



Plenary sitting

A8-0141/2019

1.3.2019

REPORT

on discharge in respect of the implementation of the budget of the European Securities and Markets Authority (ESMA) for the financial year 2017
(2018/2204(DEC))

Committee on Budgetary Control

Rapporteur: Petri Sarvamaa

CONTENTS

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	3
2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	5
3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	7
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS	11
INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE	16
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	17

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 2017 (2018/2204(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2017,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2017, 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 2017, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 12 February 2019 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2017 (05825/2019 – C8-0094/2019),
- 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, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012⁴, and in particular Article 70 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 Delegated Regulation (EU) No 1271/2013 of

¹ OJ C 434, 30.11.2018, p. 87.

² OJ C 434, 30.11.2018, p. 87.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 193, 30.7.2018, p. 1.

⁵ OJ L 331, 15.12.2010, p. 84.

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 Council¹, 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 (A8-0141/2019),
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 2017;
 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 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 2017
(2018/2204(DEC))**

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2017,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2017, 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 2017, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 12 February 2019 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2017 (05825/2019 – C8-0094/2019),
- 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, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012⁴, and in particular Article 70 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 Delegated Regulation (EU) No 1271/2013 of

¹ OJ C 434, 30.11.2018, p. 87.

² OJ C 434, 30.11.2018, p. 87.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 193, 30.7.2018, p. 1.

⁵ OJ L 331, 15.12.2010, p. 84.

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 Council¹, 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 (A8-0141/2019),
1. Approves the closure of the accounts of the European Securities and Markets Authority for the financial year 2017;
 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).

¹ 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 2017
(2018/2204(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 2017,
 - 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 (A8-0141/2019),
- A. 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 2017 was EUR 42 076 719, representing an increase of 6,37 % compared to 2016; whereas the Authority is financed by a contribution from the Union (EUR 11 019 552, 26,19 %), contributions from national supervisory authorities of the Member States (EUR 18 584 866, 44,17 %) and fees received from supervised entities (EUR 11 831 781, 28,12 %);
- B. whereas the Court of Auditors (the ‘Court’), in its report on the annual accounts of the Authority for the financial year 2017 (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. Notes with appreciation that the budget monitoring efforts during the financial year 2017 resulted in a budget implementation rate of 100 %, representing an increase of 0,03 % compared to 2016; notes that the payment appropriations execution rate was at 89,76 %, representing an increase of 2,47 % compared to the previous year;

Cancellation of carry-overs

2. Notes that the cancellation of carry-overs from 2016 to 2017 amounted to EUR 164 310, representing 3,51 % of the total amount carried over, and a decrease of 3,65 % in comparison to 2016;

Performance

3. Acknowledges that the Authority uses certain measures as key performance indicators to assess the added value provided by its activities and to improve its budget management;

¹ OJ C 154/01, 2.5.2018, p. 3

4. Notes that the Authority completed 90 % of the activities included in its annual work programme;
5. Highlights the role of the Authority in facilitating and promoting the coordination between national supervisory authorities and, where appropriate, with institutions responsible for international supervision;
6. Acknowledges that the Authority's task is to improve the functioning of the EU internal financial markets by ensuring a high, effective and consistent level of regulation and supervision, to promote the integrity and stability of the financial systems and to strengthen international supervisory coordination in order to ensure the stability and effectiveness of the financial system;
7. Stresses that, while making sure that all assignments are carried out in full and within deadline, the Authority should fulfil the tasks and the mandate assigned to it by the European Parliament and the Council and should stay within the mandate of those assignments; calls on the Authority to ensure a proper follow-up and implementation of the Court's recommendations;
8. Stresses that the Authority should pay particular attention to the principle of proportionality in carrying out its mandate; underlines that, in particular when formulating Level 2 and Level 3 measures, attention should be devoted to specific features of national financial markets;
9. Notes that, as the Authority's workload is increasingly shifting from regulatory tasks to enforcing and applying the Union law, the Authority's budgetary and personnel resources should be reallocated; stresses, in this respect, the need to ensure an appropriate level of prioritisation as regards resource allocation;
10. Believes that any potential increase in the Authority's means must be accompanied by adequate rationalisation measures;
11. Requests the European Securities and Markets Authority and the European Banking Authority ('EBA') to conduct an inquiry into dividend arbitrage trading schemes such as cum-ex in order to assess potential threats to the integrity of financial markets and to national budgets; to establish the nature and magnitude of actors in these schemes; to assess whether there were breaches of either national or Union law; to assess the actions taken by financial supervisors in Member States; and to make appropriate recommendations for reform and for action to the competent authorities concerned;
12. Stresses the need to allocate sufficient resources, to address existing anti-money laundering competences and to ensure a swift exchange EBA regarding money laundering and countering the financing of terrorism; asks the Authority to develop common guidance in exchange with EBA and the European Insurance and Occupational Pensions Authority ('EIOPA') on how to integrate AML/CFT risks in prudential supervision;
13. Welcomes the fact that the Authority, along with EBA and EIOPA, forms part of the Joint Committee which aims to ensure cross-sector consistency and joint positions in the area of supervision of financial conglomerates and on other cross-sector issues, and

that it shares an accounting officer with the European Union Agency for Railways;

14. Notes that an external evaluation of the three European Supervisory Authorities was carried out in 2017; calls on the Authority to report to the discharge authority on the measures taken (by the Authority) to address the shortcomings identified by the external evaluation;

Staff policy

15. Notes that, on 31 December 2017, the establishment plan was 97,33 % executed, with 146 temporary agents (TAs) appointed out of 150 temporary agents authorised under the Union budget, compared with 140 authorised posts in 2016; notes that in addition 55 contract agents and 23 seconded national experts worked for the Authority in 2017;
16. Notes that the staff turnover rate of the Authority was 6,5 %, meeting the Authority's target of less than 10 % and implying a decrease of 1,50 % in comparison to the previous year;
17. Welcomes the suggestion of the Court to publish vacancy notices on the website of the European Personnel Selection Office in order to increase publicity; understands the Authority's reply concerning the high translation costs triggered by such publication;
18. Notes that the Authority has adopted a policy on protecting the dignity of the person and preventing harassment;

Procurement

19. Observes with satisfaction that the Authority successfully led an inter-EU Agency open tender procurement procedure for language e-learning, making an online learning platform for European languages available to staff; notes that thirty EU Agencies joined that procedure;

Prevention and management of conflicts of interests and transparency

20. Acknowledges the measures the Authority already has in place and its ongoing efforts to secure transparency, to prevent and manage conflicts of interests, and to protect whistleblowers; furthermore, welcomes the fact that the Authority publishes a register of staff meetings with external stakeholders;
21. Welcomes in the context of the Authority's oversight function with regards to AML and CFT the adoption of guidelines on whistleblowing and stresses the need for national supervisory authorities to adopt similar policies;
22. Notes that 28 % of the Authority's budget came from fees charged to the entities it supervises; notes with satisfaction that measures have been implemented in order to mitigate any conflicts of interests, and that those structures and processes have been audited; calls on the Authority to continue reporting to the discharge authority on its measures to ensure that no conflict of interest occurs; furthermore, notes that the Authority believes that if the Commission collected the fees, inefficiencies would arise as the Authority already has the appropriate fee-setting and collection structures and

processes in place, and the Authority considers that the procedure requires specific expertise due to its dynamic and technical nature;

23. Considers that, while carrying out its work and in particular when drafting implementing measures, the Authority needs to regularly and comprehensively inform the European Parliament and Council about its activities; stresses that it is essential for the Authority, in view of the nature of its assignments, to exhibit transparency, not only to the European Parliament and the Council, but to the Union citizens as well;

Internal Controls

24. Notes that the Commission's Internal Audit Service (IAS) performed an audit on Peer Reviews of National Competent Authorities, concluding that the processes are generally adequate, efficient and effective; notes that the IAS made four recommendations, none of which were considered as critical or very important; calls on the Authority to report to the discharge authority on the measures taken to address those recommendations;

Other comments

25. Notes that, according to the Court's report, the United Kingdom's decision to withdraw from the European Union might affect the Authority's activities since the most significant supervised entities are currently located there; notes that a future decrease of the Authority's revenue resulting from the United Kingdom's decision to withdraw from the European Union is possible; calls on the Authority to remain aware of the situation in hand, prepare to mitigate any risks that may occur, and report to the discharge authority on any developments in that regard;

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26. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ...2019¹ on the performance, financial management and control of the agencies.

¹ Texts adopted, P8_TA-PROV(2019)0000.

24.1.2019

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 2017
(2018/2204(DEC))

Rapporteur for opinion: Doru-Claudian Frunzulică

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. Acknowledges that, in the opinion of the Court of Auditors (the 'Court'), the European Securities and Markets Authority's (the 'Authority') transactions underlying the annual accounts for the year 2017 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 Authority's financial management; calls on the Authority to ensure a proper follow-up and implementation of the Court's recommendations;
2. Highlights the role of the Authority in facilitating and promoting the coordination between national supervisory authorities and, where appropriate, with institutions responsible for international supervision;
3. Acknowledges that the Authority's task is to improve the functioning of the EU internal financial markets by ensuring a high, effective and consistent level of regulation and supervision, to promote the integrity and stability of the financial systems and to strengthen international supervisory coordination in order to ensure the stability and effectiveness of the financial system;
4. Stresses that, while making sure that all assignments are carried out in full and within deadline, the Authority should fulfil the tasks and the mandate assigned to it by the European Parliament and the Council and should stay within the mandate of those assignments; calls on the Authority to ensure a proper follow-up and implementation of

the Court's recommendations;

5. Considers that, while carrying out its work and in particular when drafting implementing measures, the Authority needs to regularly and comprehensively inform the European Parliament and Council about its activities; stresses that it is essential for the Authority, in view of the nature of its assignments, to exhibit transparency, not only to the European Parliament and the Council, but to the Union citizens as well;
6. Stresses that the Authority should pay particular attention to the principle of proportionality in carrying out its mandate; underlines that, in particular when formulating Level 2 and Level 3 measures, attention should be devoted to specific features of national financial markets;
7. Notes that, as the Authority's workload is increasingly shifting from regulatory tasks to enforcing and applying the Union law, the Authority's budgetary and personnel resources should be reallocated; stresses, in this respect, the need to ensure an appropriate level of prioritisation as regards resource allocation;
8. Believes that any potential increase in the Authority's means must be accompanied by adequate rationalisation measures;
9. Requests the European Securities and Markets Authority and the European Banking Authority ('EBA') to conduct an inquiry into dividend arbitrage trading schemes such as cum-ex in order to assess potential threats to the integrity of financial markets and to national budgets; to establish the nature and magnitude of actors in these schemes; to assess whether there were breaches of either national or Union law; to assess the actions taken by financial supervisors in Member States; and to make appropriate recommendations for reform and for action to the competent authorities concerned;
10. Notes that the total number of staff stood at 226 at the end of 2017, compared to 204 at the end of 2016;
11. Stresses the need to allocate sufficient resources, to address existing anti-money laundering competences and to ensure a swift exchange with EBA regarding money laundering and countering the financing of terrorism; asks the Authority to develop common guidance in exchange with EBA and the European Insurance and Occupational Pensions Authority ('EIOPA') on how to integrate AML/CFT risks in prudential supervision;
12. Welcomes in the context of the Authority's oversight function with regards to AML and CFT the adoption of guidelines on whistleblowing and stresses the need for national supervisory authorities to adopt similar policies;
13. Draws attention to the fact that the Authority's budget is financed 27% from European Union funds and 42% through direct contributions from the Member States' supervisory authorities and 29% from fees received from supervised entities (Credit Rating Agencies and Trade Repositories) and 2% from others sources, and that this mixed financing arrangements may pose a threat to its independence and supervisory tasks; takes note of the United Kingdom's decision to withdraw from the Union and of the financial, administrative, human and other implications of that decision; highlights that the

Authority's revenue will decrease as a result of the United Kingdom's decision to withdraw from the Union, and stresses the need to find adequate arrangements for its funding.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	22.1.2019
Result of final vote	+: 43 -: 2 0: 4
Members present for the final vote	Hugues Bayet, Esther de Lange, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Stefan Gehrold, Sven Giegold, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Georgios Kyrtos, Werner Langen, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Marisa Matias, Gabriel Mato, Alex Mayer, Caroline Nagtegaal, Luděk Niedermayer, Stanisław Ożóg, Ralph Packet, Sirpa Pietikäinen, Dariusz Rosati, Pirkko Ruohonen-Lerner, Alfred Sant, Martin Schirdewan, Peter Simon, Theodor Dumitru Stolojan, Kay Swinburne, Paul Tang, Ramon Tremosa i Balcells, Ernest Urtasun, Marco Valli, Tom Vandenkendelaere, Miguel Viegas, Babette Winter, Marco Zanni
Substitutes present for the final vote	Eric Andrieu, Manuel dos Santos, Ashley Fox, Jeppe Kofod, Paloma López Bermejo, Thomas Mann, Eva Maydell, Siegfried Mureşan, Lieve Wierinck
Substitutes under Rule 200(2) present for the final vote	Virginie Rozière, Ricardo Serrão Santos

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

43	+
ALDE	Caroline Nagtegaal, Ramon Tremosa i Balcells, Lieve Wierinck
ECR	Ashley Fox, Bernd Lucke, Stanisław Ożóg, Ralph Packet, Pirkko Ruohonen-Lerner, Kay Swinburne
PPE	Markus Ferber, Stefan Gehrold, Brian Hayes, Gunnar Hökmark, Georgios Kyrtos, Esther de Lange, Werner Langen, Ivana Maletić, Thomas Mann, Gabriel Mato, Eva Maydell, Siegfried Mureşan, Luděk Niedermayer, Sirpa Pietikäinen, Dariusz Rosati, Theodor Dumitru Stolojan, Tom Vandenkendelaere
S&D	Eric Andrieu, Hugues Bayet, Jonás Fernández, Giuseppe Ferrandino, Roberto Gualtieri, Jeppe Kofod, Olle Ludvigsson, Alex Mayer, Virginie Rozière, Alfred Sant, Manuel dos Santos, Ricardo Serrão Santos, Peter Simon, Paul Tang, Babette Winter
VERTS/ALE	Sven Giegold, Ernest Urtasun

2	-
ENF	Marco Zanni
GUE/NGL	Miguel Viegas

4	0
EFDD	Marco Valli
GUE/NGL	Paloma López Bermejo, Marisa Matias, Martin Schirdewan

Key to symbols:

+ : in favour

- : against

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	20.2.2019
Result of final vote	+ : 19 - : 1 0 : 1
Members present for the final vote	Nedzhmi Ali, Inés Ayala Sender, Zigmantas Balčytis, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Ingeborg Gräßle, Jean-François Jalkh, Wolf Klinz, Monica Macovei, Georgi Pirinski, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Marco Valli, Derek Vaughan, Tomáš Zdechovský, Joachim Zeller
Substitutes present for the final vote	Karin Kadenbach
Substitutes under Rule 200(2) present for the final vote	Petra Kammerevert

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

19	+
ALDE	Nedzhmi Ali, Martina Dlabajová, Wolf Klinz
ECR	Monica Macovei
GUE/NGL	Dennis de Jong
PPE	Tamás Deutsch, Ingeborg Gräßle, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Tomáš Zdechovský, Joachim Zeller
S&D	Inés Ayala Sender, Zigmantas Balčytis, Karin Kadenbach, Petra Kammerevert, Georgi Pirinski, Derek Vaughan
VERTS/ALE	Bart Staes

1	-
EFDD	Marco Valli

1	0
ENF	Jean-François Jalkh

Key to symbols:

+ : in favour

- : against

0 : abstention