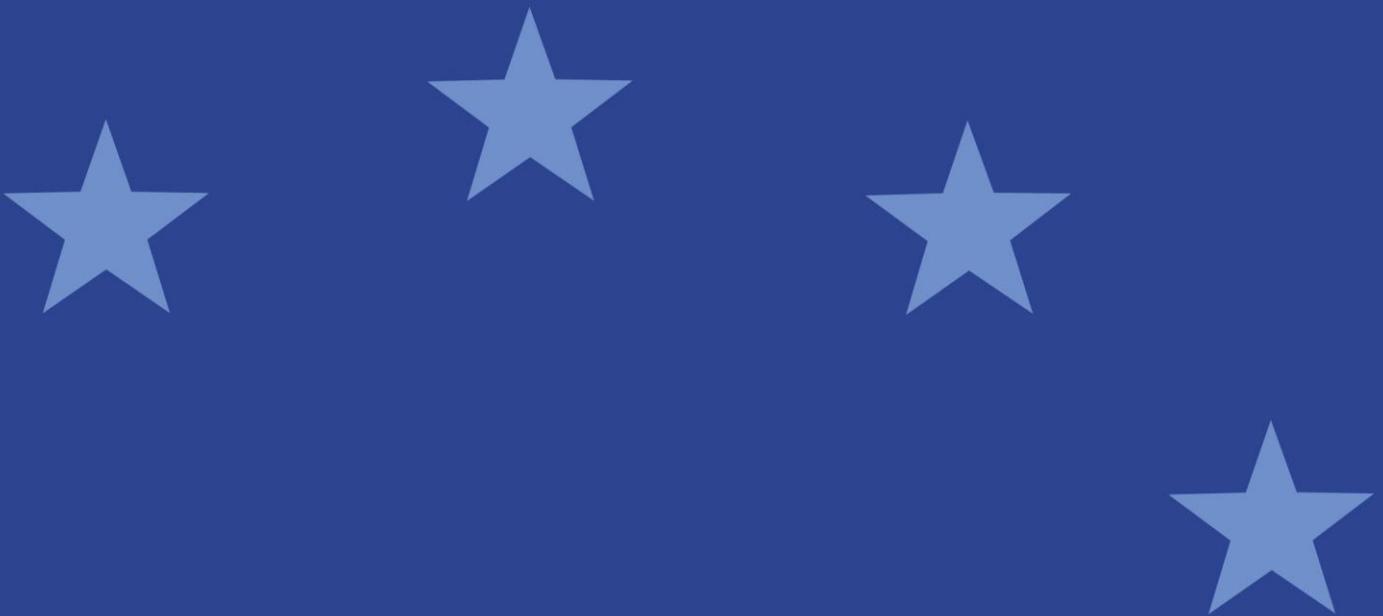




European Securities and
Markets Authority

Annual Activity Report 2011



I. MANAGEMENT AND INTERNAL CONTROL SYSTEMS

1. Management supervision

The Chair of the European Securities and Markets Authority (ESMA), Steven Maijoor took up office in April 2011 for a term of 5 years. He is responsible for chairing ESMA's Board of Supervisors and Management Board.

As 2011 was ESMA's first year of operation, an acting Executive Director was nominated by the European Commission to manage the transition from CESR, a French association, to ESMA, an EU authority. The current Executive Director, Verena Ross, joined ESMA in June 2011 for a 5 year term. Along with the ESMA Chair, she forms part of the senior management team. The Executive Director has responsibility for the day-to-day running of the organisation.

ESMA has six Units/Divisions. In 2011, five Heads of Units/Divisions were newly appointed. The Heads are responsible for the activities in their respective business areas. The Executive Director and the Heads form ESMA's management team.

ESMA's 2011 Work Programme was approved prior to ESMA's establishment on 1 January 2011. The Work Programme was monitored internally throughout the course of the year and progress on its implementation was reported to the Management Board through the Annual Report.

ESMA's management meets on a weekly basis. They discuss and agree cross-ESMA issues and solutions.

In 2011, the Executive Director, as the Authorising Officer (AO), delegated financial responsibility to the Head of Operations, (Authorising Officer by Delegation (AOD)). The AOD could enter into budgetary and legal commitments and authorise payments below EUR 8 000 on all expenditures except on staff expenditures.

The final accounts of ESMA for the financial year 2011, containing detailed budgetary and financial management reporting, were published on 1 June 2012 (Ref. ESMA/2012/718).

2. Internal control system

Internal Control Standards specify the necessary requirements, actions and expectations in order to build an effective system of internal control that could provide reasonable assurance on the achievement of ESMA's objectives.

Not having adopted its own Internal Control Standards yet, an assessment of ESMA's implementation of controls versus the Standards of the European Commission was performed in November 2011 and sent to its parent DG at the European Commission – DG Markt.



The Internal Control Standards of the European Commission are based on the international COSO standards. The standards cover the areas of mission and values, human resources, planning and risk management processes, operations and control activities, information and financial reporting, and evaluation and audit.

3. Decisions, procedures and implementing rules

The internal control system includes a number of internal procedures. The internal procedures developed in 2011 include, for example, the financial circuits design, financial checklists for commitments and payments. HR recruitment procedures and ethics guidelines were also being drafted.

There are also a number of decisions made by the Management Board regarding internal policies and rules. In 2011 decisions were taken, and implemented, regarding Anti-Fraud measures, professional secrecy, access to documents and appraisal of staff, among others.

Certain implementing rules under the Staff Regulations were also adopted in line with those applying to the Commission, including family, household and education allowance, transfer of pension rights or leave.

4. Ex-post controls

ESMA performed an ex-post control in January 2011 for the assessment of the security of all IT systems in place. A second ex-post control was performed in November 2011 for the assessment of the security of the newly developed ESMA website, prior to the launch of the system.

No critical recommendations were raised in either of the IT security external audits.

5. Authorisation and registration of exceptions

In accordance with ICS 8, ESMA documented duly approved exception reports. These exceptions are logged centrally.

In the absence of a material financial impact, ESMA does not consider any of the exceptions to give rise to a reservation in the Executive Director's Declaration of Assurance.

6. Control functions

The most important control functions in ESMA are the accounting officer, the centralised procurement function and the financial verification function.

The accounting officer, was in place in January 2011. She is responsible for:

- the proper implementation of payments;
- collection of revenue and recovery of amounts established as being receivable;
- preparing, presenting and keeping the accounts;
- laying down the accounting rules and methods and the chart of accounts;
- validating the accounting systems of ESMA; and



- treasury management.

A procurement officer, was hired in 2011. The procurement officer is responsible for coordinating ESMA's procurement activity, including the ESMA procurement plan, and is directly involved in all tenders over EUR 25 000. The mission of the procurement officer is to ensure that ESMA's public procurement procedures are carried out in accordance with ESMA's financial rules. She provides a verification function on legality, regularity and financial issues related to the procurement procedures, prior to the authorisation by the Authorising Officer, as well as a reporting function on exceptions or deviations.

ESMA also set up the finance team during 2011. The financial circuits included financial verifiers for all financial transactions. Financial initiators and verifiers are in a unique finance unit in ESMA, applying unified processes and providing support to initiating and authorising officers on financial matters.

ESMA incorporated the European Commission integrated budgetary and accounting System, Accrual-Based Accounting (ABAC) into the Authority in April 2011.

II. BUILDING BLOCKS TOWARDS DECLARATION OF ASSURANCE

ESMA was audited by the European Court of Auditors (ECA). The audit provided a Statement of Assurance as to the reliability of the accounts of ESMA and the legality and regularity of the transactions underlying them.

The first part of the audit was performed in November 2011 and the second part in March 2012.

The report on ESMA's annual accounts for the financial year 2011 was adopted by ECA on 18 September 2012. In its report, ECA expressed the following opinions:

- Opinion on the reliability of the accounts:

In the Court's opinion, the Authority's Annual Accounts¹ 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 officer².

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

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.

ESMA was not audited by the Internal Audit Services of the European Commission during 2011.

Other building blocks of the Executive Director's Declaration of Assurance are:

¹ The Final Annual Accounts were drawn up on 20 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.esma.europa.eu>

² 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.

- the Executive Director's own knowledge of the management and control system in place;
- the declarations of assurance made by the authorising officer by delegation to the Executive Director; and
- the list of recorded exceptions.

1. Conclusions

Taking into account the control system in place, the information provided by the building blocks above and the lack of critical findings from the Court of Auditors at the time of the declaration, there is no reason to question the efficiency or effectiveness of the control system in place.