

REPORT**on the annual accounts of the European Banking Authority for the financial year 2013, together with the Authority's replies**

(2014/C 442/13)

INTRODUCTION

1. The European Banking Authority (hereinafter 'the Authority', aka 'EBA'), which is located in London, was established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾. The Authority's task is to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities, to monitor and assess market developments in the area of its competence and to foster depositor and investor protection ⁽²⁾.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- (a) the annual accounts of the Authority, which comprise the financial statements ⁽³⁾ and the reports on the implementation of the budget ⁽⁴⁾ for the financial year ended 31 December 2013, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. The management is responsible for the preparation and fair presentation of the annual accounts of the Authority and the legality and regularity of the underlying transactions ⁽⁵⁾:

- (a) The management's responsibilities in respect of the Authority's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer ⁽⁶⁾; making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Authority after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, *inter alia*, that he has reasonable assurance that they present a true and fair view of the financial position of the Authority in all material respects.
- (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

⁽¹⁾ OJ L 331, 15.12.2010, p. 12.

⁽²⁾ *Annex II* summarises the Authority's competences and activities. It is presented for information purposes.

⁽³⁾ These include the balance sheet and the economic outturn account, the cash flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

⁽⁴⁾ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁽⁵⁾ Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

⁽⁶⁾ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council ⁽⁷⁾ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular.

6. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts.

7. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

Opinion on the reliability of the accounts

8. In the Court's opinion, the Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2013 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

9. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2013 are legal and regular in all material respects.

10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

11. In 2013, the overall level of committed appropriations was 90 % as compared to 89 % in 2012, varying between 87 % for title I (staff expenditure), 98 % for title II (administrative expenditure) and 92 % for title III (operational expenditure). The commitment rate for title I was negatively impacted by the Court of Justice's decision against the indexation of staff salaries for the period 1 July 2011 to 30 June 2013 (1,8 million euro).

12. Although the overall level of carry-overs decreased significantly to 3 876 564 euro (17 %) compared with 6 547 808 euro (36 %) for the previous year, carry-overs of committed appropriations remained relatively high for title II at 1 974 511 euro (35 %) and title III at 1 651 203 euro (36 %). These carry-overs mainly result from the planned procurement of IT infrastructure and IT services, for which the contracts were concluded as planned in December 2013 and the related services will be provided in 2014.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

13. An overview of the corrective actions taken in response to the Court's comments from previous years is provided in Annex I.

⁽⁷⁾ Article 107 of Regulation (EU) No 1271/2013.

This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 1 July 2014.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ANNEX I

Follow-up of previous years' comments

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2011	The low budget execution rates show difficulties in budget planning and implementation.	Completed
2011	The Authority's budget for the financial year 2011 was 12,7 million euro. In accordance with its Founding Regulation ⁽¹⁾ , 60 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 40 % from the Union budget. At the end of 2011, the Authority recorded a positive budget outturn of 3,6 million euro. In compliance with Articles 15(4) and 16(1) of its Financial Regulation the full amount was then recorded in the accounts as a liability towards the European Commission.	Completed
2011	The Authority needs to improve the transparency of recruitment procedures: weightings for selection criteria and threshold scores for being invited to interviews or for inclusion in the list of suitable candidates were not set before the examination of applications.	Completed
2012	In order to cover higher school fees, the Authority grants staff whose children attend primary or secondary school an education contribution in addition to the education allowances provided for in the Staff Regulations ⁽²⁾ . Total 2012 education contributions amounted to some 76 000 euro. They are not covered by the Staff Regulations and therefore irregular.	Ongoing ⁽³⁾
2012	In accordance with the Authority's IT strategy which was drawn up by its predecessor organisation ⁽⁴⁾ , the EBA's IT core application systems were outsourced to an external IT provide ⁽⁵⁾ until December 2013. This poses risks related to the Authority's limited control and supervision over its IT systems.	Completed
2012	The overall level of appropriations committed was 89 %, varying between 84 % for title I (staff expenditure), 86 % for title II (administrative expenditure) and 100 % for title III (operational expenditure) ⁽⁶⁾ . Carry-overs of committed appropriations were high for title II (45 %) mainly for reasons beyond the Authority's control, such as the unsuccessful attempt to find new premises and delays in the implementation of some IT projects for which it was difficult to obtain information needed from the predecessor organisation. For title III, carry-overs of committed appropriations were high (85 %), mainly due to the complexity and lengthy duration of two IT procurement procedures which however were carried out according to plan, delays in the launching and implementation of three other IT projects and the late invoicing for certain IT services by the suppliers.	N/A

Year	Court's comment	Status of corrective action (Completed/Ongoing/Outstanding/N/A)
2012	The Court identified the following weaknesses in the audited recruitment procedures affecting transparency and equal treatment: candidates were given a global score instead of one score for each of the selection criteria; there was no evidence that the questions for interviews and tests had been set before the date of the examinations.	Completed

⁽¹⁾ Article 62(1) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010.

⁽²⁾ Article 3 of Annex VII provides for twice the basic allowance of 252,81 euro = 505,62 euro.

⁽³⁾ For 3 of the 9 schools concerned contracts had yet to be concluded in 2013.

⁽⁴⁾ Committee of European Banking Supervisors.

⁽⁵⁾ Banque de France.

⁽⁶⁾ Following an analysis of needs for the remaining part of the year, the budget was revised and appropriations were reduced by 8,9 % in September 2012.

ANNEX II

European Banking Authority (London)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Articles 26 and 114 of the Treaty on the Functioning of the European Union)</i></p>	<p><i>Article 26</i></p> <p>‘1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties.</p> <p>2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.</p> <p>3. The Council, on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.’</p> <p><i>Article 114</i></p> <p>‘1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.’</p>
<p>Competences of the Authority</p> <p><i>(Regulation (EU) No 1093/2010 of the European Parliament and of the Council)</i></p> <p><i>(Regulation (EU) No 1022/2013 of the European Parliament and of the Council, amending Regulation (EU) No 1093/2010)</i></p>	<p>Objectives</p> <p>(a) Improving the functioning of the internal market, including, in particular, a sound, effective and consistent level of regulation and supervision;</p> <p>(b) ensuring the integrity, transparency, efficiency and orderly functioning of financial markets;</p> <p>(c) strengthening international supervisory coordination;</p> <p>(d) preventing regulatory arbitrage and promoting equal conditions of competition;</p> <p>(e) ensuring the taking of credit and other risks are appropriately regulated and supervised;</p> <p>(f) enhancing customer protection.</p> <p>Tasks</p> <p>(a) To contribute to the establishment of high-quality common regulatory and supervisory standards and practices;</p> <p>(b) to develop and maintain up to date a European supervisory handbook on the supervision of financial institutions in the Union as a whole;</p> <p>(c) to contribute to the consistent application of legally binding Union acts;</p> <p>(d) to facilitate the delegation of tasks and responsibilities among competent authorities;</p> <p>(e) to cooperate closely with the ESRB ⁽¹⁾;</p> <p>(f) to organise and conduct peer review analyses of competent authorities;</p> <p>(g) to monitor and assess market developments in the area of its competence;</p> <p>(h) to undertake economic analyses of markets to inform the discharge of the Authority's functions;</p>

	<ul style="list-style-type: none"> (i) to foster depositor and investor protection; (j) to promote the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to depositors and investors throughout the Union and developing methods for the resolution of failing financial institutions and an assessment of the need for appropriate financing instruments; (k) to fulfil any other specific tasks set out in this Regulation or in other legislative acts; (l) to publish on its website, and to update regularly, information relating to its field of activities.
Governance	<p>Board of Supervisors</p> <p>Composed of the Chairperson, one representative per Member State (head of NSA ⁽²⁾), Commission, ECB ⁽³⁾, ESRB, EIOPA ⁽⁴⁾ and ESMA ⁽⁵⁾.</p> <p>Management Board</p> <p>Composed of the Chairperson and six other members of the Board of Supervisors.</p> <p>Chairperson</p> <p>Appointed by Board of Supervisors.</p> <p>Executive Director</p> <p>Appointed by Board of Supervisors.</p> <p>Board of Appeal</p> <p>Joint body of the three ESAs.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Discharge authority</p> <p>European Parliament.</p>
Resources made available to the Authority in 2013 (2012)	<p>2013 Budget</p> <p>26,0 (20,7) million euro</p> <p>Including:</p> <p>European Union subsidy: 10,4 (8,3) million euro</p> <p>Contributions from Member States: 15,2 (12,1) million euro</p> <p>Contributions from observers: 0,4 (0,3) million euro</p> <p>Posts filled as of 31 December 2013</p> <p>93 temporary staff (68) — of which offer letters sent to and accepted by seven TAs before 31 December 2013.</p> <p>14 contract staff (12)</p> <p>17 Seconded National Experts (14)</p>
Products and services 2013	<p>— Conduct of 56 public consultations (predominantly on draft Regulatory and Implementing Technical Standards developed under the CRDIV/CRR legislative framework), organisation of 34 public hearings</p>

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- Submission of 36 draft Regulatory Technical Standards and 21 draft Implementing Technical Standards to the European Commission for final endorsement (developed in particular under (i) the CRDIV/CRR legislative framework, and relating to the area of banks' own funds, credit risk, market risk, liquidity and remuneration, as well as (ii) the Crisis Recovery and Resolution legislative framework)

 - Issuance of two guidelines (on capital measures for FX lending, and on retail deposits subject to different outflows for the purpose of liquidity reporting) and four recommendations to national competent authorities (on banks' participation in Euribor, on the development of recovery plans, on the preservation of CT1 capital during the transition to CRDIV/CRR legislative framework, and on asset quality review of banks)

 - Provision of six opinions addressed to the Commission, European Parliament and Council, one technical advice to the European Commission, four comment letters on accounting addressed to IASB and two comment letters on auditing addressed to IAASB

 - One peer review completed on the implementation by national competent authorities of the stress testing guidelines

 - Establishment of the Single Rulebook Questions and Answers tool on EBA website for institutions, supervisors and other stakeholders

 - Issuance of an extensive number of thematic reports in various areas of EBA expertise (e.g. banking sector and cross-sectoral risk analysis reports, reports on the consistency of banks' risk-weighted assets, consumer trends report, report on the results of the Basel II monitoring exercise, end of term report of the Banking Stakeholder Group, reports on banks' liquidity, report on the impact of the liquidity coverage ratio, report on the data on high earners in EU banks, report on comparability of supervisory rules and practices, report on procyclicality of banks' capital requirements, reports in the area of comparability of the risk-weighted assets (RWAs), etc.)

 - Performance of risk analysis, assessment and monitoring of key risks in the EU banking sector, including analysis of the consistency of outcomes in RWAs, the sustainability of banks business models and reviews of banks' asset quality

 - Development of semi-annual banking sector and cross-sectoral risk reports, quarterly risk dashboards, weekly reporting on liquidity and funding conditions of European banks and on banking market indicators, regular updates on risks and vulnerabilities provided to the EU institutions and bodies

 - Extensive work in the area of banks' balance sheet repair and banks' asset quality review (issuance of recommendations on the preservation of capital and on asset quality review, three interim reports on the consistency of RWAs, four other reports on various issues in relation to comparability of the RWAs, identification of common definitions of non-performing loans and forbearance, also in preparation for the asset quality reviews and the SSM comprehensive assessment)
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- Execution of the EU-wide transparency exercise providing information on EU banks that were part of the recapitalization exercise in 2012

 - Preparation for the 2014 stress testing of EU banks (work on development of methodologies, scenarios and key assumptions of the stress testing), inputs — as advisor to the Commission — to the stress tests in some program countries

 - Development and assistance with implementation of the common reporting frameworks of financial reporting (FINREP) and common reporting (COREP) and XBRL Taxonomy for second level supervisory reporting

 - Active participation in meetings and activities of colleges of national supervisory authorities, promoting and monitoring supervisory cooperation in colleges

 - Work related to EURIBOR and benchmark-related issues, performed jointly with ESMA, including publication of principles for benchmark setting processes, and work on follow up to recommendations to the Euribor-EBF and national authorities

 - Annual assessment on banks' implementation of Pillar 3 disclosure requirements

 - Contribution to the Basel Committee' Regulatory Consistency Assessment Programme (RCAP)

 - In the area of consumer protection, issuance of two consumer warnings (on virtual currencies and on contracts for difference), one joint position by the ESAs on product oversight and governance, co-organisation the 2013 Joint Consumer Day of the ESAs, and — as already mentioned under the above — issuance of three opinions on good practices for national competent authorities (on mortgages and exchange traded funds), one consumer trend report, and launch of one consultation on a draft RTS regarding mortgage intermediaries, and one consultation on joint complaints handling guidelines

 - Providing input and contribution to the process of the review of the European System of Financial Supervision in the context of Article 81 of the EBA Regulation, jointly with other ESAs (provision of quantitative and qualitative data to the COM, report on achievements and challenges of the ESAs to the Council, participation in the COM's public hearing on the ESFS review and ECON's public hearing, submission of the ESAs' opinion on the review of the ESRB)

 - Provision and coordination of 20 seminars and training activities to staff from the EBA and national supervisory authorities (out of which eight provided jointly with the other ESAs)

 - 10 meetings of Board of Supervisors (six physical meetings, four teleconferences), seven meetings of Management Board (five physical meetings, two teleconferences), seven meetings of the Banking Stakeholders Group (two of them jointly with the Board of Supervisors)
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	<ul style="list-style-type: none"> — Fulfillment of the Establishment plan (61 selection procedures organised and 153 candidates interviewed in 2013 with no appeals to the ED or Ombudsman) — Further improvement of administration and transparency of recruitment, introduction of induction training for newly recruited staff — Definition and implementation of new procedure for administration of EBA education contribution (contracts with schools) — Introduction of new medical service provider (joint procurement with EMA) and of new interim staff provider following procurement procedure — In relation to Allegro, launching the work on development of eRecruitment, change to IBM platform, modification of Allegro to the new Staff Regulation — Procession of 421 financial commitments and 2 335 payment orders — Implementation of improved budget monitoring tools and of improvements in the Internal Control Standards — Successful completion of nine procurements, all fully in line with the EU procurement rules — Renewal of 20 contracts which initially had been signed in 2012 for a period of 12 months — Revision of the costing sheets in four contracts, according to the trend in the Retail Price Indices (RPI) covering the UK — Joining new Commission procedures for supply of office furniture, insurance services, IT services, licenses for computer software and Microsoft Licenses, and joined two inter-institutional procurement procedures with the European Medicine Agency, for the provision of medical services and of interim staff (legal profile).
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⁽¹⁾ European Systemic Risk Board.

⁽²⁾ National Supervisory Authority.

⁽³⁾ European Central Bank.

⁽⁴⁾ European Insurance and Occupational Pensions Authority.

⁽⁵⁾ European Securities and Markets Authority.

Source: Annex supplied by the Authority.

THE AUTHORITY'S REPLIES

11. The EBA adopted a prudent approach to the 2011/2012 salary adjustments which, due to the form and timing of the Court of Justice decision, resulted in commitment execution of just over 90 %. The authority anticipates significantly improved budget execution in 2014, given ongoing improvement in budget management by the authority and taking account of the greater clarity regarding the salary adjustments.

12. The EBA acknowledges that, while there has been a significant decrease in the overall level of carry-overs, there is still room for further improvement. Given that the bulk of the carry-overs arises due to the timing of various annually renewable IT contracts, the EBA intends within the calendar year to pursue options to amend supplier contracts so as to change renewal periods and so reduce the level of carry-over.
