



EUROPEAN PARLIAMENT

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*Committee on Budgetary Control*

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**2013/2239(DEC)**

23.1.2014

## **DRAFT REPORT**

on the discharge in respect of the implementation of the budget of the  
European Securities and Markets Authority for the financial year 2012  
(C7-0327/2013 – 2013/2239(DEC))

Committee on Budgetary Control

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## **1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION**

**on the discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2012  
(C7-0327/2013 – 2013/2239(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies<sup>1</sup>,
- having regard to the Council's recommendation of ... (0000/2013 – C7-0000/2013),
- 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 Communities<sup>2</sup>, and in particular Article 185 thereof,
- 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)<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>, and in particular Article 94 thereof,
- having regard to Rule 77 of, and Annex VI 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 (A7-0000/2014),

1. Grants the Executive Director of the European Securities and Markets Authority discharge

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<sup>1</sup> OJ C 365, 13.12.2013, p. 197.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<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.

in respect of the implementation of the Authority's budget for the financial year 2012 /  
Postpones its decision on granting 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 2012;

2. Sets out its observations in the resolution below;
3. Instructs its President to forward this Decision and the resolution that forms 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 closure of the accounts of the European Securities and Markets Authority for the financial year 2012  
(C7-0327/2013 – 2013/2239(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies<sup>1</sup>,
- having regard to the Council's recommendation of ... (0000/2013 – C7-0000/2013),
- 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 Communities<sup>2</sup>, and in particular Article 185 thereof,
- 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)<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>, and in particular Article 94 thereof,
- having regard to Rule 77 of, and Annex VI 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 (A7-0000/2014),

1. Approves the closure of the accounts of the European Securities and Markets Authority

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<sup>1</sup> OJ C 365, 13.12.2013, p. 197.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<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.

for the financial year 2012 / Postpones its decision on the closure of the accounts of the European Securities and Markets Authority for the financial year 2012;

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. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of its Decision on the discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2012**

**(C7-0327/2013 – 2013/2239(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies<sup>1</sup>,
- having regard to the Council's recommendation of ... (0000/2013 – C7-0000/2013),
- 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 Communities<sup>2</sup> ("the Financial Regulation"), and in particular Article 185 thereof,
- 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)<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>, and in particular Article 94 thereof,
- having regard to Rule 77 of, and Annex VI 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 (A7-0000/2014),

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<sup>1</sup> OJ C 365, 13.12.2013, p. 197.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<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.

- A. whereas, according to its financial statements, the budget of the European Securities and Markets Authority (“the Authority”) for the financial year 2012 was EUR 20 279 000,
- B. whereas the Court of Auditors has stated that it has obtained reasonable assurances that the Authority's annual accounts for the financial year 2012 are reliable and that the underlying transactions are legal and regular,

### ***Follow-up of the 2011 discharge***

1. Notes from the Court of Auditors’ report that out of nine comments made in 2011, one corrective action taken in response to the previous year's comments is marked as 'outstanding', five as 'ongoing' and two as 'completed';
2. Acknowledges from the Authority that:
  - the validation of accounting systems has been finalised by both the Authority's accountant and the Management Board,
  - a close monitoring of budget execution by the Authority's management has been implemented in order to ensure that corrective actions related to low commitment execution rates are taken in due time; observes, furthermore, that a more rigorous verification and authorisation process for managing carry-overs has been established in 2012,
  - the recruitment templates and guidelines have been revised and improved, with more rigorous controls and checks of supporting documents being undertaken in order to improve recruitment procedures,
  - in order to avoid conflicts of interest, the Authority's conflicts of interest policy, due to be adopted by the Management Board, includes a provision that the the Management Board members confirm that their awareness of their obligations in relation to conflicts of interest shall be made public;

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

3. Notes that budget monitoring efforts during the financial year 2012 resulted in a budget implementation rate of 86,12 % and that the payment appropriations execution rate was 65,22 %;

### ***Commitments and carry-overs***

4. Notes with concern that according to the Court of Auditors’ annual audit, EUR 2 800 000 (14 %) of total appropriations were cancelled and EUR 4 200 000 (21 %) of committed appropriations were carried over to 2013; acknowledges that the high level of cancellations results mainly from the fact that the budget was established on the basis of a



fully implemented staff establishment plan at the beginning of 2012, whereas some recruitment were only made during the year, and from delays in IT procurements;

5. Notes with concern that the level of committed appropriations carried over is high at 39 % for Title II and at 52 % for Title III; acknowledges that for Title II, this was mainly caused by the fact that a significant contract for works on the Authority's premises was awarded in December 2012 (EUR 600 000) and that for Title III, the high level of committed appropriations carried over results from the multiannual nature of significant IT development projects and delays in related procurements;

### ***Transfers***

6. Notes with concern that the Authority made 22 budget transfers amounting to EUR 3 200 000, representing 16 % of total 2012 budget, which indicates weaknesses in budget planning;

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

7. Regrets that according to the Court of Auditors' annual audit, there is considerable room for improving the timeliness and documentation of procurement procedures;
8. Notes with concern that according to the Court of Auditors' annual audit, the level of transparency of the Authority's recruitment procedures needs to be improved; calls on the Authority to implement corrective measures and to inform the discharge authority on the results of measures taken;

### ***Comments on internal controls***

9. Acknowledges that the Authority took an important step during its second year of activity with the adoption and implementation of the baseline requirements for all internal control standards; notes with concern that full implementation of the standards has not been achieved;

### ***Internal audit***

10. Acknowledges from the Authority that in 2012 the Commission's Internal Audit Service (IAS) carried out its first mission at the Authority, a full risk assessment of the Authority; notes that as a result, the IAS submitted a risk-based strategic audit plan for the Authority on 14 September 2012 and that the plan was endorsed by the Authority's Management Board on 5 November 2012;

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11. Refers, in respect of the other observations accompanying its Decision on discharge, which are of a horizontal nature, to its resolution of ... 2014<sup>1</sup> on the performance,

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<sup>1</sup> Texts adopted, P7\_TA-PROV(2014).

financial management and control of the agencies.