

## REPORT

**on the annual accounts of the European Insurance and Occupational Pensions Authority for the financial year 2012, together with the Authority's replies**

(2013/C 365/19)

## INTRODUCTION

1. The European Insurance and Occupational Pensions Authority (hereinafter 'the Authority', aka 'EIOPA'), which is located in Frankfurt, was established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council <sup>(1)</sup>. 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 <sup>(2)</sup>. 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 (TFEU), the Court has audited:

- (a) the annual accounts of the Authority, which comprise the financial statements <sup>(3)</sup> and the reports on the implementation of the budget <sup>(4)</sup> for the financial year ended 31 December 2012, and
- (b) the legality and regularity of the transactions underlying those accounts.

**The management's responsibility**

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002 <sup>(5)</sup>,

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:

- (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 <sup>(6)</sup>; 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.

**The auditor's responsibility**

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council <sup>(7)</sup> 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

<sup>(1)</sup> OJ L 331, 15.12.2010, p. 48.

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

<sup>(3)</sup> 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.

<sup>(4)</sup> These comprise the budgetary outturn account and the annex to the budgetary outturn account.

<sup>(5)</sup> OJ L 357, 31.12.2002, p. 72.

<sup>(6)</sup> 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.

<sup>(7)</sup> Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 2012 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 2012 are legal and regular in all material respects.

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

#### **COMMENTS ON THE LEGALITY AND REGULARITY OF TRANSACTIONS**

11. EIOPA has improved its procurement procedures in order to become fully compliant with EU procurement rules. However, one contract related to the design of a financial database was subdivided into four lots of 60 000 euro each, which were all directly awarded to two companies. Given the total value of the services to be procured for the same project (240 000 euro), an open or restricted procedure should have been applied and the related commitments and payments are thus irregular.

#### **COMMENTS ON INTERNAL CONTROLS**

12. A physical verification of assets was carried out in May and June 2012, but no physical verification report was produced. The Authority has not adopted any procedures or guidelines on physical checks on tangible assets.

#### **COMMENTS ON BUDGETARY MANAGEMENT**

13. The carry-over of committed appropriations to 2013 was very high for title III (operational expenditure) at 79 % of total appropriations. This mainly results from the complexity and lengthy duration of one IT procurement procedure for which the contract of 2,2 million euro was signed as planned in December 2012.

#### **FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS**

14. An overview of the corrective actions taken in response to the Court's previous year's comments is provided in *Annex I*.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

*For the Court of Auditors*  
Vitor Manuel da SILVA CALDEIRA  
*President*

## ANNEX I

**Follow-up of previous year's comments**

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	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.	Completed
2011	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.	Ongoing
2011	The Authority's accounting system has yet to be validated by the Accounting Officer, as required by the Financial Regulation.	Completed
2011	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.	Ongoing
2011	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.	Ongoing

## ANNEX II

## European Insurance and Occupational Pensions Authority (Frankfurt am Main)

## Competences and activities

<p><b>Areas of Union competence deriving from the Treaty</b></p> <p>(Articles 26, 114, 290, 291 of the Treaty on the Functioning of the European Union)</p>	<ul style="list-style-type: none"> <li>— Establish or ensure the functioning of the internal market, in accordance with the relevant provisions of the Treaties.</li> <li>— 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.</li> </ul>
<p><b>Competences of the Authority</b></p> <p>(Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing the Authority, Articles 1(6) and Article 8 on tasks and powers)</p>	<p><b>Objectives</b></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><b>Tasks</b></p> <ul style="list-style-type: none"> <li>— To contribute to the establishment of high-quality common regulatory and supervisory standards and practices,</li> <li>— to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities,</li> <li>— to cooperate closely with the ESRB,</li> <li>— to organise and conduct peer review analyses of competent authorities,</li> <li>— to monitor and assess market developments in the area of its competences,</li> <li>— to undertake economic analyses of markets to inform the discharge of the Authority's functions,</li> <li>— to foster the protection of policyholders, pension scheme members and beneficiaries,</li> <li>— 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,</li> <li>— to fulfil any other specific tasks set out in this Regulation or in other legislative acts,</li> <li>— to publish on its website, and to update regularly, information relating to its field of activities,</li> <li>— to take over, as appropriate, all existing and ongoing tasks from the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).</li> </ul>
<p><b>Governance</b></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><b>Board of Supervisors (BoS)</b></p> <p><i>Composition</i></p> <p>Chairperson (non-voting), the head of the national public authority competent for the supervision of financial institutions in each Member State (voting), one representative of the Commission, of the European Systemic Risk Board, the European Banking Authority, the European Securities Markets Authority (all non-voting); observers may be permitted.</p>

	<p><i>Tasks</i></p> <p>The Authority's main decision-making body.</p> <p><b>Management Board (MB)</b></p> <p><i>Composition</i></p> <p>Chairperson of the Authority, six representatives of national supervisory authorities. The Executive Director and a representative of the European Commission shall participate in meetings of the MB without the right to vote.</p> <p><i>Tasks</i></p> <p>The MB shall ensure that the Authority carries out its mission and performs the tasks assigned to it in accordance with Regulation No 1094/2010. The MB shall exercise budgetary powers and adopt the staff policy plan and staff implementing measures.</p> <p><b>The Authority's Chairperson</b></p> <p>Represents the Authority, prepares the work of the Board of Supervisors (BoS), chairs the BoS and MB meetings.</p> <p><b>The Authority's Executive Director</b></p> <p>Is in charge of 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><b>Quality Control Committee</b></p> <p><i>Composition</i></p> <p>The Authority's Alternate Chairperson, two Members of the Management Board, the Executive Director.</p> <p><i>Tasks</i></p> <p>To oversee and assess appropriate implementation of the internal procedures and decisions.</p> <p><b>External audit</b></p> <p>European Court of Auditors.</p> <p><b>Internal audit</b></p> <p>European Commission's Internal Audit Service (IAS).</p> <p><b>Discharge authority</b></p> <p>European Parliament acting on a recommendation from the Council.</p>
<p><b>Resources made available to the Authority in 2012</b></p>	<p><b>Final Budget</b></p> <p>Final Budget Appropriations: 15 655 000 euro</p> <p><b>Establishment Plan</b></p> <p>Statutory staff: 69 posts authorised in the establishment plan, of which occupied: 69</p> <p>Establishment plan 100 % fulfilled</p> <p>Contract staff posts: 12 planned in the budget, 14 occupied</p> <p>Seconded National Experts posts: eight planned in the budget, of which occupied: eight</p> <p>Total: 91 staff</p>

**Products and services in 2012****Regulatory tasks**

- Opinion on Interim Measures Regarding Solvency II.
- Opinion on External Models and Data.
- Four public consultations related to different areas of the Authority's activities (Insurance and Pensions).
- Provision of advice on the review of the Institutions for Occupational Retirement Provision (IORP) directive.
- Report on the Role of Insurance Guarantee Schemes in the Winding-Up Procedures of Insolvent Undertakings in the EU/EEA.
- EIOPA Final Report on Public Consultation N11/008 on the proposal for Guidelines on Own Risk and Solvency Assessment.
- EIOPA Final Report on Public Consultation N11/009 and 11/011 on the Proposal for the Reporting and Disclosure Requirements.

**Supervisory tasks**

- The Authority's participation in Colleges of Supervisors of 75 insurance groups.
- Action Plan for Colleges 2012 including annexes, e.g. catalogue with elements for information exchange, End of year Report on the Functioning of Colleges and the Accomplishments of the 2011 Action Plan.

**Consumer protection and financial innovation**

- Guidelines on Complaints-Handling by Insurance Undertakings.
- Report on Best Practices by Insurance Undertakings in handling complaints.
- Methodology Report for collecting, analysing and reporting on consumer trends.
- EIOPA's updated Survey of the competences of national competent authorities in the field of Consumer Protection.
- Procedures for issuing warnings and temporary restrictions/prohibitions.
- Report on Good Practices for Disclosure and Selling of Variable Annuities.
- Initial Overview of Consumer Trends in the European insurance and occupational pensions sectors.

**Common supervisory culture**

- Four cross-sector seminars.
- 17 seminars for national competent authorities.
- Development of methodology for three peer reviews.

**Financial stability**

- Two bi-annual Financial Stability Reports.
- Preparation of Europe-wide stress test for the insurance sector (test postponed due to LTGA).
- Production of quarterly Risk Dashboard.
- Preparation of the Long-Term Guarantee Assessment.

**Crisis management**

- Finalisation of a comprehensive, decision-making framework setting in detail the processes that the Authority will follow in discharging its crisis pre-emption and management responsibilities.
- Agreement of an EIOPA common approach on dealing with sovereign and banking exposures.
- Development of an EIOPA Opinion on the supervisory response to a prolonged period of low interest rates.
- Detailed contribution to the European Commission consultation on recovery and resolution for non-bank financial institutions.

**External relations**

- 11 meetings, including a joint one with BoS, of IRSG and OPSG, nine official opinions and feedback statements, eight informal consultations on 'work-in-progress'.
- Approximately 20 Regulatory and Supervisory Dialogues with third country supervisors and supervisory associations from Austral-Asia, Latin and North America, South Africa, Iceland and Switzerland. Active participation in and contributions to the IAIS Technical and Executive Committee, Financial Stability Committee, Solvency & Actuarial Subcommittee and IAIS Annual Conference.
- EU-US Dialogue Project: Publication of the strategic 'Way Forward' document and the final Report of the seven Technical Committees, two Public Hearings in Washington DC and Brussels.
- Gap analysis of the (re)insurance regimes of Australia, Chile, China, Hong Kong, Israel, Mexico, Singapore, South Africa, including full professional secrecy assessment, as basis for an EC decision on equivalence transitionals.
- Cooperation agreement with the Croatian Financial Services Supervisory Agency (CFSSA/HANFA).

**Conferences / other public events 2012**

- Four conferences and events ('Conference on Global Insurance Supervision (GIS)', Launch Event 'QIS (Quantitative Impact Study) for Pensions', annual EIOPA Conference and second Consumer Strategy Day).

Source: Information supplied by the Authority.

### THE AUTHORITY'S REPLIES

11. EIOPA acknowledges and shares the concerns raised by the Court. However, there is sound business rationale backing both the decision to run a procurement, and to do it in 4 separate lots, in order to deepen our knowledge on how to design our system, reducing the risk of acquiring the wrong services and products and ensuring sufficient competition in the core stage of the process, namely the main procurement.

EIOPA's strong intention to be compliant and improve its processes is underlined by the following facts: Evaluation committees were set up for each procedure even when they would not have been necessary; EIOPA's aim was to find different contractors for different domains to prepare for upcoming open procedures, which is documented by that fact that for each of the procedures, more than the necessary number of companies were invited to tender. The duplication of contractors was due to the limited number of offers received. EIOPA wanted to have effective competition and in order to avoid a single provider coming with a 'tailored' solution that would *de facto* in the main procurement lead to the same company being the only suitable runner it decided to run 4 separate lots.

12. EIOPA took note of the Court's finding. In 2012, the priority laid on the safeguarding of the authority's assets itself instead of the implementation of the underlying procedures and the documentation of the verification process. EIOPA meanwhile has taken corrective action. A training took place for new financial actors, in view to streamline the asset processes. EIOPA has also adopted guidelines documenting the asset processes. The implementation of these processes is ongoing.

13. EIOPA took note of the Court's finding. In case of the IT related carry-overs, this can be attributed to the start up stage of the Authority, after having first adopted the IT strategy end 2011 and the IT strategy implementation plan early 2012. Once the start up phase will be completed, the IT spending will be more evenly spread throughout the fiscal year which will significantly reduce a risk of carry-overs.

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