



2019/2092(DEC)

9.12.2019

AMENDMENTS

1 - 26

Draft opinion

Derk Jan Eppink

(PE643.134v01-00)

2018 discharge: European Securities and Markets Authority (ESMA)
(2019/2092(DEC))

Amendment 1

Gilles Boyer, Olivier Chastel, Stéphane Séjourné, Stéphanie Yon-Courtin, Ondřej Kovařík

Draft opinion

Paragraph 1

Draft opinion

1. ***Acknowledges*** that, in the opinion of the Court of Auditors, the transactions of the European Securities and Markets Authority (the ‘Authority’) underlying the annual accounts for the year 2018 are legal and regular in all material aspects;

Amendment

1. ***Underlines*** that, in the opinion of the Court of Auditors, the transactions of the European Securities and Markets Authority (the ‘Authority’) underlying the annual accounts for the year 2018 are legal and regular in all material aspects;

Or. en

Amendment 2

Csaba Molnár

Draft opinion

Paragraph 1 a (new)

Draft opinion

Amendment

1 a. Emphasises that the Authority’s role in promoting a common supervisory and regulatory regime across the European financial system is essential in order to ensure financial stability, a better integrated, more efficient and safer financial market, as well as a high degree of consumer protection in the Union by promoting fairness and transparency on the product and financial services market;

Or. en

Amendment 3

Csaba Molnár

Draft opinion

Paragraph 1 b (new)

1 b. Underlines the responsibility of the financial system in meeting sustainability challenges and ensuring that the Union meets its obligations under the Paris Agreement under the United Nations Framework Convention on Climate Change; highlights the crucial role of the Authority in integrating environmental, social and governance related factors into the regulatory and supervisory framework and in mobilising and guiding private capital flows towards sustainable investments; therefore stresses the need for sufficient resources to monitor the implementation of that framework by financial institution and national competent authorities;

Or. en

**Amendment 4
Csaba Molnár**

**Draft opinion
Paragraph 1 c (new)**

1 c. Underlines that the Authority, when carrying out its activities, needs to pay particular attention to ensuring compatibility with Union law, to respecting the principle of proportionality and to complying with the fundamental principles of the internal market;

Or. en

**Amendment 5
Csaba Molnár**

**Draft opinion
Paragraph 1 d (new)**

Draft opinion

Amendment

1 d. *Stresses the need to allocate adequate funding and resources to the Authority in order to be able to fulfil its mandate consistently, independently and efficiently;*

Or. en

Amendment 6
Csaba Molnár

Draft opinion
Paragraph 1 e (new)

Draft opinion

Amendment

1 e. *Underlines the importance of an open, efficient and independent administration for all Union agencies and the Union as a whole; recalls the problem of conflict of interest arising from ‘revolving door’ situations and stresses the need for a unified legal framework to address these issues;*

Or. en

Amendment 7
Sven Giegold
on behalf of the Greens/EFA Group

Draft opinion
Paragraph 2

Draft opinion

Amendment

2. Stresses that, while making sure that all assignments are carried out in full and within deadline, the Authority should ***carefully*** adhere to the tasks and the mandate assigned to it by the European Parliament and the Council;

2. Stresses that, while making sure that all assignments are carried out in full and within deadline, the Authority should adhere to ***and make full use of*** the tasks and the mandate assigned to it by the European Parliament and the Council;

Or. en

Amendment 8
Markus Ferber

Draft opinion
Paragraph 2

Draft opinion

2. Stresses that, while making sure that all assignments are carried out in full and within deadline, the Authority should carefully adhere to the tasks and the mandate assigned to it by the European Parliament and the Council;

Amendment

2. Stresses that, while making sure that all assignments are carried out in full and within deadline, the Authority should carefully adhere to the tasks and the mandate assigned to it by the European Parliament and the Council ***and that the Authority must never attempt to go beyond its mandate; points out that focussing on the mandate assigned by the European Parliament and the Council will lead to a more effective and efficient use of resources;***

Or. en

Amendment 9
Markus Ferber

Draft opinion
Paragraph 2 a (new)

Draft opinion

Amendment

2 a. Points out that the principle of proportionality should be a guiding principle for ESMA's work;

Or. en

Amendment 10
Markus Ferber

Draft opinion
Paragraph 2 b (new)

Draft opinion

Amendment

2 b. Deplores that in the past, ESMA has sometimes unilaterally made decisions that could be seen as going beyond its mandate^{1a};

^{1a} e.g. pushing back MiFID II review reports that have been scheduled by the European Legislator

Or. en

Amendment 11

Gilles Boyer, Olivier Chastel, Stéphane Séjourné, Stéphanie Yon-Courtin, Ondřej Kovařík

Draft opinion Paragraph 3

Draft opinion

3. Notes that, **as** the Authority's workload is ***increasingly shifting from*** regulatory tasks ***to enforcing and applying*** Union law, budgetary and personnel resources ***should be*** reallocated internally;

Amendment

3. Notes that the Authority's workload is ***constantly evolving and includes both*** regulatory tasks ***and the enforcement and application of*** Union law; ***notes that in order to facilitate that evolution,*** budgetary and personnel resources ***have been*** reallocated internally;

Or. en

Amendment 12 Csaba Molnár

Draft opinion Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Takes note of the Annual report on EU agencies for the financial year 2018^{1a} of the European Court of Auditors, that the Authority uses contracts with IT companies, which were formulated in a way that could imply the assignment of temporary agency workers instead of the

provision of clearly defined IT services or products; notes that that is not in compliance with the social and employment rules of the Union; calls on the Authority therefore to make sure that contracts avoid any confusion and ensure that they are in line with the social and employment rules of the Union;

1a

https://www.eca.europa.eu/Lists/ECADocuments/AGENCIES_2018/AGENCIES_2018_EN.pdf

Or. en

Amendment 13

Gilles Boyer, Olivier Chastel, Stéphane Séjourné, Stéphanie Yon-Courtin, Ondřej Kovařík

Draft opinion

Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Questions whether the resources allocated to the Authority are sufficient to enable it to fully carry out an increasing number of tasks assigned to it, in particular in the fields of securitisation, Prospectus 3 and Money Market Fund (MFF) where the workload has increased but no new staff have been allocated; questions whether using temporary workers and external consultancies rather than increasing the number of its own staff is the best use of resources in the long-term;

Or. en

Amendment 14

Gilles Boyer, Olivier Chastel, Stéphane Séjourné, Stéphanie Yon-Courtin, Ondřej Kovařík

Draft opinion
Paragraph 4

Draft opinion

4. Regrets that opportunities for economies of scale and efficiency gains were not realised due to ***insufficient use of*** joint procurement procedures between the Authority and the European Banking Authority (EBA); calls on the Authority to strengthen cooperation with EBA concerning administrative support services and facility management services, which are not related to the core activities;

Amendment

4. Regrets that opportunities for economies of scale and efficiency gains were not realised due to ***the decision not to have*** joint procurement procedures between the Authority and the European Banking Authority (EBA) ***when the Authority moved its seat from London to Paris***; calls on the Authority to strengthen cooperation with EBA concerning administrative support services and facility management services, which are not related to the core activities, ***where feasible***;

Or. en

Amendment 15
Sven Giegold
on behalf of the Greens/EFA Group

Draft opinion
Paragraph 4

Draft opinion

4. Regrets that opportunities for economies of scale and efficiency gains were not realised due to insufficient use of joint procurement procedures between the Authority and the European Banking Authority (EBA); calls on the Authority to strengthen cooperation with EBA concerning administrative support services and facility management services, which are not related to the core activities;

Amendment

4. Regrets that opportunities for economies of scale and efficiency gains were not realised due to insufficient use of joint procurement procedures between the Authority and the European Banking Authority (EBA); calls on the Authority to strengthen cooperation with EBA concerning administrative support services and facility management services, which are not related to the core activities; ***suggests that an audit be conducted once all the costs and consequences of the move are clear in order to identify best practices and areas for improvement***;

Or. en

Amendment 16

Gilles Boyer, Olivier Chastel, Stéphane Séjourné, Stéphanie Yon-Courtin, Ondřej Kovařík

Draft opinion

Paragraph 5

Draft opinion

Amendment

5. Recalls that 100 % of the budgetary surplus has been allocated to the Commission whereas Member States consider that their contribution share should be refunded to them; calls on the Commission to resolve that issue; *deleted*

Or. en

Amendment 17

Sven Giegold

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 5

Draft opinion

Amendment

5. Recalls that 100 % of the budgetary surplus has been allocated to the Commission whereas Member States consider that their contribution share should be refunded to them; calls on the Commission to resolve that issue; *deleted*

Or. en

Amendment 18

Jessica Stegrud

Draft opinion

Paragraph 5

Draft opinion

Amendment

5. Recalls that 100 % of the budgetary surplus has been allocated to the

5. Recalls that 100 % of the budgetary surplus has been allocated to the

Commission whereas Member States consider that their contribution share should be refunded to them; calls on the Commission to ***resolve that issue***;

Commission whereas Member States consider that their contribution share should be refunded to them; calls on the Commission to ***agree to refund any future budgetary surplus to Member States based on their share of contributions***;

Or. en

Amendment 19
Csaba Molnár

Draft opinion
Paragraph 5

Draft opinion

5. Recalls that 100 % of the budgetary surplus has been allocated to the Commission whereas Member States consider that their contribution share should be refunded to them; calls on the Commission to ***resolve that issue***;

Amendment

5. Recalls that 100 % of the budgetary surplus has been allocated to the Commission whereas Member States consider that their contribution share should be refunded to them; calls on the Commission to ***find a balanced solution***;

Or. en

Amendment 20
Gilles Boyer, Olivier Chastel, Stéphane Séjourné, Stéphanie Yon-Courtin, Ondřej Kovařík

Draft opinion
Paragraph 6

Draft opinion

6. Observes that the cumulated surpluses over the period 2015 to 2018 resulting from fees paid by credit rating agencies and trade repositories in relation to registration, certification and supervision of these entities amounts to EUR 1,1m; ***is of the opinion that those surpluses should not be used to finance other activities.***

Amendment

6. Observes that the cumulated surpluses over the period 2015 to 2018 resulting from fees paid by credit rating agencies and trade repositories in relation to registration, certification and supervision of these entities amounts to EUR 1,1m.

Or. en

Amendment 21

Sven Giegold

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 6

Draft opinion

6. Observes that the cumulated surpluses over the period 2015 to 2018 resulting from fees paid by credit rating agencies and trade repositories in relation to registration, certification and supervision of these entities amounts to EUR 1,1m; is of the opinion that those surpluses should not be used to **finance** other activities.

Amendment

6. Observes that the cumulated surpluses over the period 2015 to 2018 resulting from fees paid by credit rating agencies and trade repositories in relation to registration, certification and supervision of these entities amounts to EUR 1,1m; is of the opinion that those surpluses should ***be temporary and should*** not be used to ***permanently cross-finance*** other activities.

Or. en

Amendment 22

Jessica Stegrud

Draft opinion

Paragraph 6

Draft opinion

6. Observes that the cumulated surpluses over the period 2015 to 2018 resulting from fees paid by credit rating agencies and trade repositories in relation to registration, certification and supervision of these entities amounts to EUR 1,1m; is of the opinion that those surpluses should ***not be used to finance other activities.***

Amendment

6. Observes that the cumulated surpluses over the period 2015 to 2018 resulting from fees paid by credit rating agencies and trade repositories in relation to registration, certification and supervision of these entities amounts to EUR 1,1m; is of the opinion that those surpluses should ***be returned to the Member States.***

Or. en

Amendment 23

Csaba Molnár

Draft opinion

Paragraph 6 a (new)

Draft opinion

Amendment

6 a. Welcomes the Authority's Report of July 2019 on Preliminary findings on multiple withholding tax reclaim schemes to respond to the European Parliament Resolution 2018/2900 (RSP) of 29 November 2018, whereby the European Parliament requested ESMA to conduct an inquiry into schemes such as Cum/Ex and Cum/Cum; welcomes further that the Authority's Board of Supervisors has approved the launch of a formal inquiry under Article 22(4) of the ESMA Regulation;

Or. en

Amendment 24

Sven Giegold

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 6 a (new)

Draft opinion

Amendment

6 a. Welcomes the Authority's inquiry into dividend arbitrage trading schemes such as cum-ex or cum-cum; encourages the Authority to draw concrete conclusions from this inquiry in order to stop ongoing and prevent future practices threatening the integrity of Union financial markets;

Or. en

Amendment 25

Sven Giegold

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 6 b (new)

6 b. Welcomes the publication of records on stakeholder meetings as requested by the European Ombudsman^{1a}; calls on the Authority to follow the European Ombudsman's suggestion to include in its information for the public an indication of whether detailed records of a specific meeting with stakeholders exist and could therefore be subject to a request for public access to documents, provided that its contents are not commercially sensitive.

1a

<https://www.ombudsman.europa.eu/en/decision/en/122163>

Or. en

Amendment 26
Sven Giegold
on behalf of the Greens/EFA Group

Draft opinion
Paragraph 6 c (new)

6 c. Calls on the Authority to duly consider the principle of proportionality in its every day work, including by equally considering the contributions of actors of different sizes in its consultations and accounting for the needs of small actors in its guidelines and its Questions and Answers; is concerned that the implementation of supervisory provisions of the Regulation on Credit Rating Agencies in the form of Guidelines and Questions and Answers might overburden smaller actors and might thereby reduce competition in the market^{1b};

*^{1b} based on feedback received by
Creditreform Rating AG*

Or. en