

Opinion

On 2022 Discharge Report of the European Parliament

1 Background and legal basis

1. Article 64 of the ESMA Regulation¹ sets out arrangements for the implementation and control of ESMA's budget.
2. In relation to the budget control processes, notably pursuant to Article 64(10) of the ESMA Regulation, the European Parliament (EP), following a recommendation from the Council acting by qualified majority, shall, before 15 May of the year N +2, grant a discharge to the Authority for the implementation of the budget for the financial year N.
3. Against this background, the EP adopted on 11 April 2024 the Report on discharge in respect of the implementation of the budget of ESMA for the financial year 2022 (2023/2162(DEC))², in short the '2022 Discharge Report'.
4. Article 64(11) of the ESMA Regulation foresees that ESMA shall provide a reasoned Opinion on the position of the EP and on any other observations provided by the EP, thereafter also referred to as the 'Discharge Authority', in the discharge procedure.
5. ESMA therefore issues this Opinion on the 2022 Discharge Report.

2 Opinion

6. ESMA welcomes the approval by the EP of the closure of ESMA accounts for the financial year 2022 and the decision of the EP to grant ESMA's Executive Director discharge in respect of the implementation of ESMA's budget for the financial year 2022.
7. ESMA takes the following views on the observations made by the EP in the 2022 Discharge Report in relation to its operations and activities.

Budget and financial management

8. ESMA takes note of the overall satisfaction expressed by the EP on the budget monitoring efforts achieved over the financial year 2022.

¹ Regulation 1095/2010

² [P9_TA\(2024\)0264](#)

9. ESMA reiterates that the increasing complexity of its budget structure may hamper its ability to respond effectively to financial market developments. ESMA therefore welcomes the reference made by the EP to the need for a revision of its fee-funding model, which would allow it to react both suitably and swiftly to significant financial market developments while being able to manage more efficiently the numerous fee sources stemming from its direct supervisory mandates.

Performance

10. ESMA takes note of the recognition by the EP of its significant achievements in 2022, including its appropriate response to geopolitical challenges, and reasserts its commitment to enhance investor protection, promote orderly financial markets and safeguard financial stability.
11. ESMA confirms that it uses Key Performance Indicators (KPIs) to measure and monitor progress towards the achievement of its goals and wishes to inform the Discharge Authority that it conducted a review and is implementing a new set of KPIs to align them with its strategy³ and with wider EU common policy objectives.
12. ESMA reiterates the importance of smooth cooperation with the two other European Supervisory Authorities (ESAs) for the effective implementation of the joint mandates granted by the Co-legislators under notably the Digital Operational Resilience Act (DORA), the Regulation on Markets in Crypto-Assets (MiCA), and the European Single Access Point legislative package (ESAP).

Staff policy

13. ESMA wishes to inform the Discharge Authority that it has adopted an ESMA People Strategy with the objective of being an attractive employer which values and support individuals. It aims at attracting diverse and highly capable talents, enhancing motivation and talent management, fostering management and leadership excellence, and promoting a diverse, inclusive and flexible work environment.
14. ESMA reports that it has fulfilled its commitment to develop a Diversity, Equity & Inclusion (DE&I) Strategy, which links to the ESMA's People Strategy and will focus on raising awareness and fostering inclusive behaviours, developing monitoring tools, increasing diversity in recruitment, and embedding DE&I in all of ESMA's activities.

³ [ESMA strategy, 2023-2028](#)

Prevention and management of conflicts of interest

15. ESMA takes note of the EP's acknowledgment of ESMA's policies aimed at preventing and managing Conflicts of Interest (CoI) and of ESMA's diligence in addressing identified weaknesses, which contributes to ensure transparency, ethics, and good administrative behaviour.
16. ESMA informs the Discharge Authority that it has engaged in a targeted review of its CoI Policy for Non-Staff with the aim of giving clearer guidance on what interests to declare, fostering transparency and accountability of Board members as regards financial instruments held, and simplifying and securing the annual Declaration of Interests procedure to achieve more meaningful public information on the governing bodies members' interests.
17. ESMA however wishes to clarify that its CoI and Ethics Policy for Non-Staff solely applies to the members, alternates and observers of ESMA's governing bodies (i.e. the Board of Supervisors, Management Board, and the members and alternates of the CCP Supervisory Committee) and does not cover ESMA staff (i.e. Temporary Agents, Contract Agents, Seconded National Experts and Trainees).
18. ESMA recalls that ESMA staff is subject to the rules on the management of CoI under the CoI and Ethics Policy for ESMA Staff, according to which ESMA staff shall notably be given clearance before dealing in financial instruments and authorisation prior to publications and speeches or engaging in outside activities whilst in active employment.

Internal control

19. ESMA takes note of the overall satisfaction expressed by the EP on ESMA's internal control system; ESMA underlines its sustained commitment to enhance its internal controls processes on a continuous basis, notably by performing an annual assessment of its internal control system, which covers all internal control principles.
20. ESMA informs the Discharge Authority that the ESMA Management Board is regularly informed of the advancement of the implementation of the recommendations set out by the Internal Audit Service of the European Commission (IAS), notably in relation to data management for which all recommendations are being implemented within the agreed deadlines and expected to be completed by the end of 2024.

Other comment

21. ESMA welcomes the appreciation expressed by the EP on its efforts to assess, report, and improve its environmental performance, in particular by registering under the European Union's Eco-Management and Audit Scheme (EMAS), and issuing annual environmental statements.