



**2015/2190(DEC)**

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# DRAFT REPORT

on discharge in respect of the implementation of the budget of the European  
Securities and Markets Authority for the financial year 2014  
(2015/2190(DEC))

Committee on Budgetary Control

Rapporteur: Derek Vaughan

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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 2014 (2015/2190(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2014,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2014, together with the Authority's replies<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 xx February 2016 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2014 (xxxxxx/2016 – C8-xxxx/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 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/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>,

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<sup>1</sup> OJ C 409, 9.12.2015, p. 255.

<sup>2</sup> OJ C 409, 9.12.2015, p. 255.

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

<sup>4</sup> OJ L 331, 15.12.2010, p. 84.

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

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

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 (A8-0000/2016),
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 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 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 2014  
(2015/2190(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2014,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2014, together with the Authority's replies<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 xx February 2016 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2014 (xxxxxx/2016 – C8-xxxx/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 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/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

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<sup>1</sup> OJ C 409, 9.12.2015, p. 255.

<sup>2</sup> OJ C 409, 9.12.2015, p. 255.

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

<sup>4</sup> OJ L 331, 15.12.2010, p. 84.

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

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>1</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 (A8-0000/2016),
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 2014;
  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).

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<sup>1</sup> 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 2014  
(2015/2190(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 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 (A8-0000/2016),
- 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 33 267 143 representing an increase 18,02 % compared to 2013 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 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,

#### ***Comments on the reliability of the accounts***

1. Notes from the Court's report that the fees the Authority charged to its supervised entities, appearing as revenue in the provisional statement of financial performance, were based on estimated rather than actual costs of realised supervisory activities; acknowledges that in 2014 the Authority developed an activity based costing model which will allow accurate follow up of the expenditure of its supervision activities; acknowledges furthermore that the Authority is applying this model from 2015 resulting in the supervisory fees being calculated according to the actual cost;

#### ***Comments on the legality and regularity of transactions***

2. Notes from the Court's report the Authority inherited a number of IT framework contracts from its predecessor body, the Committee of European Securities Regulators (CESR); takes note that these contracts were related to hosting of the Authority's data centres as well as for development and maintenance of its systems; notes with concern that the IT contracts were not replaced with timely calls for tender which led to two contracts being extended beyond their original duration; is concerned that this resulted in the Authority procuring IT services, furniture and stationery, using a French central purchasing body, Union de Groupements d'Achats Publics (UGAP) for the amount of EUR 956 000 for 2014; points out that the use of UGAP was not in compliance with the Financial

Regulation; acknowledges that the Authority has ceased to procure using UGAP's framework contracts, and that it has replaced all CESR IT framework contracts with its own;

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

3. Notes that the budget monitoring efforts during the financial year 2014 resulted in a budget implementation rate of 98,89 %, representing an increase of 5,71 % compared to 2013 and indicating that commitments were made in a more timely manner; notes that the payment appropriations execution rate was 81,16 %;
4. Notes that the total cancellation rate for committed appropriation carried forward from 2013 was 19 %; acknowledges that those cancellations related mainly to delays in delivering requested services by the contractors, cancelled purchase of licenses for a cancelled project, difficulties encountered in implementing a contract for interim staff as well as to a changeover to the new IT consultancy framework contract;

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

5. Ascertains from the Court's report that the that the level of committed appropriations carried over to 2015 was at 45 % for Title III (operational expenditure), showing a decrease of 13 % compared to 2013; acknowledges that those carryovers related mainly to IT and other services provided in 2014 and not paid at the year-end, to services expected to be delivered in 2015 as well as to the multi-annual nature of signed contracts;

### ***Transfers***

6. Notes with satisfaction that the Authority reduced the level of transfers in 2014 by implementing a thorough quarterly budget review, as well as monthly reporting to the Executive Director and quarterly reporting to the Management Board in order to ensure better and more transparent budget monitoring;

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

7. Notes that at year-end, the Authority employed 167 staff members, compared to 139 staff in the previous year; acknowledges from the Authority that it aims for the best possible gender and geographical balance, resulting in 24 Union and European Economic Area nationalities being represented, with a ratio of 55 % male and 45 % female staff members;

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

8. Acknowledges that the Authority developed, jointly with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA), a policy on management of conflicts of interests for its staff; notes that this policy was adopted in March 2015; notes furthermore that the Authority's Board of Supervisors adopted a policy on management of conflicts of interests for non-staff in September 2014; ascertains that the Authority is to annually collect and assess the declarations of interests from its staff, introduce awareness sessions for staff and newcomers, as well as to assess *ad hoc* declarations sent by its staff in order to raise awareness of the importance of avoiding conflicts of interests;



9. Notes that the CVs and declarations of interests of the Authority's senior management, voting members of its Board of Supervisors and members of the Securities and Market Stakeholder Group were made available on the Authority's website;
10. Acknowledges that in 2014 the Authority developed, in close cooperation with EBA and EIOPA, an anti-fraud strategy for the 2015-2017 period and that its implementation will enhance the Authority's capabilities in preventing, detecting, investigating and penalising potential fraud cases;

### ***Internal audit***

11. Notes that the Commission's Internal Audit Service (IAS) performed an audit on "IT Governance and Project Management" and started an audit on "Stakeholder Management and External Communications"; notes that in June 2014 the IAS performed a follow up visit and reviewed the implementation of the Authority's Internal Control Standards (ICS); acknowledges that the IAS considered seven out of 14 recommendations were already implemented while some of the pending recommendations were sent for closure to the IAS and are pending a new review;

### ***Other comments***

12. Notes that the Authority has put in place different actions in order to tackle the issue of late payments, which in 2013 constituted 27 % of all payments for goods and services received; acknowledges that these actions resulted in the late payments rate being reduced to below 1 % in 2015;
13. Notes 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 Union<sup>1</sup> and the Council "VAT Directive"<sup>2</sup>; acknowledges that a VAT claiming procedure was put in place in 2013 which involves the participation of financial actors early in the appropriate circuits; observes that as a result of this measure, a quarterly procedure for claiming and reimbursement of VAT is in place as from 2014, effectively resolving the VAT recovery issue;
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14. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2016]<sup>3</sup> [on the performance, financial management and control of the agencies].).

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

<sup>2</sup> 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).

<sup>3</sup> Texts adopted of that date, P[8\_TA(-PROV)(2016)0000].