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REPORT

on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2013
(2014/2122(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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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 2013 (2014/2122(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2013, together with the Authority's replies¹,
- 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 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2013 (05304/2015 – C8-0054/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities³,
- 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 1605/2002⁴, 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/EC⁵, 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

¹ OJ C 442, 10.12.2014, p. 247.

² OJ C 442, 10.12.2014, p. 247.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 298, 26.10.2012, p. 1.

⁵ OJ L 331, 15.12.2010, p. 84.

Regulation applicable to the general budget of the European Communities¹,

- 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 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 (A8-0087/2015),
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 2013;
 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 357, 31.12.2002, p. 72.

² OJ L 328, 7.12.2013, p. 42.

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Securities and Markets Authority for the financial year 2013 (2014/2122(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2013, together with the Authority's replies¹,
- 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 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2013 (05304/2015 – C8-0054/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities³,
- 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 1605/2002⁴, 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/EC⁵, 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

¹ OJ C 442, 10.12.2014, p. 247.

² OJ C 442, 10.12.2014, p. 247.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 298, 26.10.2012, p. 1.

⁵ OJ L 331, 15.12.2010, p. 84.

Regulation applicable to the general budget of the European Communities¹,

- 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 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 (A8-0087/2015),
1. Notes that the final annual accounts of the European Securities and Markets Authority are as annexed to the Court of Auditors' report;
 2. Approves the closure of the accounts of the European Securities and Markets Authority for the financial year 2013;
 3. 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).

¹ OJ L 357, 31.12.2002, p. 72.

² OJ L 328, 7.12.2013, p. 42.

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 2013
(2014/2122(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 2013,
 - 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 (A8-0087/2015),
- A. whereas, according to its financial statements, the final budget of the European Securities and Markets Authority (“the Authority”) for the financial year 2013 was EUR 28 188 749, representing an increase of 39,01 % compared to 2012, due to the additional tasks entrusted to the Authority,
- B. 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 2013 (“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,

Follow-up of 2012 discharge

1. Notes from the Court’s report that regarding six comments made in the Court’s 2011 report and marked as "Ongoing" or "Outstanding" in the Court's 2012 report, corrective actions were taken and two are now marked in the Court's report as "Completed", three as "On-going" and one as "Not Applicable"; notes, furthermore, that for the seven comments made in the Court’s 2012 report, corrective actions were taken and two comments are now marked as "Completed", three as "Ongoing" and two as "Not Applicable";
2. Acknowledges from the Authority that:
 - it has integrated its staff and budget planning with its annual work planning in order to take into account the priorities across the entire organisation, as well as to relocate staff to different tasks where possible;
 - its recruitment procedures were modified in order to include more controls, such as *ex ante* checks, clearer templates and revised mechanisms of evaluation of candidates, and that according to the Court’s report, the corrective action regarding the Court’s recommendation on this matter has been completed;
 - its communication on its work and activities addressed to Union citizens is made by publishing and disseminating information through a certain number of channels

including, but not limited to, its public website and different types of documents on topics;

Budget and financial management

3. Notes that budget monitoring efforts during the financial year 2013 resulted in a budget implementation rate of 93,18 % and that the payment appropriations execution rate was 72,54 %;
4. Takes note that, in order to ensure that corrective actions related to the budget implementation were taken in due time, the Authority used a variety of methods, such as monthly reporting to the Executive Director and quarterly reporting to the Management Board; notes that this has led to a higher budget implementation rate in comparison to the previous year;

Commitments and carry-overs

5. Acknowledges that the commitments were made in a more timely manner as the overall level of committed appropriations increased from the previous year; notes with concern that the level of committed appropriations carried over remains high for Title III at 58 %, showing an increase of 6 %;
6. Takes note that the high level of carry-overs results mainly from IT services contracted at year end, services received in 2013 but not paid before year end, as well as from delays in IT procurements and from the multiannual nature of related IT projects; calls on the Authority to inform the discharge authority on the steps taken in order to reduce the level of carry-overs to the lowest possible amount;

Transfers

7. Notes with concern that the level of transfers is very high at 18 % of the budget, amounting to EUR 5 100 000; regrets that this figure shows an increase, when compared with 2012, which indicates continued shortcomings in budgetary planning; calls on the Authority to inform the discharge authority of the actions taken to remedy those deficiencies;

Procurement and recruitment procedures

8. Ascertains from the Authority that procurement procedures were centralised for all procurements above EUR 15 000 in order to improve their timeliness, quality control and compliance; takes note that monthly reporting on the status of the procurement plan to the Executive Director was initiated in 2013;

Prevention and management of conflicts of interests and transparency

9. Notes from the Authority that it has further strengthened its ethics guidelines by developing a conflicts of interests policy for non-staff which takes into account the Commission guidelines on the Prevention and Management of Conflicts of Interest in EU Decentralised Agencies, and is applicable to members of the Board of Supervisors and of the Management Board;

10. Takes note that the Authority's policy on conflicts of interests contains a provision regarding the publication of the declarations of interests of members of the Board of Supervisors and the Management Board; observes that the CVs and declarations of interests of the members of the Board of Supervisors and the Management Board, as well as the declarations of interests of the Executive Director and senior management, are not publicly available; calls on the Authority to remedy this deficiency as a matter of urgency and to make those documents easily accessible through its website;

Internal audit

11. Acknowledges from the Authority that in 2013 the Commission's Internal Audit Service (IAS) carried out a limited review of its implementation of Internal Control Standards (ICS), following the results of the risk assessment performed in 2012 and the Authority's Strategic Audit Plan 2013-2015;
12. Notes that in its 2013 review of the ICS, the IAS issued 14 recommendations in the different areas, one of which was marked as "Very Important", and concluded that most of the 15 reviewed ICS had been fully or largely implemented; takes note that further to the follow-up visit performed by the IAS in June 2014, half of the recommendations had been implemented, including the one marked as "Very Important";

Other comments

13. Regrets that late payments constituted 27 % of all payments for goods and services received, resulting in paid interest which amounted to EUR 3 834, as well as payments being late on average by 32 days; calls on the Authority to provide the discharge authority with detailed information on the steps taken in order to tackle this issue and to improve timeliness of payment processes;
14. Notes that the Authority's current financing arrangements are inflexible, create unnecessary administrative burdens and might jeopardise its independence; urges the Authority to cooperate with the Commission in order to revise its current financing structure;
15. Takes note that following its discussions with the host Member State, the Authority started claiming VAT reimbursements according to the Protocol on the privileges and immunities of the European Union¹ and the Council "VAT Directive"²; notes that by the end of 2013, only 39 % of the VAT charged for the period 2011-2013 had been claimed back; calls on the Authority to inform the discharge authority of the actions taken to claim the charged VAT, as well as the estimated time frame during which the total amount can be claimed back;
16. Recalls that Parliament was a key actor 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 it, the Authority in 2011;

¹ Protocol (No 7) on the privileges and immunities of the European Union (OJ C 115, 9.5.2008, p. 266).

² Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

17. Takes note of the observation made by the Commission, in its recent report on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS), that in spite of difficult circumstances, the ESAs have quickly established well-functioning organisations which, overall, have performed well against their broad range of tasks, while facing increasing demands with limited human resources;
18. Emphasises that the Authority's role in promoting a common supervisory regime across the single market is essential to ensure better integrated, more efficient and safer financial markets in the Union, thus contributing to economic recovery and the creation of jobs and growth in Europe and the prevention of future crises in the financial sector;
19. Acknowledges that the ESFS is still in a setting-up phase and stresses that the tasks already entrusted to the Authority, as well as future tasks envisaged in on-going legislative work, require an adequate level of staff and budget to allow for high-quality supervision; emphasises that the need to combine additional tasks with additional resources should always be carefully considered; stresses, however, that any potential increases in its means should be preceded and/or complemented by adequate rationalisation efforts, wherever possible; highlights the Authority's coordinating role and the need to closely cooperate with national supervisory authorities to fulfil its mandate;
20. Stresses that given its limited resources, the Authority must stick to the tasks assigned to it by the Union co-legislators; underlines that the Authority should carry out those assignments in full but that it must not seek to go beyond its mandate, and that it must remain independent; highlights that the Authority should check the necessity of drafting guidelines and recommendations;
21. Highlights that the Authority should make full use of its powers in the area of consumer protection that are granted to it by its mandate; underlines that, in this area, the Authority should coordinate more closely with the other ESAs through the Joint Committee;
22. Calls on the Authority to ensure that in the future no legal commitments are entered into in advance of budget commitments;

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23. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2015¹ on the performance, financial management and control of the agencies.

¹ Texts adopted of that date, P7_TA-PROV(2015)0000.

26.2.2015

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 2013
(2014/2122(DEC))

Rapporteur: Markus Ferber

SUGGESTIONS

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

1. Recalls that the European 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 this – the European Securities and Markets Authority (ESMA) in 2011;
2. Takes note of the observation made by the Commission, in its recent report on the operation of the European Supervisory Authorities (ESAs) and the ESFS, that in spite of difficult circumstances, the ESAs have quickly established well-functioning organisations which, overall, have performed well against their broad range of tasks, while facing increasing demands with limited human resources;
3. Underlines that ESMA's role in promoting a common supervisory regime across the Single Market is essential to ensure better integrated, more efficient and safer financial markets in the Union, thus contributing to economic recovery and the creation of jobs and growth in Europe and the prevention of future crises in the financial sector;
4. Acknowledges that, in the opinion of the European Court of Auditors, ESMA's transactions underlying the annual accounts for the year ended 31 December 2013 are legal and regular in all material respects;
5. Emphasises, without questioning that overall opinion, that ESMA needs to remedy a couple of minor points highlighted by the European Court of Auditors; finds the 2013 situation regarding late payments of bills and incorrectly paid VAT to be unacceptable;

6. Acknowledges that the ESFS is still in a setting-up phase and stresses that the tasks already entrusted to ESMA, as well as future tasks envisaged in on-going legislative work, require an adequate level of staff and budget to allow for high-quality supervision; emphasizes that the need to combine additional tasks with additional resources should always be carefully considered; stresses however that any potential increases in its means should be preceded and/or complemented by adequate rationalisation efforts, wherever possible; highlights ESMA's coordinating role and the need to closely cooperate with national supervisory authorities to fulfil its mandate;
7. Stresses that, given its limited resources, ESMA must stick to the tasks assigned to it by the Union co-legislators; underlines that ESMA should carry out those assignments in full, but that it must not seek to de facto broaden its mandate beyond them, and that it must remain independent; highlights that ESMA should check the necessity of drafting guidelines and recommendations;
8. Highlights that ESMA should make full use of its powers in the area of consumer protection that are granted to it by its existing mandate; underlines that, in this area, the ESMA should coordinate more closely with the other ESAs through the Joint Committee;
9. Calls on ESMA to ensure that in the future no legal commitments are entered into in advance of budget commitments;
10. Concludes that ESMA's mixed financing arrangement is inflexible, burdensome and a potential threat to its independence; calls therefore on the Commission, if proven by the Commission's assessment, to propose a financing system by 2017 that:
 - is solely based on the introduction of fees by market participants, or
 - combines fees by market participants with basic funding from a separate budget line in the general Union budget.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.2.2015
Result of final vote	+: 43 -: 11 0: 4
Members present for the final vote	Burkhard Balz, Hugues Bayet, Pervenche Berès, Esther de Lange, Fabio De Masi, Anneliese Dodds, Markus Ferber, Jonás Fernández, Elisa Ferreira, Sven Giegold, Neena Gill, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, C t lin Sorin Ivan, Petr Ježek, Othmar Karas, Georgios Kyrtos, Alain Lamassoure, Philippe Lamberts, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maleti , Fulvio Martusciello, Marisa Matias, Costas Mavrides, Lud k Niedermayer, Patrick O'Flynn, Stanisław O óg, Dimitrios Papadimoulis, Dariusz Rosati, Alfred Sant, Molly Scott Cato, Peter Simon, Theodor Dumitru Stolojan, Paul Tang, Sampo Terho, Ramon Tremosa i Balcells, Ernest Urtasun, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Miguel Viegas, Steven Woolfe, Pablo Zalba Bidegain, Marco Zanni, Sotirios Zarianopoulos
Substitutes present for the final vote	Richard Corbett, Ashley Fox, Eva Kaili, Syed Kamall, Barbara Kappel, Thomas Mann, Siegfried Mure an
Substitutes under Rule 200(2) present for the final vote	Gesine Meissner

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	23.3.2015
Result of final vote	+: 21 -: 5 0: 0
Members present for the final vote	Nedzhmi Ali, Inés Ayala Sender, Ryszard Czarnecki, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Ingeborg Gräßle, Bernd Kölmel, Bogusław Liberadzki, Verónica Lope Fontagné, Monica Macovei, Georgi Pirinski, Petri Sarvamaa, Claudia Schmidt, Igor Šoltes, Bart Staes, Michael Theurer, Marco Valli, Derek Vaughan, Anders Primdahl Vistisen, Joachim Zeller
Substitutes present for the final vote	Caterina Chinnici, Iris Hoffmann, Monika Hohlmeier, Andrey Novakov, Julia Pitera, Miroslav Poche
Substitutes under Rule 200(2) present for the final vote	Laura Ferrara