

Procedure file

| Basic information | | |
|--|----------------|---------------------|
| DEC - Discharge procedure | 2016/2188(DEC) | Procedure completed |
| 2015 discharge: European Securities and Markets Authority (ESMA) | | |
| Subject 8.70.03.05 2015 discharge | | |

| Key players | | | |
|---------------------|---|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | CONT Budgetary Control |  AYALA SENDER Inés Shadow rapporteur  ZDECHOVSKÝ Tomáš  FITTO Raffaele  ALI Nedzhmi  JÁVOR Benedek  VALLI Marco  KAPPEL Barbara | 05/08/2016 |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | ECON Economic and Monetary Affairs |  LOONES Sander | 15/09/2016 |
| European Commission | Commission DG Budget | Commissioner GEORGIEVA Kristalina | |

| Key events | | | |
|------------|--|---------------|---------|
| 11/07/2016 | Non-legislative basic document published | COM(2016)0475 | Summary |
| 04/10/2016 | Committee referral announced in Parliament | | |
| 22/03/2017 | Vote in committee | | |

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|------------|---|---|---------|
| 30/03/2017 | Committee report tabled for plenary | A8-0124/2017 | Summary |
| 26/04/2017 | Debate in Parliament |  | |
| 27/04/2017 | Results of vote in Parliament |  | |
| 27/04/2017 | Decision by Parliament | | |
| 27/04/2017 | Decision by Parliament | T8-0177/2017 | Summary |
| 27/04/2017 | End of procedure in Parliament | | |
| 29/09/2017 | Final act published in Official Journal | | |

Technical information

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|----------------------------|---------------------------|
| Procedure reference | 2016/2188(DEC) |
| Procedure type | DEC - Discharge procedure |
| Stage reached in procedure | Procedure completed |
| Committee dossier | CONT/8/07507 |

Documentation gateway

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|---|-------------|--|------------|------|---------|
| Non-legislative basic document | | COM(2016)0475 | 11/07/2016 | EC | Summary |
| Court of Auditors: opinion, report | | N8-0129/2016 OJ C 449 01.12.2016, p. 0162 | 13/09/2016 | CofA | Summary |
| Committee draft report | | PE593.873 | 30/01/2017 | EP | |
| Supplementary non-legislative basic document | | 05873/2017 | 07/02/2017 | CSL | Summary |
| Committee opinion | ECON | PE595.632 | 01/03/2017 | EP | |
| Amendments tabled in committee | | PE600.887 | 07/03/2017 | EP | |
| Committee report tabled for plenary, single reading | | A8-0124/2017 | 30/03/2017 | EP | Summary |
| Text adopted by Parliament, single reading | | T8-0177/2017 | 27/04/2017 | EP | Summary |

Final act

Budget 2017/1696
[OJ L 252 29.09.2017, p. 0278](#) Summary

2015 discharge: European Securities and Markets Authority (ESMA)

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2015, as part of the 2015 discharge procedure.

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

CONTENT: the organisational governance of the EU consists of institutions, agencies and other EU bodies whose expenditure is included in the general budget of the Union.

The EU's operational expenditure of these institutions takes different forms, depending on how the money is paid out and managed.

From 2014 onwards, the Commission classifies its expenditure as follows:

- Direct management: the budget is implemented directly by the Commission services.
- Indirect management: the Commission confers tasks of implementation of the budget to bodies of EU law or national law, such as the

EU agencies.

- Shared management: under this method of budget implementation tasks are delegated to Member States. About 80 % of the expenditure falls under this management mode covering such areas as agricultural spending and structural actions.

This Commission document concerns the EU's consolidated accounts for the year 2015 and details how spending by the EU institutions and bodies was carried out. The consolidated annual accounts of the EU provide financial information on the activities of the institutions, agencies and other bodies of the EU from an accrual accounting and budgetary perspective.

It is the responsibility of the Commission's Accounting Officer to prepare the EU's consolidated annual accounts and ensure that they present fairly, in all material aspects, the financial position, the result of the operations and the cash flows of the EU institutions and bodies, including the European Securities and Markets Authority (ESMA), with a view to granting discharge.

Discharge procedure: the final step of a budget lifecycle is the discharge of the budget for a given financial year. It represents the political aspect of the external control of budget implementation and is the decision by which the European Parliament, acting on a Council recommendation, "releases" the Commission (and other EU bodies) from its responsibility for management of a given budget by marking the end of that budget's existence. The European Parliament is the discharge authority within the EU.

The discharge procedure may produce three outcomes: (i) the granting; (ii) postponement or; (iii) the refusal of the discharge.

The final discharge report including specific recommendations to the Commission for action is adopted in plenary by the European Parliament and are subject to an annual follow up report in which the Commission outlines the concrete actions it has taken to implement the recommendations made.

Each agency is subject to its own discharge procedure, including the ESMA.

The European Securities and Markets Authority (ESMA): the Authority, 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.

As regards the ESMA's accounts, these are presented in detail in the document on the consolidated annual accounts of the European Union for 2015:

Commitment appropriations:

- committed: EUR 20 million;
- paid: EUR 20 million;
- carried-over: 0.

Payment appropriations:

- committed: EUR 26 million;
- paid: EUR 22 million;
- carried-over: EUR 3 million.

For further details on expenditure, please refer to the [final accounts of the Securities and Market Authority](#).

2015 discharge: European Securities and Markets Authority (ESMA)

PURPOSE: presentation of the EU Court of Auditors report on the annual accounts of the European Securities and Markets Authority for the financial year 2015, 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 focused on the annual accounts of the European Securities and Markets Authority (ESMA). To recall, the Authority's task is to improve the functioning of the EU internal financial market by ensuring a high, effective and consistent level of regulation and supervision, promoting the integrity and stability of the financial systems and strengthening international supervisory coordination in order to ensure the stability and effectiveness of the financial system.

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 2015; 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 2015 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 2015 are legal and regular in all material respects.

The report made 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 Courts comments:

- budgetary management: the Court noted that the level of committed appropriations carried over was high for administrative expenditure at EUR 2.2 million. These carry-overs mainly relate to IT projects for which services had not yet been delivered or invoices will only be received in 2016. The level of committed appropriations carried over was also high for operational expenditure at EUR 2.3 million. These carry-overs mainly relate to IT projects for which services had not yet been delivered or invoices will only be received in 2016.

The Authoritys reply:

- budgetary management: ESMA acknowledged the reported level of committed appropriations carried over and the explanation related to the multi-annual nature of the ESMA's large EU IT projects is confirmed.

Lastly, the Court of Auditors report also contained a summary of the Authoritys key figures in 2015:

- Budget: EUR 36.7 million.
- Staff: 186 including officials, temporary and contract staff and seconded national experts.

2015 discharge: European Securities and Markets Authority (ESMA)

Having examined the revenue and expenditure accounts for the financial year 2015 and the balance sheet as at 31 December 2015 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 2015, 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 Agency in respect of the implementation of the budget for the financial year 2015.

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 2015 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 2015 are legal and regular in all material respects.

Nevertheless, the following observation was made:

- financial programming: the Council noted that a high level of commitment appropriations was carried over to 2016. It encouraged the Authority to continue improving its financial programming and monitoring of the budget implementation, in order to reduce the level of commitments carried over to the following financial year to the minimum strictly necessary.

2015 discharge: European Securities and Markets Authority (ESMA)

The Committee on Budgetary Control adopted the report by Inés AYALA SENDER (S&D, ES) on discharge in respect of the implementation of the budget of the European Securities and Markets Authority (ESMA) for the financial year 2015.

The committee called on the European Parliament to grant the Executive Director of the Authority discharge in respect of the implementation of the Authoritys budget for the financial year 2015.

Noting that the Court of Auditors stated that it had obtained reasonable assurance that the annual accounts of the Authority for the financial year 2015 were reliable and that the underlying transactions were legal and regular, Members called on Parliament to approve the closure of the Authoritys 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 2015 was EUR 34 031 603, representing an increase of 2.3 % compared to 2014, which can be explained by the new tasks given to the Agency.
- Budget and financial management: Members acknowledged that the budget monitoring efforts during the financial year 2015 resulted in a budget implementation rate of 99.64 %, representing an increase of 0.08 % compared to 2014, and that the payment appropriations execution rate was at 84.54 %, representing an increase of 3.38 % compared to 2014. They also noted the reduction in the 2015 budget through two subsequent budget amendments, thereby using Union funds rationally. They suggested that, as the Authoritys workload is increasingly shifting from legislative tasks to supervisory convergence and enforcement, the Authoritys budget and manpower should be allocated accordingly.
- Commitments and carry-overs: Members stated that the carry-overs were mainly related to the multiannual nature of the Authoritys large IT projects, as well as to mission expenses that could only be reimbursed in 2016. They noted that the carry-overs were not always at odds with the budgetary principle of annularity.

Members also made a series of observations regarding transfers, procurement, recruitment procedures and the prevention and management of conflicts of interests and internal audits.

Lastly, they stated that the Authority does not exercise all the prerogatives established in its legal framework. They underlined that it should ensure that resources are maximised in order to fully fulfil its legal mandate and that a closer focus on the mandate given to it by the European Parliament and the Council could result in a more efficient use of its resources and a more effective achievement of its objectives. When drafting implementing legislation, the Authority needs to inform the European Parliament and the Council about its activities in a timely, regular and comprehensive manner.

2015 discharge: European Securities and Markets Authority (ESMA)

PURPOSE: to grant discharge to the European Securities and Markets Authority (ESMA) for the financial year 2015.

NON-LEGISLATIVE ACT: Decision (EU) 2017/1696 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 2015.

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 2015.

This decision is in line with the European Parliament's resolution adopted on 27 April 2017 and comprises a series of observations that form an integral part of the discharge decision (please refer to the summary of the opinion of 27 April 2017).

Amongst Parliament's main observations in the resolution accompanying the discharge decision, the latter noted that, in 2015, the Authority implemented a policy on conflict of interest for staff, which, inter alia, requires all members of staff to fill out an annual declaration regarding potential conflicts of interest. Also in 2015, the Authority's management board adopted the Anti-Fraud Strategy 2015-2017, which aims at enhancing the Authority's capabilities in preventing, detecting, investigating and sanctioning potential fraud cases.

Parliament concluded that the Authority's financing arrangement is to be reviewed and called on the Commission to examine the possibility of modifying the current financing arrangement by introducing additional appropriately and proportionately calibrated fees for market participants, possibly replacing in part the contributions of national competent authorities whilst ensuring its autonomy and supervisory action.

2015 discharge: European Securities and Markets Authority (ESMA)

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 2015.

The vote on the decision on discharge covers the closure of the accounts (in accordance with Annex IV, 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 2015 are reliable and that the underlying transactions are legal and regular, Parliament adopted by 502 votes to 115 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](#).

These recommendations may be summarised as follows:

- **Agency's financial statements:** Parliament noted that the final budget of the Agency for the financial year 2015 was EUR 34 031 603, representing an increase of 2.3 % compared to 2014, which can be explained by the new tasks given to the Agency.
- **Budget and financial management:** it acknowledged that the budget monitoring efforts during the financial year 2015 resulted in a budget implementation rate of 99.64 %, representing an increase of 0.08 % compared to 2014, and that the payment appropriations execution rate was at 84.54 %, representing an increase of 3.38 % compared to 2014. It also noted the reduction in the 2015 budget through two subsequent budget amendments, thereby using Union funds rationally. It suggested that, as the Authority's workload is increasingly shifting from legislative tasks to supervisory convergence and enforcement, the Authority's budget and manpower should be allocated accordingly.
- **Commitments and carry-overs:** Parliament stated that the carry-overs were mainly related to the multiannual nature of the Authority's large IT projects, as well as to mission expenses that could only be reimbursed in 2016. It noted that the carry-overs were not always at odds with the budgetary principle of annularity.

Parliament also made a series of observations regarding transfers, procurement, recruitment procedures and the prevention and management of conflicts of interests and internal audits.

As regards its mandate, Parliament noted that, wherever the Authority is authorised to draw up Level 2 and Level 3 measures, it should pay particular attention when drafting these standards to the specific features of the various national markets and that market participants and consumer protection organisations concerned should be involved at an early stage in the standard-setting process and during drafting and implementation stages.

Lastly, it stated that the Authority does not exercise all the prerogatives established in its legal framework. It underlined that it should ensure that resources are maximised in order to fully fulfil its legal mandate and that a closer focus on the mandate given to it by the European Parliament and the Council could result in a more efficient use of its resources and a more effective achievement of its objectives. When drafting implementing legislation, the Authority needs to inform the European Parliament and the Council about its activities in a timely, regular and comprehensive manner.