Basic information

2015/2190(DEC) DEC - Discharge procedure	Procedure completed
2014 discharge: European Securities and Markets Authority (ESMA) **Subject** 8.70.03.04 2014 discharge	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	VAUGHAN Derek (S&D)	20/08/2015
	Shadow rapporteur DEUTSCH Tamás (PPE) VISTISEN Anders (ECR) ALI Nedzhmi (ALDE) DE JONG Dennis (GUE/NGL) JÁVOR Benedek (Verts/ALE) VALLI Marco (EFDD) KAPPEL Barbara (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	FERBER Markus (PPE)	10/09/2015

European Commission

Commission DG	Commissioner
Budget	GEORGIEVA Kristalina

Key events

Date	Event	Reference	Summary
23/07/2015	Non-legislative basic document published	COM(2015)0377	Summary
05/10/2015	Committee referral announced in Parliament		

04/04/2016	Vote in committee		
07/04/2016	Committee report tabled for plenary	A8-0096/2016	Summary
27/04/2016	Debate in Parliament		
28/04/2016	Decision by Parliament	T8-0181/2016	Summary
28/04/2016	Results of vote in Parliament		
28/04/2016	End of procedure in Parliament		
14/09/2016	Final act published in Official Journal		

Technical information

Procedure reference	2015/2190(DEC)
Procedure type	DEC - Discharge procedure
Stage reached in procedure	Procedure completed
Committee dossier	CONT/8/04219

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE569.759	02/02/2016	
Committee opinion	ECON	PE572.996	25/02/2016	
Amendments tabled in committee		PE576.952	04/03/2016	
Committee report tabled for plenary, single reading		A8-0096/2016	07/04/2016	Summary
Text adopted by Parliament, single reading		T8-0181/2016	28/04/2016	Summary

Council of the EU

Document type	Reference	Date	Summary
Supplementary non-legislative basic document	05584/2016	27/01/2016	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2015)0377	23/07/2015	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N8-0142/2015 OJ C 409 09.12.2015, p. 0255	08/09/2015	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Budget 2016/1549 OJ L 246 14.09.2016, p. 0316	Summary

2014 discharge: European Securities and Markets Authority (ESMA)

2015/2190(DEC) - 28/04/2016 - Text adopted by Parliament, single reading

The European Parliament decided to grant the Executive Director of the European Securities and Markets Authority (ESMA) discharge in respect of the implementation of ESMA's budget for the financial year 2014. The vote on the decision on discharge covers the closure of the accounts (in accordance with Annex 5, Article 5 (1) (a) to Parliament's Rules of Procedure.

Noting that the Court of Auditors has stated that it has obtained reasonable assurances that ESMA's annual accounts for the financial year 2014 are reliable and that the underlying transactions are legal and regular, Parliament adopted by 516 votes to 113 with 8 abstentions, a resolution containing a series of recommendations, which form an integral part of the decision on discharge and which add to the general recommendations set out in the resolution on performance, financial management and control of EU agencies:

- **Agency's financial statements**: Parliament noted that the final budget of the Agency for the financial year 2014 was EUR 33 267 143, representing an increase of 18.02% compared to 2013, which can be explained by the new tasks given to the Agency.
- **Reliability of the accounts**: Parliament noted 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. It acknowledged that in 2014 the Authority developed an activity-based costing model which will allow accurate follow up of the expenditure of its supervision activities, and also noted that the Authority has been applying this model from 2015 resulting in the supervisory fees being **calculated according to the actual cost.**
- **Legality and regularity of operations**: Parliament noted that the Authority inherited a number of IT framework contracts from its predecessor body, the Committee of European Securities Regulators (CESR) and that those contracts were not replaced with timely calls for tender which led to two contracts being extended beyond their original duration. This resulted in the Authority procuring IT services, furniture and stationery for the amount of EUR 956 000 for 2014 which was not in compliance with the Financial Regulation.

Parliament also made a series of observations on budgetary and financial management, transfers, commitments and carryovers, procurement and recruitment procedures as well as issues on prevention and management of conflicts of interests and internal audit.

Parliament noted 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. These actions resulted in the late payments rate being reduced to below 1 % in 2015.

Lastly, Parliament stressed that, when drafting implementing legislation or similar texts, ESMA must always respect the mandate attributed by the Union legislator and must **not seek to de facto broaden its mandate beyond those assignments.** It also emphasised that when carrying out its work and in particular when drafting technical standards, the Authority needs to comprehensively inform the Parliament about its activities, regretting that this has in the past not always been done.

2014 discharge: European Securities and Markets Authority (ESMA)

2015/2190(DEC) - 27/01/2016 - Supplementary non-legislative basic document

Having examined the revenue and expenditure accounts for the financial year 2014 and the balance sheet as at 31 December 2014 of the European Securities and Markets Authority (ESMA), as well as the Court of Auditors' report on the annual accounts of the Authority for the financial year 2014, accompanied by the Authority's replies to the Court's observations, the Council recommended the European Parliament to give a discharge to the Executive Director of the Authority in respect of the implementation of the budget for the financial year 2014.

The Council welcomed the Court's opinion that, in all material respects, the Authority's annual accounts present fairly its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Authority's Financial Regulation, and that the underlying transactions for 2014 are legal and regular in all material respects.

Nevertheless, the Council has made some observations which may be summarised as follows:

- **financial programming**: the Council called on the Authority to pay due attention to proper financial programming and monitoring of budget implementation in order to improve budget execution, to avoid the cancellations of appropriations and to reduce the level of committed appropriations carried over to the following financial year, in line with the budgetary principle of annuality;
- **reliability of the accounts**: the Council called on the Authority to improve the reliability of its account as regards its revenue part and to set the fees charged to the supervisory entities on the basis of actual instead of estimated costs and welcomes the development of an activity-based costing model to address this matter;
- **public procurement**: the Council noted the shortcomings in the compliance with the Financial Regulation as far as procurement procedures are concerned as well as the fact that the Authority took the necessary steps to remedy this situation.

2014 discharge: European Securities and Markets Authority (ESMA)

2015/2190(DEC) - 07/04/2016 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted the report by Derek VAUGHAN (S&D, UK) on discharge in respect of the implementation of the budget of the European Securities and Markets Authority (ESMA) for the financial year 2014.

The parliamentary committee calls on the European Parliament to grant the Executive Director of the Authority discharge in respect of the implementation of the Authority's budget for the financial year 2014.

Noting that the Court of Auditors issued a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions for the financial year 2014, Members call on Parliament to approve the closure of the Authority's accounts. They made, however, a number of recommendations that needed to be taken into account when the discharge is granted, in addition to the general recommendations that appear in the draft resolution on performance, financial management and control of EU agencies:

- **Agency's financial statements:** Members noted that the final budget of the Agency for the financial year 2014 was EUR 33 267 143, representing an increase of 18.02% compared to 2013, which can be explained by the new tasks given to the Agency.

- **Legality and regularity of operations:** Members note that the Authority inherited a number of IT framework contracts from its predecessor body, the Committee of European Securities Regulators (CESR) and that those contracts were not replaced with timely calls for tender which led to two contracts being extended beyond their original duration. This resulted in the Authority procuring IT services, furniture and stationery for the amount of EUR 956 000 for 2014 which was not in compliance with the Financial Regulation.

Members also made a series of observations regarding payments, contract award and recruitment procedures, management of conflicts of interest, as well as in regard to internal audit.

They noted 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. These actions resulted in the late payments rate being reduced to below 1 % in 2015.

Lastly, Members stress that when drafting implementing legislation or similar measures the Authority must always respect the mandate attributed by the Union legislator. They regret several cases where information from the Authority was available to Member States or third party stakeholders that was **not given to Parliament**. They call on ESMA to take effective measures to end this maladministration and to treat Parliament and Member States equally both regarding the content and timing of disclosed information.

2014 discharge: European Securities and Markets Authority (ESMA)

2015/2190(DEC) - 08/09/2015 - Court of Auditors: opinion, report

PURPOSE: presentation of the EU 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 reply.

CONTENT: in accordance with the tasks conferred on the Court of Auditors by the Treaty on the Functioning of the European Union, the Court presents to the European Parliament and to the Council, in the context of the discharge procedure, a Statement of Assurance as to the reliability of the annual accounts of each institution, body or agency of the EU, and the legality and regularity of the transactions underlying them, on the basis of an independent external audit.

This audit concerned, amongst others, the annual accounts of the European Securities and Markets Authority (ESMA).

Statement of assurance: pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- the annual accounts of the Authority, which comprise the financial statements and the reports on the implementation of the budget for the financial year ended 31 December 2014; and
- the legality and regularity of the transactions underlying those accounts.

Opinion on the reliability of the accounts: in the Court's opinion, the Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

Opinion on the legality and regularity of the transactions underlying the accounts: in the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2014 are legal and regular in all material respects.

The report also makes a series of observations on the budgetary and financial management of the Authority, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's comments:

- **reliability of the accounts**: the amount of fees charged to supervised entities (Credit Rating Agencies and Trade Repositories) in 2014 appearing as revenue in the provisional statement of financial performance was based on estimated rather than actual costs of supervisory activities carried out. Fees levied on supervised entities should be as close as possible to the actual cost incurred in this area;
- **legality and regularity of transactions**: the Court recalled that when ESMA was established in 2010 it inherited a number of IT framework contracts from its predecessor body CESR (Committee of European Securities Regulators) for the hosting of its data centres as well as the development and maintenance of its IT systems. Failure to replace these framework contracts with timely calls for tender led to a situation where two of them were extended beyond their original duration. It also resulted in the Authority procuring some IT services using a French central purchasing body. However, this was not in compliance with the Financial Regulation;
- **budgetary management**: the overall level of committed appropriations increased from 93 % in 2013 to 99 % in 2014, indicating that commitments were made in a more timely manner. However, the level of committed appropriations carried over to 2015 was high for operational expenditure.

The Authority's reply:

- **reliability of the accounts**: ESMA developed in 2014 an Activity-Based-Costing model to allow accurate follow-up of the expenditures of its supervision activities. ESMA will apply this model in 2015. Therefore, from this year the fee revenue charged to supervised entities will be defined on the basis of the actual, rather than estimated, cost of the supervisory activities;
- **legality and regularity of transactions**: ESMA confirmed the closure of all contracts emanating from CESR (the last contract was closed on 20 August 2014) and that it has stopped using French central purchasing body both for service and supply purchases;
- **budgetary management**: ESMA is aware of the high cancellation rate for appropriations carried over from 2013 and took note of the Court's comment. The explanation related to the multiannual nature of the legally mandated IT projects is confirmed.

Lastly, the Court of Auditors' report contains a summary of the **Authority's activities in 2014**. This is focused on the following:

Budget: EUR 33.24 million, including a Union subsidy of EUR 11.07 million, EUR 15.55 million contributions from National Competent Authorities and EUR 6.62 million in fees from supervised entities.

Activities:

- publication of periodic risk reports and trend summaries of financial markets;
- monitored and analysed retail investor trends and issued good practices for structured retail product governance;
- call for an EU-common approach on crowdfunding;
- drafted Implementing Technical Standards on main indices and recognised exchanges under the Capital Requirements Regulation;
- strengthened its credit rating agencies (CRA) supervision;
- assessed CRA's compliance with the new requirements focusing on the disclosure aspects of sovereign ratings, pricing policies and procedures;
- discussed share classes of Undertakings for Collective Investments in Transferable Securities (UCITS);
- consulted on the implementing measures of the Regulations on European Venture Capital Funds (EuVECA) and European Social Entrepreneurship Funds (EuSEF);
- drafted Regulatory Technical Standards on European Electronic Access Point (EEAP);
- contributed to International Financial Reporting Standards (IFRS) development in international for a such as the International Accounting Standards Board (IASB);
- reviewed MiFID's Conduct of Business rules on fair, clear and not misleading information.

2014 discharge: European Securities and Markets Authority (ESMA)

2015/2190(DEC) - 23/07/2015 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2014, as part of the 2014 discharge procedure.

Analysis of the accounts of the **European Securities and Markets Authority (ESMA)**.

CONTENT: this Commission document sets out the consolidated annual accounts of the European Union for the financial year 2014 as prepared on the basis of the information presented by the institutions, organisations and bodies of the EU, in accordance with Article 148 (2) of the Financial Regulation applicable to the EU's General Budget, including the European Securities and Markets Authority (ESMA).

The document contains the figures on which the discharge procedure is based.

On this basis, the Financial Controller of the European Commission ensures the certification of the consolidated accounts as declared by the institutions, agencies and bodies of the European Union.

Discharge procedure of the EU agencies: the EU Budget finances a wide range of policies and programmes throughout the EU. In accordance with the priorities set by the European Parliament and the Council in the multi-annual financial framework (MFF), the European Commission carries out specific programmes, activities and projects in the field with the technical support of some specialised agencies.

The consolidated annual accounts of the EU provide information on the activities of the institutions, agencies and other bodies of the EU from a budgetary and accrual accounting perspective.

The consolidated reports on the implementation of the general budget of the EU include the budget implementation of all Institutions. **Agencies do not have a separate budget inside the EU budget**; and they are partially financed by a Commission budget subsidy.

This document sets out how the Agencies spent and implemented their budget in 2014. Each agency is subject to its own discharge procedure.

ESMA: in 2014, the tasks and budget of this agency were as follows:

- **description of ESMA's tasks**: ESMA, which is located in Paris (FR), was set up by Regulation (EU) No 1095/2010 of the European Parliament and of the Council with a view to protecting the public interest by contributing to the short, medium and long-term stability and efficiency of the financial system for the economy of the European Union;
- **ESMA's budget for the 2014 financial year**: ESMA's budget for 2014, as presented in the Commission document on the consolidated annual accounts of the European Union, gives the following figures:

Commitment appropriations :

- **committed** : EUR 33 million;

- **paid** : EUR 33 million;

- **carried-over** : 0.

Payment appropriations :

- **committed** : EUR 39 million;

- **paid** : EUR 32 million;

- **carried-over** : EUR 6 million.

Please refer also to the final accounts of the Securities and Market Authority.

2014 discharge: European Securities and Markets Authority (ESMA)

2015/2190(DEC) - 28/04/2016 - Final act

PURPOSE: to grant discharge to the European Securities and Markets Authority (ESMA) for the financial year 2014.

NON LEGISLATIVE ACT: Decision (EU) 2016/1549 of the European Parliament on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2014.

CONTENT: with the present decision, the European Parliament grants discharge to the Executive Director of the European Securities and Markets Authority for the implementation of the latter's budget for the financial year 2014.

This decision is in line with the European Parliament's resolution adopted on 28 April 2016 and comprises a series of observations that form an integral part of the discharge decision (please refer to the summary of the opinion of 28 April 2016).

Amongst Parliament's main observations in the resolution accompanying the discharge decision, the latter noted that the Authority inherited a number of IT framework contracts from its predecessor body, the Committee of European Securities Regulators (CESR). More specifically, it noted 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 meaning **non-compliance with the Financial Regulation**.