

REPORT

on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2011, together with the Authority's replies

(2012/C 388/18)

INTRODUCTION

1. The European Insurance and Occupational Pensions Authority (hereinafter "the Authority"), which is located in Frankfurt, was established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010⁽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 the protection of policyholders, pension scheme members and beneficiaries⁽²⁾. The Authority was set up on 1 January 2011.

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, the Court has audited the annual accounts⁽³⁾ of the Authority, which comprise the "financial statements"⁽⁴⁾ and the "reports on the implementation of the budget"⁽⁵⁾ for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

The Management's responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Authority, under his own responsibility and within the limits of the authorised appropriations⁽⁶⁾. The Director is responsible for putting

in place⁽⁷⁾ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts⁽⁸⁾ that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Auditor's responsibility

5. The Court's responsibility is to provide, on the basis of its audit, the European Parliament and the Council⁽⁹⁾ with a statement of assurance as to the reliability of the annual accounts of the Authority and the legality and regularity of the transactions underlying them.

6. The Court conducted 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 that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Authority are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

⁽¹⁾ OJ L 331, 15.12.2010, p. 48.

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

⁽³⁾ These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

⁽⁴⁾ The financial statements 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.

⁽⁵⁾ The budget implementation reports comprise the budget outturn account and its annex.

⁽⁶⁾ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

⁽⁷⁾ Article 38 of Regulation (EC, Euratom) No 2343/2002.

⁽⁸⁾ The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Authority.

⁽⁹⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

8. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

Opinion on the reliability of the accounts

9. In the Court's opinion, the Authority's Annual Accounts⁽¹⁰⁾ present fairly, in all material respects, its financial position as of 31 December 2011 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⁽¹¹⁾.

Opinion on the legality and the regularity of the transactions underlying the accounts

10. In the Court's opinion, the transactions underlying the annual accounts of the Authority for the financial year ended 31 December 2011 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question. They should be considered in the context of the Authority's transition from its predecessor Committee of European Insurance and Occupational Pensions Supervisors to a European Authority.

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

12. The Authority's commitments amounted to 6 579 663 euro or 62 % of the 2011 budget. The commitment rates were low especially for Title II "Administrative expenditure" (60 %) and Title III "Operational expenditure" (12 %). This impacted on the Authority's IT objectives which were not entirely achieved.

13. The Authority's budget for the financial year 2011 amounted to 10,7 million euro. In accordance with Article 62(1) of its Founding Regulation, 55 % of the 2011 budget was financed from Member States' and EFTA countries' contributions and 45 % from the Union budget. At the end of 2011 the Authority recorded a positive budget outturn of 2,8 million euro. In compliance with its Financial Regulation the full amount was then recorded in the accounts as a liability towards the European Commission.

COMMENTS ON KEY CONTROLS OF THE AUTHORITY'S SUPERVISORY AND CONTROL SYSTEMS

14. The Authority's accounting system has yet to be validated by the Accounting Officer, as required by the Financial Regulation.

OTHER COMMENTS

15. The audited procurement procedures were not fully consistent with the provisions of the general Financial Regulation. For five purchases of IT equipment (total amount of 160 117 euro) the award criteria applied were not set in advance and no written contracts were signed. In another case related to recruitment services (55 000 euro), the award criteria were incorrectly applied. The Authority should ensure that all new contracts are awarded in full compliance with the EU procurement rules.

16. The Authority needs to improve the transparency of recruitment procedures: threshold scores for admission to written tests and interviews or for inclusion in the list of suitable candidates, and questions for oral and written tests, were not set before the examination of applications, and there was no decision of the Appointing Authority to appoint the selection boards.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 11 September 2012.

For the Court of Auditors

Vitor Manuel da SILVA CALDEIRA

President

⁽¹⁰⁾ The Final Annual Accounts were drawn up on 28 June 2012 and received by the Court on 2 July 2012. The Final Annual Accounts, consolidated with those of the Commission, are published in the *Official Journal of the European Union* by 15 November of the following year. These can be found on the following website <http://eca.europa.eu> or <http://www.eiopa.europa.eu/>.

⁽¹¹⁾ The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

ANNEX

European Insurance and Occupational Pensions Authority (Frankfurt am Main)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty</p> <p>(Articles 26, 114, 290, 291 of the Treaty on the Functioning of the European Union)</p>	<ul style="list-style-type: none"> — Establish or ensure the functioning of the internal market, in accordance with the relevant provisions of the Treaties. — Prepare draft technical standards as preparatory work for non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act or where uniform conditions for implementing legally binding Union acts are needed.
<p>Competences of the Authority</p> <p>(Regulation (EU) No 1094/2010 establishing the Authority, Articles 1(6) and 8 tasks and powers)</p>	<p>Objectives</p> <p>Protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses.</p> <p>Tasks</p> <ul style="list-style-type: none"> — 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 cooperate closely with the ESRB; — to organise and conduct peer review analyses of competent authorities; — to monitor and assess market developments in the area of its competences; — to undertake economic analyses of markets to inform the discharge of the Authority's functions; — to foster the protection of policyholders, pension scheme members and beneficiaries; — to contribute to 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 policy holders, to beneficiaries and throughout the Union; — to fulfil any other specific tasks set out in this Regulation or in other legislative acts; — to publish on its website, and to update regularly, information relating to its field of activities; — to take over, as appropriate, all existing and ongoing tasks from the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).
<p>Governance</p> <p>(Regulation (EU) No 1094/2010 establishing the Authority: articles 40 - 44: Board of Supervisors; articles 45 - 47: Management Board; articles 48 - 50: Chair; articles 51 - 53: Executive Director)</p>	<p>Board of Supervisors</p> <p><i>Composition:</i> Heads of the relevant supervisory authority in each European Member State, the Authority's Chairperson, representatives of the European Commission, the European Systemic Risk Board, the European Banking Authority, the European Securities Markets Authority and Observers.</p> <p><i>Tasks:</i> the Authority main decision-making body.</p> <p>Management Board</p> <p><i>Composition:</i> Chairperson of the Authority, six representatives of national supervisory authorities and a representative of the European Commission.</p> <p><i>Tasks:</i> Guardian of the Authority mission and execution of tasks, budgetary powers, staff policy plan and Staff implementing measures.</p> <p>The Authority's Chairperson</p> <p>Represents the Authority, prepares the work of the Board of Supervisors, chairs the Boards' meetings.</p>

	<p>The Authority's Executive Director</p> <p>Ensures the management of the Authority and the implementation of the annual work programme and the budget; prepares the work of the Management Board, the budget, the work programme.</p> <p>Quality Control Committee</p> <p><i>Composition:</i> the Authority's Alternate Chairperson, 2 Members of the Management Board, Executive Director</p> <p><i>Tasks:</i> to oversee and assess the appropriate implementation of the internal procedures and decisions.</p> <p>External audit</p> <p>Court of auditors.</p> <p>Discharge Authority</p> <p>Parliament, acting on a recommendation from the Council.</p>
<p>Resources made available to the Authority in 2011</p>	<p>Final Budget</p> <p>Final Budget Appropriations: 10,66 million euro</p> <p>Establishment Plan</p> <p><i>Statutory Staff</i></p> <p>46 authorized in the establishment plan of which occupied 46</p> <p>Establishment plan 100 % accomplished</p> <p><i>Contract agents</i></p> <p>7 planned in the budget of which occupied 6</p> <p><i>Seconded National Experts</i></p> <p>6 planned in the budget of which occupied 4</p> <p>Total: 56 staff</p>
<p>Products and services in 2011</p>	<p>Regulatory tasks</p> <ul style="list-style-type: none"> — Fifth Quantitative Impact Study; — 11 public consultations related to different areas of the Authority activities (Insurance and Pensions). <p>Supervisory tasks</p> <ul style="list-style-type: none"> — the Authority's participation in Colleges of Supervisors; — Action Plan for Colleges 2011. <p>Consumer protection and financial innovation</p> <ul style="list-style-type: none"> — Report on Financial Literacy and Education Initiatives by competent authorities. — Input to the Commission's revision of the Insurance Mediation Directive (IMD). <p>Common supervisory culture</p> <ul style="list-style-type: none"> — 3 cross-sector seminars; — 15 seminars for national competent authorities; — Development of methodology for 3 peer reviews. <p>Financial stability</p> <ul style="list-style-type: none"> — 2 bi-annual Financial Stability Reports; — 1 Europe-wide stress test for the insurance sector;

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- 1 satellite exercise assessing the effects of the materialisation of a prolonged period of low interest rates;
 - Setting up of a Pilot Risk Dashboard.

Crisis management

- A set of interim procedures for dealing with emergency situations developed by the Authority in conjunction with the other ESAs developed.
- A comprehensive, decision-making framework setting in detail the processes that the Authority will follow in discharging its crisis pre-emption and management responsibilities.

External relations

- Setting up of 2 Stakeholder Groups, for Insurance and Occupational Pensions.
- Regulatory and Supervisory Dialogues with US National Association of Insurance Commissioners (NAIC), the China Insurance Regulatory Commission (CIRC), the Japanese Financial Services Authority (Japanese FSA), the Latin American Association of Insurance Supervisors (ASSAL), the Brazilian competent supervisory authority for the private insurance sector (SUSEP) and the US Federal Insurance Office (FIO).
- Member of the International Association of Insurance Supervisors, including membership of each Executive Committee.
- 3 equivalence reports (Switzerland, Bermuda, Japan).

Conferences / other public events 2011

- 3 conferences and events (TIGS, EIOPA Annual Conference, Consumer Strategy Day).

Source: Information supplied by the Authority

THE AUTHORITY'S REPLIES

12. During the first year of EIOPA the execution rate for Title II and Title III indeed was low. The rationale for this was triggered by a conscious decision from the Executive Director of not committing (and not spending) the budgeted amount for IT (30 % of the total EIOPA budget), following a lack of a strategic orientation from EIOPA's Board of Supervisors during 2011. The complexity of the decisions to be taken as well as their large implications did not allow committing and spending the related appropriations. The needed strategic decision has been taken by EIOPA's Board of Supervisors in February 2012. The project is now up and running, designed in a way that allows full and timely compliance with its aims and objectives.

13. EIOPA acknowledges that the Financial Regulation requires the full surplus to be accounted as a liability towards the European Commission whilst the Founding Regulation provides for budget contributions also from Member States and EFTA countries. EIOPA, together with its sister ESAs, has reached an agreement with the European Commission to align the distribution of surplus with the Founding Regulation.

14. The Court's comment is noted and the Accounting Officer will take the necessary steps in order to perform the validation process in 2012.

15. EIOPA has taken all necessary steps in 2011 to reach an agreement with OLAF. The Court's comment should be removed.

16. The Authority is taking all the measures needed to ensure that in the future all contracts are awarded in full compliance with the Financial Regulation. A procurement officer was recruited.

17. The Court's comment is noted and recruitment procedures will be further improved.
