrawal of the United Kingdom from the Union might affect the Authority's activities since many significant supervised entities are currently located there; takes note that future decrease in the Authority's revenue resulting from the United Kingdom's decision to withdraw from the Union is possible;
30. Notes with satisfaction that the Authority is engaging proactively with national competent authorities to understand the impact of the withdrawal of the United Kingdom from the Union on the supervision of the financial markets as well as its impact on the Authority; notes furthermore that the Authority is in contact and exchanges with the Commission on that issue;

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31. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 18 April 2018¹ on the performance, financial management and control of the agencies.

¹ Texts adopted, P8_TA-PROV(2018)0133.