

Annual Activity Report 2022

Directorate-General for Financial Stability, Financial Services and Capital Markets Union

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DG FISMA IN BRIEF

The mission of the European Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) is "to preserve financial stability, protect savers and investors, fight financial crime, as well as to ensure the flow and access to capital for businesses and consumers in the European Union".

DG FISMA is based in Brussels and is composed of 5 directorates with 22 units and one task force. The Resolution Task Force is the lead service for the resolution function of the Commission in the context of the Banking Union. The DG is managed by the Director-General John Berrigan under the political authority of Commissioner McGuinness and Executive Vice-President Dombrovskis. The DG supports the Commissioner to carry out the mission entrusted to her by the President of the European Commission.

DG FISMA's work for a stable and competitive EU financial system is crucial to support the EU economy and to contribute to sustainable growth for the benefit of EU citizens. The completion of the Capital Markets Union and the Banking Union is key to the recovery after the COVID-19 pandemic. DG FISMA has a lead role on Digital Finance and Sustainable Finance, as well as the in ensuring that the financial sector regulatory frameworks remain fit for purpose.

Following Russia's military aggression against Ukraine, the European economy and financial markets are facing multiple new challenges, stemming from a complex and uncertain geopolitical, economic, and social environment. The historically high energy, electricity and food prices and persisting supply shortages contribute to rising inflation rates while the economy is contracting in the EU and globally.

DG FISMA, together with other Commission Services, has a pivotal role in the ongoing work on coordinating and preparing hard-hitting sanctions against Russia, targeting the Russian financial, energy and transport sectors and state-owned enterprises, as well as sanctions against Belarus. The challenge is now to ensure the consistent and full implementation of the measures across the EU, by authorities and stakeholders.

During the autumn of 2022, DG FISMA also worked intensively with other Commission departments on measures that would address the problems arising on the wholesale energy markets.

DG FISMA uses a broad range of legislative and non-legislative tools. In addition to "level 1" legislation, DG FISMA is actively involved in the development of delegated and implementing acts ("level 2"), often in close cooperation with the European Supervisory Authorities (ESAs). DG FISMA together with the ESAs work to facilitate convergence of supervisory practices in Member States and to ensure that EU law is applied correctly on the ground. The objectives of DG FISMA are supported by enforcement policies. The work of DG FISMA is dependent on close coordination with partners and stakeholders, both within the EU and internationally.

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EXECUTIVE SUMMARY

This Annual Activity Report is a management report of the Director-General of DG FISMA to the College of Commissioners. Annual Activity Reports are the main instrument of management accountability within the Commission and constitute the basis on which the College takes political responsibility for the decisions it takes as well as for the coordinating, executive and management functions it exercises, as laid down in the Treaties (1).

(1) Article 17(1) of the Treaty on European Union.

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A. Key results and progress towards achieving the Commission's general objectives and department's specific objectives

DG FISMA contributes to several of the Commission's general objectives, notably 'An Economy that works for people', but also other political priorities, such as 'A European Green Deal', 'A Europe fit for the digital age' and 'A stronger Europe in the world'. In order to fulfil these general objectives, FG FISMA has defined six specific objectives:

SPECIFIC OBJECTIVES

- 1. EU financial markets are more integrated and liquid, opening new opportunities for cross-border investments and funding for citizens and businesses.
- 2. Financial stability is preserved and improved by efficient supervision and crisis management mechanisms, by means to absorb shocks and diversify risks, and a comprehensive approach is in place to fight money laundering and the financing of terrorist activities.
- 3. The confidence and protection of consumers and investors on European financial markets, as well as market integrity, are enhanced
- 4. More private capital is made available for sustainable investments.
- 5. Opportunities from digital technology are widely employed to implement a safe, competitive and inclusive digitalisation of financial services.
- 6. The EU financial system's sovereignty and competitiveness in a challenging international environment are strengthened.

Russia's military aggression against Ukraine has had wide-ranging impact on the global and European economy as well as on the financial markets. DG FISMA adapted quickly in response to the new challenges in order to ensure that its work in the best way supports the stability and functioning of the EU economy and its financial markets.

Sanctions

In 2022, the Commission prepared **nine packages of sanctions** against Russia, targeting the Russian financial, energy and transport sectors and state-owned enterprises, as well as sanctions against Belarus. In addition, DG FISMA coordinated with international partners in the development of the **G7 oil price cap on Russian seaborne crude oil** which came into effect on 5 December 2022. The focus is now on **ensuring a consistent and full implementation** of the sanctions across the EU.

Energy markets

DG FISMA worked intensively with other Commission services on measures that would address the problems arising on **wholesale energy markets**. In its October package the Commission put forward a set of **emergency measures that target the functioning of the energy markets**. In November, the Commission tabled an additional emergency proposal on **Market Correction Mechanism (MCM)** for the LNG markets.

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The Capital Markets Union (CMU)

The Capital Markets Union (CMU) is more needed than ever. We need deeper and more integrated capital markets to mobilize the private investments needed for the net-zero and digital transitions. In December 2022, the Commission adopted the Listing Act proposals that will alleviate the administrative burden for companies of all sizes. The proposals include changes to the Prospectus Regulation and the Market Abuse Regulation (MAR) as well as changes to the Markets in Financial Instruments Directive (MiFID II). DG FISMA, in collaboration with DG JUST, also proposed a new Directive relating to the use of multiple-vote share structures, as well as a proposal on insolvency will harmonise certain insolvency rules across the EU.

As part of the CMU package, the Commission also adopted measures to facilitate **clearing** in the EU through amendments to the **European Market Infrastructure Regulation (EMIR)** and other legal acts.

Banking and insurance

Completing the **Banking Union** remains important in this challenging situation. Taking into account the mandate from the Eurogroup from June 2022, DG FISMA started to prepare legislative proposals on the **Crisis Management and Deposit Insurance** (CMDI) framework. Furthermore, the Commission started assessing the functioning of the EU **macroprudential framework for the banking sector.**

The **breach of Union law procedure** was used for the first time by a European Supervisory Authority (ESA) in 2022.

Retail investors and consumers

The Commission continued its work on the **Retail investment package** with a view to enhancing trust and confidence of retail investors, ensuring that retail investors in the EU can take full advantage of capital markets and that rules are coherent across different legal instruments. In parallel, DG FISMA continued to work with Member States and OECD on the development of a **financial competence framework**.

Sustainable finance

The **EU Taxonomy** provides companies and investors with a robust common definition of sustainable activities. Significant work to complete the taxonomy is ongoing. On 9 March 2022, the Commission adopted a <u>Complementary Climate Delegated Act</u> under the Taxonomy Regulation, as well as **amendments to the Regulatory Technical Standards** on how to disclose gas and nuclear-related activities that comply with the Taxonomy.

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In spring 2022, the European Commission adopted **regulatory technical standards (RTS)** to be used by financial market participants when disclosing sustainability-related information under the **Sustainable Finance Disclosures Regulation (SFDR).** Finally, In December 2022, the co-legislators adopted Directive 2022/2464 on **corporate sustainability reporting (CSRD).**

Digital finance

In October 2022, the Commission proposed a **Regulation on euro Instant Payments** allowing people to transfer money at any time of any day within ten seconds, with the view to making those services available to all citizens and businesses holding a bank account in the EU.

Inter-institutional negotiations relating to several legislative proposals included in the EU Digital Finance strategy were concluded during the year, notably on a **Digital Operational Resilience Act (DORA)**, on **Markets in Crypto-Assets (MiCA)** and the **DLT (Distributed Ledger Technology) Pilot.**

International work

During the year, DG FISMA contributed to the Commission actions to **support Ukraine on its European path.** DG FISMA also intensified its work related to the **enlargement process**, notably by monitoring candidate countries' progress in aligning their legislation with the financial services acquis.

The International Platform on Sustainable Finance (IPSF) continued its work on the common ground taxonomy, and DG FISMA also contributed to the work of the G20 Sustainable Finance Working Group.

DG FISMA furthermore continued its **engagement with international partners** to promote sound international standards warranting a level-playing field for financial markets, manage risks deriving from cross-border activity, and promote the competitiveness of the EU financial system.

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B. Key performance indicators (KPI)

Most of DG FISMA's initiatives contribute to the Commission's general objective 'An Economy that works for people'. A cornerstone of the Capital Markets Union is the financing of the economy, including the green and digital transitions. It is important that companies, notably SMEs, have several sources of financing. Households should have easier access to the financial markets and financial instruments to achieve better returns. These important aspects are reflected in the choice of our key performance indicators in this section.

It is worth noting upfront that due to the Covid-19 pandemic, the rising geopolitical tensions and the changing macroeconomic and financial conditions, the values of the KPIs are currently lower than in previous calendar periods. However, the first KPI remains well above the baseline and the interim milestones, while the second KPI can be considered to be significantly affected, rather by market movements and valuation effects than by structural changes, and the final outcome before the end of 2024 still remains to be seen. The impact of the ongoing economic crisis caused by the Russian military aggression against Ukraine will also be reflected in the future calculation of the indicators.

KPI 1 - Share of market funding in non-financial corporations' (NFCs) outstanding debt

Result indicator: Share of market funding in non-financial corporations' (NFCs) outstanding debt

Explanation: It is an access to finance indicator showing to what extent non-financial corporations (NFCs) finance their debt with a market instrument compared to bank loans. It is calculated as the outstanding amount of debt securities issued by NFCs divided by the sum of outstanding amount of debt securities issued by NFCs and loans vis-a-vis domestic NFCs reported by monetary financial institutions (MFIs) (excluding ESCB).

Source of Data: DG FISMA calculations based on ESTAT and ECB data.

Baseline	Interim milestone	Latest known results (December 2021) ²
(2019 Q4)	(2022)	
20.2%	Increase	26.9%

The first key performance indicator aims to track the importance of market-based debt instruments in the total outstanding debt funding of non-financial corporations. More specifically, it aims to track the increase in the importance of debt securities compared to bank loans that are traditionally more widely used by European corporations. The share of market-based financing in the total outstanding debt of non-financial corporations declined

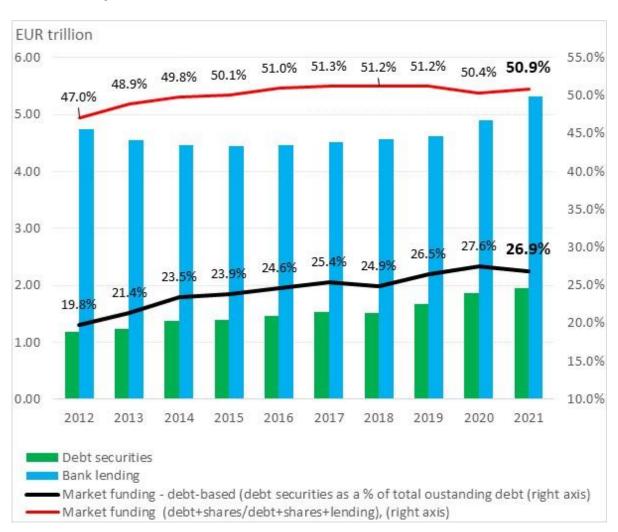
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⁽²⁾ Consolidated data is only available on an annual basis, meaning that end 2022 data is not yet available. More recent data is available at the unconsolidated level, showing 24.6% for 2022 Q3. This is almost 1.6 percentage points lower compared to the same period in 2021.

by almost 1 percentage point from 27.6% to 26.9% on an annual basis in 2021 compared to the end of 2020 (Figure 1). The decline in the "debt-based" market funding ratio is due to the higher increase in bank loans compared to the issuance of new market-based debt instruments even though companies increased both types of debt instruments to finance COVID-19 related expenditures and the recovery in activity after the outburst of the crisis. In contrast, the share of total market-based funding (including listed shares) recorded an increase of 1 percent on an annual basis from 50.4% in 2020 to 50.9% in 2021 due to the historically highest increase in equity issuance since 20 years and a moderation of bank loans, reflecting some normalisation after strong lending during the Covid-19-induced slowdown.³

Figure 1. Share of market funding in the total outstanding debt of EU-27 non-financial corporations



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⁽³⁾ This indicator is included as well in the Capital Markets Union scoreboard and the figures for the stocks of listed equities are re-calculated in order to take out valuation effects. For more information see: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6251

KPI 2 - Share of household assets invested in financial instrumentsResult indicator:

Explanation: It is an indicator of retail investors' participation in financial markets. It measures the sum of households' investment in debt securities, listed shares, investment fund shares/units, life insurance and annuity entitlements, pension entitlements), as a percentage of total financial assets held by households in the EU-27.

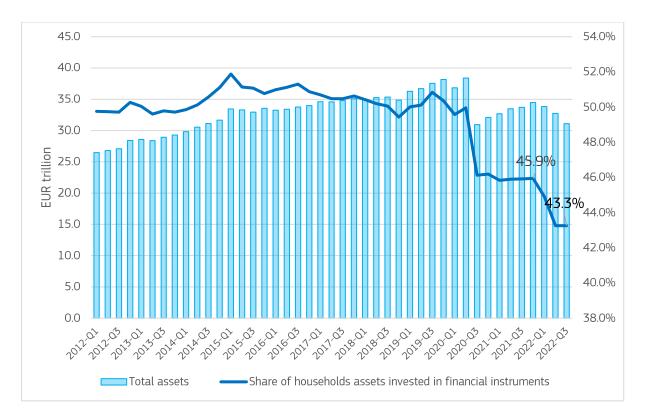
Source of Data : Eurostat (Financial balance sheets nasa_10_f_bs)

Baseline	Interim milestone (2022)	Latest known results (2022 Q3)
(2018)		
45.6%	Increase	43.3%

The second key performance indicator is the share of household financial assets invested in market-based financial instruments, which reflects the level of retail participation in financial markets (including direct investments or indirect participation via investment funds, insurance or pension products). The impact of the COVID-19 pandemic was an initial decline in the total amount of household financial assets as well as in the share of household investments in market-based financial instruments in 2020. In the first 3 quarters of 2022 the share of household financial assets invested in market-based instruments declined further by almost 3 percentage points from 45.9% to 43.3% compared to the last quarter of 2021, as households' holdings of market-based instruments declined faster than their total holdings of financial assets. The decline in the share of retail participation in financial markets unfolded against the backdrop of raising risk aversion and increasing uncertainty as result of the Russia invasion of Ukraine, higher inflation and changing macroeconomic and financing conditions and more specifically increasing interest rates. The overall impact of the pandemic and the changing macroeconomic and financing conditions on retail investor participation in financial markets remains to be seen and warrants further policy attention. The observed decline in the chart however largely reflects valuation effects, driven by stock market prices, and not so much a structural change in retail participation.

Figure 2. Share of household financial assets invested in market-based financial instruments

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Source: DG FISMA calculations based on ESTAT Quarterly Financial Accounts.

Going forward, it remains to be seen how resilient with respect to negative shocks and more specifically to the COVID-19 pandemic crisis, geopolitical tensions and changing macroeconomic and financing conditions will be the performance of the EU financial sector as well as the participation in financial markets of EU households and corporates. The forthcoming Retail Investment Strategy package (spring 2023) is intended to address some of these issues.

KPI 3 - Degree of implementation of the digital strategy principles by the most important IT solutions

Regarding the third key performance indicator on the degree of implementation of the digital strategy principles, DG FISMA continued to progress in implementing the principles of the Commission's digital strategy in the three IT solutions concerned.

However, it will not be possible to achieve the 2024 targets given that important assumptions on which they were based no longer hold. This is particularly true for the Cross-border and Openness principles that imply the availability of truly common or compatible European IT architecture standards and building blocks that would be enshrined also in Commission IT standards. The Transparency principle cannot be implemented as some of the data managed by the three IT systems is internal to the Commission, preventing their publication.

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Objective: DG FISMA is using innovative, trusted digital solutions for better policy shaping, information management and administrative processes to forge a truly digitally transformed, user-focused and data-driven Commission

Indicator: Degree of implementation of the digital strategy principles by the most important IT solutions **Source of data:** DG FISMA

IT solution	on Baseline Interim milestone		Target	Latest known results
	(2018)	(2022)	(2024)	(December 2022)
BASIS	40%	81%	95%	86%
EMT	40%	95%	100%	86%
KOEL	40%	95%	100%	86%

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C. Key conclusions on financial management and internal control

In line with the Commission's Internal Control Framework DG FISMA has assessed its internal control systems during the reporting year and has concluded that it is effective and the components and principles are present and functioning well overall, but some improvements are needed. Please refer to annual activity report section 2.1.3 for further details.

In addition, DG FISMA has systematically examined the available control results and indicators as well as the observations and recommendations issued by the internal auditor and the European Court of Auditors. These elements have been assessed to determine their impact on management's assurance about the achievement of the control objectives. Please refer to Section 2.1 for further details.

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated. Improvements are necessary concerning the timely preparation of data protection risk assessments, management oversight of IT, the formalisation of data governance responsibilities for databases and a more effective planning of studies and meetings. The Director-General, in his capacity as Authorising Officer by Delegation, has signed the Declaration of Assurance.

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D. Provision of information to the Commissioner

In the context of the regular meetings during the year between the DG FISMA and the Commissioner(s) on management matters, the main elements of this report and assurance declaration, have been brought to the attention of Commissioner Mairead McGuinness, responsible for Financial stability, Financial services and Capital Markets Union.

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1. **KEY RESULTS AND PROGRESS TOWARDS ACHIEVING THE** COMMISSION'S GENERAL OBJECTIVES AND SPECIFIC **OBJECTIVES OF THE DEPARTMENT**

DG FISMA contributes to several of the Commission's general objectives, notably 'An **Economy that works for people**', but also other political priorities, such as 'A European Green Deal', 'A Europe fit for the digital age' and 'A stronger Europe in the world'. When preparing initiatives to achieve these objectives, DG FISMA always works according to Better Regulation principles and looks for burden reduction possibilities. External communication as well as enforcement play important roles in the work of DG FISMA.

The work of DG FISMA during 2022 was significantly affected by the Russian military aggression against Ukraine and the ensuing economic and geopolitical challenges. DG FISMA together with other Commission services played a key role in **preparing sanctions** against Russia and Belarus, as well as in presenting measures to address the challenges in the functioning of energy markets.

A large number of not originally planned important acts were prepared by DG FISMA in response to the serious and unexpected developments during the year are reflected in the descriptive sections in this chapter.

The Part 1 performance tables in Annex 2 contain only actions included in the Management Plan 2022. Some of the planned actions were presented with some delay, or were deferred to 2023. This was mainly due to political reprioritisation and redeployment of resources to deal with initiatives linked to the unforeseen and important events during the year.

DG FISMA's external communication

2022. DG FISMA's outreach broadened, reaching out to traditional stakeholders from the financial industry and increasingly to citizens and Non-Governmental Organisations (NGOs). DG FISMA used press and digital means to communicate more than 12 legislative packages (notably sanctions, sustainable finance, instant payments, Capital Markets

Union including clearing). Regarding its communication channels, DG FISMA https://twitter.com/EU Finance/ increased its visibility by reaching out



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to over 12,700 (e-mail) subscribers across the EU to its monthly financial newsletter and 43,400 followers to its @EU_Finance Twitter account. Finally, DG FISMA launched two new digital channels for external communication with the general public via the LinkedIn account of the Director-General and the launch of the EU Finance podcast.

FISMA_AAR_2022 Page 15 of 46 EU financial markets are more integrated and liquid, opening new opportunities for cross-border investments and funding for citizens and businesses

On 7 December 2022, the Commission adopted a package of legislative proposals to advance the **Capital Markets Union (CMU)** (fact box below) and contribute to more integrated and liquid financial markets. The **Listing Act** proposals will alleviate the administrative burden for companies of all sizes, in particular SMEs, so that they can better access public funding by listing on stock exchanges. The proposals include changes to the **Prospectus Regulation** and the **Market Abuse Regulation (MAR)** as well as changes to the **Markets in Financial Instruments Directive (MiFID II)**. DG FISMA, in collaboration with DG JUST, also proposed a new Directive envisaging a minimum harmonisation of national legal regimes to allow companies to list for the first time on SME growth markets using **multiple-vote share** structures, while leaving sufficient discretion to Member States on how to frame it, including in terms of appropriate safeguards for minority shareholders. The proposal on **insolvency** will harmonise certain insolvency rules across the EU, making them more efficient and helping promote cross-border investment.



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As part of the CMU package, the Commission also adopted measures to facilitate **clearing** in the EU. The Commission's proposal amends the **European Market Infrastructure Regulation (EMIR)** and makes targeted amendments to the prudential frameworks for banks (the Capital Requirements Regulation, the Capital Requirements Directive) and for investment firms (the Investment Firms Directive) as well as to the Undertakings for

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Collective Investment in Transferable Securities (UCITS) Directive and the Money Market Funds (MMF) Regulation.

The Commission's proposed amendments to EMIR aim at streamlining procedures and facilitating competition. The proposed rules will require certain market participants to have active accounts at EU CCPs (Central Counterparties) to reduce the risks associated with excessive exposures to certain 3rd country CCPs. The proposed changes will furthermore enhance the supervisory framework, incorporating **lessons learnt from the energy crisis.** Concerning EMIR, DG FISMA also adopted a number of **delegated and implementing regulations** during the year.

As a part of the 2020 CMU Action Plan, the Commission furthermore proposed changes to the **Central Securities Depositories Regulation** to enhance the efficiency of the EU's settlement markets, while safeguarding financial stability.

The CMU work related to **intra-EU investment protection** continued during the year. The Commission considered the feedback received on the existing system of investment protection within the EU and assessed the evidence on the issues that investors, including SMEs and individuals, face when investing across the EU. Investors reported problems due to a lack of clarity or divergences on the right to compensation in case of expropriation, measures affecting the value of investments, or difficulties when enforcing rights. However, evidence was not sufficient to conclude that these problems are systematic, or sufficiently material to warrant specific legislative action at EU level. Nevertheless, the Commission is continuing working to maximise the benefits of existing EU tools to strengthen investment protection. On 28 June 2022, during the Forum for protecting and facilitating investment in the Single Market, organized by DG FISMA, Commissioner McGuinness presented a **package of non-legislative measures** to address shortcomings of the EU investment protection environment.

In October, the Commission published a report to the European Parliament and to the Council reviewing the functioning of the **Securitisation Regulation**, as mandated by Article 46 of that Regulation. The report was not accompanied by a legislative proposal at this stage, but the Commission committed to continue to closely monitor the securitisation market and take appropriate action as necessary. In addition, work advanced on the numerous regulatory technical standards, mandated by the 2021 amendment to the Securitisation Regulation, to prepare their adoption in 2023. Article 519a of the CRR (Capital Requirement Regulation) furthermore tasks the Commission to conduct a **review of the EU securitisation framework** and report to the co-legislators. This work was ongoing throughout 2022 and the answers to the Call for Advice (CfA) to the Joint Committee of the ESAs were published in December 2022. The report will be presented in the course of 2023.

Throughout the second half of 2022, DG FISMA worked intensively with other Commission services on measures that would address the problems arising on **wholesale energy markets.** The goal was to ensure the proper functioning of these markets in the current difficult circumstances, while at the same time acting with care to avoid financial stability

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implications. The work was done in close cooperation with the European Securities Markets Authority (ESMA), the European Banking Authority (EBA) and the European Central Bank (ECB).

In its October package the Commission put forward a set of **emergency measures that target the functioning of the energy markets**. The proposals temporarily expanded the list of eligible assets that can be used as collateral to meet margin calls from CCPs and raised the commodity clearing threshold as for positions held in over-the counter (OTC) commodity derivative contracts. These measures brought some relief to those energy market participants that had faced huge liquidity stress or had to leave the market because of extremely volatile prices.

The Commission also proposed to give ACER (the European Agency for the Cooperation of Energy Regulators) a mandate to **collect market data on LNG (Liquefied Natural Gas) imports**, for the purpose of publishing an LNG price assessment (already in daily publication). In early 2023, this will be followed by a publication of an LNG benchmark.

In November, the Commission tabled an additional emergency proposal on a **Market Correction Mechanism (MCM)** for the LNG markets. The Regulation, already adopted and in force, aims to limit episodes of excessive gas prices in the EU that do not reflect world market prices, while ensuring security of energy supply and the stability of financial markets. DG FISMA introduced a series of essential financial stability safeguards and is ensuring coordination with EU financial supervisors. DG FISMA also encouraged enhanced cooperation of financial and energy regulators in this field, which led to the creation of the Joint ACER-ESMA Task Force.

In the second quarter of 2022, also in line with its commitment in the CMU Action Plan, the Commission published a report on the operation of the European Supervisory

Authorities (ESAs)

European Supervisory Authorities

European Banking Authority (EBA) European Securities Markets Authority (ESMA) European
Insurance and
Occupational
Pensions Authority
(EIOPA)

- · Tasks:
 - to contribute to the creation of a Single Rulebook
 - to promote convergence of supervisory practices
 - to assess risks and vulnerabilities

(see explanatory box

below). The report concluded that the ESAs have continued to perform their tasks efficiently and effectively since the last ESAs review in 2019. As the most recent changes to the ESA Regulations became applicable only in 2020, the Commission considered that more time was needed to assess the full impact of the latest review before considering any new amendments to the ESA Regulations. The review did, however, reveal several areas where improvements could be achieved through non-legislative measures.

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In 2022, a number of delegated and implementing regulations were adopted to allow for the operationalisation of the new EU legislative framework for providers of **crowdfunding services** and to improve the way crowdfunding platforms operate across the EU. On 12 July 2022, a delegated act was adopted to extend the transitional period by one year to 10 November 2023 to allow more time for platforms operating under national laws as well as national competent authorities to adjust to the new legal setting.

As part of wider efforts to monitor and analyse market developments, the annual European **Financial Stability and Integration Review (EFSIR)** was published in April 2022 and presented at the joint Commission/ECB conference on financial integration.

2. Financial stability is preserved and improved by efficient supervision and crisis management mechanisms, by means to absorb shocks and diversify risks, and a comprehensive approach is in place to fight money laundering and the financing of terrorist activities

Completing the **Banking Union** is more important than ever in this economically and geopolitically challenging situation. Taking into account the mandate from the Eurogroup from June 2022, DG FISMA started to prepare legislative proposals on the **Crisis Management and Deposit Insurance** (CMDI) framework to be adopted in the first quarter of 2023. These proposals relate to the **Bank Recovery and Resolution Directive** (BRRD), the **Deposit Guarantee Schemes Directive** (DGSD), and the **Single Resolution Mechanism Regulation** (SRMR).

Furthermore, the Commission started assessing the functioning of the EU **macroprudential framework for the banking sector.** A review report to the colegislators according to Article 513 of the CRR will be issued in the course of 2023. The Commission has decided not to table a standalone legislative proposal on the EU macroprudential framework for the banking sector during this legislative cycle.

In 2022, DG FISMA continued to engage with the European Parliament and the Council for the negotiations of the **Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT)** package adopted in July 2021. In June 2022, an agreement was reached with the co-legislators for the recast of the Transfer of Funds Regulation (TFR) to trace transfers of crypto assets. Council achieved general approaches on the three remaining acts during the year. The European Parliament is expected to adopt its final report on the three acts in the beginning of 2023. In October 2022, the Commission adopted its 3rd biannual Supra-National Risk Assessment (SNRA) and a Staff Working Document on Public-Private Partnerships. Finally, in December 2022, the Commission proposed to update the EU list of high-risk third-country jurisdictions presenting strategic deficiencies in their anti-money laundering/countering the financing of terrorism regimes.

DG FISMA supported the negotiations on the **Banking Package** throughout the year; the Council reached a general approach in November 2022 and the European Parliament in March 2023. Trilogue negotiations will start in the second quarter of 2023. The Commission furthermore adopted numerous important **level 2 measures in the area of banking**

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legislation during 2022, based on empowerments in the banking package agreed by colegislators in 2019, as well as in the Investment Firms Regulation and Directive.

Finalising the reform of prudential rules for the **insurance and reinsurance sector** remains a priority for the Commission, as it will ensure stable and financially solid insurers capable of financing the recovery and the green and digital transitions. In 2022, DG FISMA engaged in the negotiations of the September 2021 legislative proposals amending the **Solvency II Directive** and establishing an **Insurance Recovery and Resolution framework**. The Council reached general approaches respectively in June and December 2022. The negotiation position of the European Parliament is expected during the first half of 2023. DG FISMA also launched preparatory work on **supplementary level 2 measures**, which were discussed at six meetings of the expert group on Expert Group on Banking, Payments and Insurance. The preparatory work will continue in 2023. Finally, DG FISMA prepared **updates to implementing measures essential for the supervision of insurers** and for the collection of relevant information from the sector, which could not be finalised during 2022 due to translation bottlenecks and are expected to be adopted in the spring of 2023.

The **breach of Union law procedure** was used for the first time by a European Supervisory Authority (ESA) in 2022. Following the initiation of the procedure by the European Insurance and Occupational Pensions Authority (EIOPA), the Commission adopted in September 2022 a formal opinion requesting *Národná banka Slovenska* to fully comply with the Solvency II Directive.

The trilogue negotiations on the **European Long-Term Investment Funds (ELTIF)** Regulation were successfully concluded during the year. DG FISMA has furthermore started to assess the overall functioning and adequacy of the EU regulatory framework applicable to **Money Market Funds**. As part of this assessment phase, a targeted public consultation was held in the spring 2022 to gather evidence and data from the main stakeholders. A report to co-legislators will be presented in 2023.

2022 saw the transfer of the **supervision of critical benchmarks (EURIBOR) and of non-EU benchmarks** recognised in the Union from national authorities to ESMA. DG FISMA also adopted a delegated act setting the supervisory fees as well as procedural aspects of ESMA's supervision of these entities.

The Single Supervision Mechanism (SSM) Regulation requires the Commission to undertake every three years a **broad review of the overall application of the SSM Regulation**, with an emphasis on identifying the potential impact on the smooth functioning of the internal market. Significant work on the second report was made during 2022, and it is expected to be presented in the first quarter of 2023.

In its executive crisis management role, the Commission monitored the activities of the **Single Resolution Board,** participated in international actions to strengthen cross-border cooperation in banking crises, and - in the aftermath of the Russian military aggression

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against Ukraine - adopted two resolution decisions in two specific cases of bank crises (*Sberbank d.d.* and *Sberbank banka d.d.*) on 1^{st} March 2022.

In the last quarter of 2022, the **Resolution Task Force** prepared an urgent amendment to the Commission Delegated Regulation on ex ante contributions to resolution financing arrangements (adopted on 20 January 2023).

3. The confidence and protection of consumers and investors on European financial markets, as well as market integrity, are enhanced

As announced in the September 2020 Capital Markets Union Action Plan, in 2022 the Commission continued its work on the **Retail investment package** with a view to enhancing trust and confidence of retail investors, ensuring that retail investors in the EU can take full advantage of capital markets and that rules are coherent across different legal instruments. The Retail investment package will be presented in the spring of 2023.

In parallel, DG FISMA continued to work with Member States and OECD on the development of a **financial competence framework** to facilitate and align the work of public and private actors on financial literacy programmes, including the development of learning material. In January 2022, a framework for adults was published and subsequently translated in all official EU languages for an easier uptake in Member States. Later in 2022 work started on the development of a financial competence framework for teenagers and children. To further increase financial literacy, DG FISMA enriched the dedicated web page on financial literacy, which explains financial matters in a simple and accessible language, with links to relevant legislation and events and short explanatory videos on topics such as payments, bank accounts, crypto-assets, pensions and bonds.

In view of a possible future review of the **Mortgage Credit Directive** DG FISMA also gathered further evidence from an open public consultation, a call for advice to the European Banking Authority as well as a study to support an impact assessment. Moreover, DG FISMA advanced its work on the **report on the application of the Payment Accounts Directive** which will be presented before the summer 2023.

DG FISMA also continued its work to support **safeguarding the interests of consumers in financial services**, in particular through its Financial Services User Expert Group and its support to Finance Watch and Better Finance. DG FISMA also continued the management of its network of alternative dispute resolution bodies in the area of financial services, FINNET.

To improve the **quality of corporate reporting and its enforcement**, the Commission launched a public consultation between 12 November 2021 and 18 February 2022. The consultation covered the following pillars: Corporate governance; Statutory audit; Supervision of PIE (public interest entity) statutory auditors and audit firms; and Supervision and enforcement of corporate reporting. The summary was published in July 2022.

In October 2022, DG FISMA received a final report of a study launched to monitor the **impact of the Audit Directive and Regulation**. The results of this report together with

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other monitoring tools will provide the Commission with information to be used for a possible future review of the Audit Directive and Regulation.

4. More private capital is made available for sustainable investments

DG FISMA's work on sustainability is an important contribution to the Commission's *Green Deal*. In just four years, the EU has created **the most advanced sustainable finance framework globally** to enable targeted financing of investments in the transition to sustainability.

The **EU Taxonomy** provides companies and investors with a robust common definition of sustainable activities. Significant work to complete the taxonomy is ongoing. On 9 March 2022, the Commission adopted a <u>Complementary Climate Delegated Act</u> under the Taxonomy Regulation, to include, under strict conditions, specific nuclear and gas energy activities in the list of transitional activities covered by the EU Taxonomy. The criteria for these activities are in line with EU climate and environmental objectives. The Delegated Act is applicable as of January 2023, and it will help encourage private investment to accelerate the shift from solid or liquid fossil fuels, including coal, towards a climate-neutral future.

On 31 October 2022, the European Commission also adopted **amendments to the Regulatory Technical Standards** requiring financial market participants to disclose the extent to which their portfolios are exposed to gas and nuclear-related activities that comply with the Taxonomy, as set out in the Complementary Climate Delegated Act. These changes will also enter into application at the beginning of 2023.

In December 2022, the Commission published two sets of draft Commission Notices containing answers to **frequently asked questions (FAQs) on the Disclosures Delegated Act and the Climate Delegated Act** (including the Complementary Climate Delegated Act) under the Taxonomy Regulation. The FAQs will help market participants interpret and apply the EU Taxonomy in practice and will thereby facilitate investment in sustainable activities.

In December 2022, the co-legislators adopted Directive 2022/2464 on **corporate sustainability reporting (CSRD).** This new Directive modernises and strengthens the rules about the social and environmental information that companies have to report. A broader set of large companies, as well as listed SMEs, will now be required to report on sustainability – approximately 50 000 companies in total. The new rules will ensure that investors and other stakeholders have access to the information they need to assess investment risks arising from climate change and other sustainability issues.

In spring 2022, the European Commission adopted **regulatory technical standards** (RTS) to be used by financial market participants when disclosing sustainability-related information under the **Sustainable Finance Disclosures Regulation (SFDR).** These RTSs specify the exact content, methodology and presentation of the information to be disclosed, thereby improving its quality and comparability. Compliance with sustainability-related

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disclosures will contribute to strengthening investor protection and reduce greenwashing. These requirements apply from 1 January 2023.

In the context of the **Listing Act**, the Commission also proposed that information on sustainability-related aspects is added to **prospectuses** of securities that are marketed as sustainable, or as pursuing ESG objectives.

In April 2022, the European Commission launched a Call for Evidence and a targeted consultation on the functioning of the **ESG ratings market in the European Union** and on the consideration of ESG factors in credit ratings. A total of 168 organisations and persons responded to the targeted consultation. A Feedback Statement was published on the Commission's website in August 2022. The results of the targeted consultation, the call for evidence, as well as results of the ESMA mapping of ESG providers, fed into the impact assessment on the regulation of ESG rating providers, which was carried out in 2022. A legislative proposal is planned for mid-2023.

During 2022 a contractor conducted a study on the **feasibility and potential criteria for an EU ESG benchmark** label, complementing the existing Paris-aligned and Climate transition benchmarks, as mandated by co-legislators.

The Commission also launched **a call for advice to the ESAs on greenwashing** in April 2022, and a **call for advice to the EBA on green loans** in November 2022. A Call for technical advice to EIOPA regarding the evaluation and review of the IORP II Directive also has ESG elements.

5. Opportunities from digital technology are widely employed to implement a safe, competitive and inclusive digitalisation of financial services

In October 2022, the Commission proposed a **Regulation on euro Instant Payments** allowing people to transfer money at any time of any day within ten seconds, with the view to making those services available to all citizens and businesses holding a bank account in the EU. This proposal aims to remove the barriers that prevent instant payments and their benefits to become more widespread by ensuring that instant payments in euro are accessible, affordable, secure and processed without hindrance across the EU. The negotiations on the proposal are ongoing in the Council and European Parliament.

Digitalisation is leading to deep structural changes in the financial sector and market participants are relying more and more on digital processes. Innovation in finance has a big role in building a more resilient, inclusive and competitive Europe. The Digital Finance package was adopted by the Commission in September 2020. It included an EU Digital Finance strategy and a set of legislative proposals, including a proposal on a **Digital Operational Resilience Act (DORA)**, on **Markets in Crypto-Assets (MiCA)** and the **DLT (Distributed Ledger Technology) Pilot.**

With **DORA** banks and other financial companies will have to put measures in place to withstand cyber-attacks and other digital threats. Critical ICT (Information and

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Communication Technology) providers for services like cloud computing will be subject to oversight. DORA was published in December 2022 and will apply from January 2025.

MiCA seeks to promote responsible innovation within crypto-asset markets and provide market integrity, consumers and investor protection and ensure that financial stability is preserved. The inter-institutional negotiations on MiCA were concluded in June 2022. Publication of the legislation is expected in spring 2023.

The **DLT Pilot** Regulation was published in 2022 and will apply as of 23 March 2023. With the DLT pilot, market participants will be able to experiment with issuing, trading and settling shares or bonds using blockchain technology.

There is more in the pipeline. In 2022, the Commission continued the preparations of the review of the **Payment Services Directive (PSD2)** and of a new initiative on **open finance**, complementing the Data Act proposal and taking account of the experience gained from open banking, as regulated in PSD2. The objective of open finance is to enhance innovation, efficiencies, and value to consumers in the financial sector through increased data sharing where appropriate and with strong consumer safeguards. The open finance initiative will be presented together with a legislative proposal on the Payments Services Directive in mid-2023.

In 2022, DG FISMA pursued its external communication efforts aiming to raise awareness on the illegal practice of IBAN discrimination. As such, in January 2022, DG FISMA ran an online communication campaign named "Your bank account, your right!". The campaign was in English and French and it ran on the central social media platforms of the European Commission on Facebook and Instagram. The outcome of the campaign was good, with over 128,000 video views.

The Commission is working at technical level with the European Central Bank to explore the possible introduction of a **digital euro** to provide businesses and citizens with more innovative, competitive means of making their daily payments. A legislative proposal providing a framework for the potential issuance of a digital euro and regulating its essential aspects is planned for Q2 2023.

With the **Digital Finance Platform** that was initiated in April 2022 DG FISMA continues its work in allowing innovative business models to scale across the EU.

In August 2022, the Commission adopted an amendment to its Delegated Regulation with regard to regulatory technical standards for **strong customer authentication and common and secure open standards of communication.**

DG FISMA also continued its work on implementing the **supervisory data strategy.** In addition to targeted amendments in sectoral reporting frameworks, regular meetings of the Supervisory Reporting Roundtable with the ESAs, ECB, SRB, and ESRB were organised as well as workshops and other outreach with stakeholders to advance efforts to modernise and improve supervisory data collection.

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6. The EU financial system's sovereignty and competitiveness in a challenging international environment are strengthened

The **Russian military aggression against Ukraine** has significantly impacted the international work of DG FISMA. DG FISMA, working closely with other Commission services, has a leading role in the development of sanctions in the Commission. As a part of the ongoing sanctions work, in 2022 the Commission prepared nine **packages of sanctions** against Russia, targeting the Russian financial, energy and transport sectors and state-owned enterprises, as well as sanctions against Belarus. Preparations for further sanctions packages continued⁴. Under the sanctions against Russia, the Council imposed asset freezes on over 1500 individuals and entities, including full asset freezes on 7 Russian banks, banned transactions related to the foreign held reserves of the Central Bank of Russia, decoupled key Russian banks from SWIFT, closed EU airspace to Russian aircraft, banned the broadcasting in the EU of Russian state-owned media outlets and prohibited the export and import of a wide range of goods (including the export of goods and technology in the aviation, maritime and space sectors) and the provision of certain services.

In addition, DG FISMA coordinated with international partners in the preparation of the **G7 oil price cap on Russian seaborne crude oil** which came into effect on 5 December 2022. EU operators are only allowed to provide maritime transport and related services for Russian crude oil traded below 60 USD per barrel. The price cap has been specifically designed to further reduce Russia's revenues, while keeping global energy markets stable through continued supplies.

After the adoption of the nine packages of sanctions, the focus is now on **ensuring their consistent and full implementation** across the EU, by authorities and stakeholders. Member States are responsible for implementing sanctions. DG FISMA oversees the implementation by Member States and is working closely with them in order to support them in that task, provide information to stakeholders, and engage in a dialogue to collect feedback on how sanctions are implemented. DG FISMA has prepared and coordinated the publication of guidance and extensive FAQs (over 500) covering a broad range of topics and it continues updating them, in order to assist stakeholders on how to apply the sanctions packages.

In December 2022, David O'Sullivan was appointed **EU Special Envoy for the Implementation of EU Sanctions**, and he took up office in mid-January 2023. Ensuring that EU sanctions are not circumvented is at the core of his mandate.

In addition to the regular expert group on sanctions through which DG FISMA reaches all Member State authorities responsible for sanctions, the Commission set up a "Freeze and Seize Task Force" (in March 2022) to ensure better coordination asset freezes against Russian and Belarusian individuals and entities as well as to explore legal possibilities to seize and confiscate those assets in the case of links between assets belonging to persons

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⁽⁴⁾ A tenth package of sanctions was adopted on 25 February 2023.

listed under EU sanctions and criminal activities. In the context of the Task Force, the Commission has also established a sub-group on asset freezes and reporting which is chaired by DG FISMA. It focuses on the implementation of sanctions, by providing answers to questions raised by national authorities, and on exploring possible ways to identify assets that must be frozen.

A **High-Level Group on sanctions implementation** chaired by Commissioner McGuinness convened for the first time on 24 October 2022 and discussed in particular cooperation with Member States and provided political steer to the coordination mechanisms in place.

The EU is **coordinating its sanctions with its international allies and partners** such as the United States, the United Kingdom, South Korea, Switzerland, and Japan.



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During the year, DG FISMA contributed to the Commission actions to support Ukraine on its European path. In particular, it has engaged with the Ukrainian authorities to advance the implementation of the EU-Ukraine Deep and Comprehensive Free Trade **Agreement** in the field of financial services, follow their progress in strengthening their anti-money laundering framework.

During the year DG FISMA has intensified its work related to the **enlargement process**, notably by monitoring candidate countries' progress in aligning their legislation with the financial services acquis. Active work is ongoing on international sustainable finance. The **International Platform on Sustainable Finance (IPSF)** remains a unique multilateral forum of dialogue between like-minded policy makers in charge of developing sustainable finance policy approaches. In 2022, the IPSF continued its work on the common ground taxonomy (CGT), and developed a set of voluntary 'Transition Finance Principles'. The **G20 Sustainable Finance Working Group** (SFWG) continued its work in 2022, notably by starting tracking progress on the recommended actions in the Roadmap and developed a Framework for Transition Finance, recommendations to improve the credibility of private-sector financial institutions' commitments, as well as for scaling up sustainable finance instruments. DG FISMA actively contributed to the development of this framework.

Several ongoing DG FISMA work streams have a **strong international dimension**. The CMU measure on **EMIR/clearing services** adopted in December 2022 will support the EU's open strategic autonomy by reducing the excessive exposure of EU market participants to central counterparties in third countries. DG FISMA furthermore started work on reviewing

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the rules for the **use of non-EU financial benchmarks by EU businesses** and investors. The rules that exist currently are not in application, as they would deprive EU market participants of access to the large majority of the world's benchmarks. DG FISMA ran a targeted consultation in 2022 to gather information on the use of non-EU benchmarks in the EU, and will use the input gathered to redesign the third country chapter of the Benchmark Regulation.

DG FISMA continued its **engagement with international partners** to promote sound international standards warranting a level-playing field for financial markets, manage risks deriving from cross-border activity, and promote the competitiveness of the EU financial system. This includes participation in the work of international bodies and bilateral **regulatory dialogues** with third country jurisdictions. DG FISMA pursued the monitoring of existing **equivalence decisions** and adopted new ones in line with the Commission's equivalence policy.

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2. MODERN AND EFFICIENT ADMINISTRATION AND INTERNAL CONTROL

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2.1. Financial management and internal control

Assurance is provided on the basis of an **objective examination of evidence** of the effectiveness of risk management, control and governance. This examination is carried out by management, who systematically monitors the functioning of the internal control systems, and by internal and external auditors. The results are explicitly documented and reported to the Director-General. The **following reports** have been considered: **(1)** the reports of DG FISMA's authorising officers; **(2)** the reports of authorising officers in other DGs managing DG FISMA's budget appropriations on behalf of DG FISMA; **(3)** the annual assessment of the effectiveness of DG FISMA's internal control framework; **(4)** the annual assessment of DG FISMA's costs of controls; **(5)** the reports on the ex-post checks performed on a sample of transactions; **(6)** the register on exceptions and non-compliance events; **(7)** the reports from the Commission's internal Financial Scorecard; **(8)** the regular reports to senior management on individual internal control areas such as HR management, anti-fraud and professional ethics; **(9)** the reports from ABAC; **(10)** the limited conclusions of the Internal Audit Service (IAS) on the state of internal control; and **(11)** reports of the Court of Auditors.

The systematic analysis of the available evidence **provides sufficient guarantees as to the completeness and reliability of the information reported** and the results are presented in the full coverage of the budget delegated to the Director-General of DG FISMA.

This section covers the control results and other relevant elements that support management's assurance. It is structured into 2.1.1 Control results, 2.1.2 Audit observations and recommendations, 2.1.3 Effectiveness of internal control systems, and resulting in 2.1.4 Conclusions on the assurance.

2.1.1. Control results

This section reports and assesses the elements identified by management which support the assurance on the achievement of the internal control objectives (ICO) (5). DG FISMA's assurance building and materiality criteria are outlined in Annex 5. Annex 6 outlines the main risks together with the control processes to mitigate them and the indicators used to measure the performance of the relevant control systems.

DG FISMA's **total expenditure in 2022 was EUR 69.305.784,74** of which EUR 1.550.010,92 administrative expenditure and EUR 67.755.773,82 operational

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^(5) 1) Effectiveness, efficiency and economy of operations; 2) reliability of reporting; 3) safeguarding of assets and information; 4) prevention, detection, correction and follow-up of fraud and irregularities; and 5) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments (FR Art 36.2).

expenditure.

The majority of DG FISMA's operational expenditure is the contributions from the EU budget to the European Supervisory Authorities (ESAs) (72%) with the remainder being for grants (15.5%) and for the procurement of studies, compliance assessments and data necessary for DG FISMA's activities as well as for membership fees, communication and the operation and development of IT systems (10.5%). The administrative expenditure of DG FISMA corresponds to 2% of the total payments made (6).

DG FISMA does not carry out systematic and significant **revenue operations** and does not report on them separately. The controls applied at the level of the expenditure in grants, procurement and contributions to the ESAs also cover the 'revenue' operations made in these areas.

In line with the 2018 Financial Regulation, DG FISMA's assessment for the new reporting requirements is as follows:

- Cases of "confirmation of instructions" (new FR art 92.3): none.
- Cases of financing not linked to costs (new FR art 125.3): none. Financial
 Framework Partnerships >4 years (new FR art 130.4): none.
- Cases of flat-rates >7% for indirect costs (new FR art 181.6): none.
- Cases of "Derogations from the principle of non-retroactivity of grants pursuant to Article 193 FR" (new Financial Regulation Article 193.2): Five.

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⁽⁶⁾ A more detailed breakdown of DG FISMA's expenditure is provided in Annex 7.

1. Effectiveness of controls

a) Legality and regularity of the transactions

DG FISMA uses **internal control processes to ensure sound management of risks** relating to the legality and regularity of the underlying transactions it is responsible for, taking into account the multiannual character of programmes and the nature of the payments concerned.

The legality and regularity of transactions is ensured by the ex-ante and ex-post controls done by DG FISMA described in Annex 6. The financial aspects of each operation carried out by DG FISMA are verified by a central team of financial agents that have the necessary competence and training to effectively prevent and detect errors or irregularities. This centralised control system strengthens the capacity of DG FISMA to ensure a coherent and systematic application of the rules.

DG FISMA's assurance on the **operations delegated to other DGs** by cross-subdelegation⁷ is based on the reports received from the delegated DGs. Based on those reports, DG FISMA detected no events, control results or issues that could have a material impact on the assurance.

Direct management – Grants and procurement

The ex-ante checks carried out by DG FISMA on its operations led to both **qualitative and quantitative benefits** in its procurement and grants processes (see Annex 7 for details).

The ex-ante controls on grants are focused on both the financial and operational aspects of the operations. They aim at ensuring that the **work undertaken by the beneficiaries contributes to the political priorities of DG FISMA** and that the costs claimed are eligible.

The ex-ante controls in procurement ensure that the **budget is well used** and focused on actual needs and that the tender specifications are adequately drafted to meet these needs. Contracts are managed to ensure that contractors deliver the services requested as planned and that deviations are proportionately corrected.

In the course of 2022, **DG FISMA did not receive any formal complaints from contractors or beneficiaries**. Divergent opinions linked to the eligibility of costs and on contractual conditions were clarified and settled without leading to either formal complaints or litigations.

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⁽⁷⁾ See Annex 7 for more details.

In 2022, DG FISMA recorded **six exceptions⁸ and one non-compliance event⁹**. Their budgetary implications are low, and they do not reveal structural issues having an impact on assurance.

During the **ex-post checks** carried out on 2022 operations DG FISMA did not detect any major error but only administrative encoding errors.

In 2022 DG FISMA initiated two **on-the spot checks** on two grant beneficiaries.

Indirect management – European Supervisory Authorities

Within the limits of DG FISMA's governance remit on the ESAs and specifically taking into account the conclusions of internal and external audits of the ECA and the IAS (see Annex 13 for more details) **no events or weaknesses of substantial nature were reported/detected** that could affect the reputation of the DG, raise concerns about fraudulent activities linked to their transactions or prejudice the reliability of the key conclusions mentioned under point C) of the Executive Summary. The main controls exercised by DG FISMA on the ESAs are linked to:

- The participation to the Management Boards and Boards of Supervisors where the Commission participates as non-voting member (except for budgetary matters in Management Boards).
- Commenting the strategic planning documents, annual statements and establishment plans on which the Commission should be consulted.

DG FISMA is not responsible for the management of the funds by the ESAs and does not control the legality and regularity of ESAs' operations in this regard. However, DG FISMA carries out **controls over the contributions paid to the ESAs** as well as any recovery of unused or undue funds. While assessing the programming documents submitted by the ESAs in the context of the annual budgetary process, their requests for contributions submitted in 2022 and their actual cash flow, DG FISMA did not detect any illegal or irregular activity.

Conclusion on legality and regularity

DG FISMA's expenditure has a relatively **low error rate concerning procurement, administrative expenditure and payments to the ESAs**. Grant's related expenditure (15,5% of the total) could have a relatively higher error rate since errors are more likely to materialise due to the complexity of the specific funding rules.

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⁽⁸⁾ The majority of the exceptions were linked to administrative expenditure (late encoding of mission orders, reimbursement of experts or catering).

⁽⁹⁾ The non-compliance event is related to an error in the list of sub-delegations given to the authorising officers in DG FISMA. The error has been corrected and mitigating actions put in place to avoid the same error in the future.

As explained in previous paragraphs and described in detail in Annex 7, DG FISMA has put in place an effective mechanism for correcting errors, through ex-ante controls and ex-post checks, including on the spot checks, resulting in preventive and corrective measures. Namely in the riskier area related to grants, the **limited number of beneficiaries allows** to efficiently detect errors either ex-ante (on a yearly basis) or during the on-the-spot checks (on a multi-annual basis).¹⁰

Table: Amounts of preventive and corrective measures in DG FISMA

	Preventive Measures (m EUR)	Corrective measures (m EUR)
Implemented by the Member States		
of which from Member States controls	N/A	N/A
of which from EU controls	N/A	N/A
Implemented by the Commission		
of which from Member States controls	N/A	N/A
of which from EU controls	0,15711	N/A
DG FISMA total	0,157	N/A

The table below shows the risk at payment and risk at closure for the expenditure managed during the reporting year:

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⁽¹⁰⁾ The results of these on-going on-the-spot checks initiated in 2022 will be reported in the AAR of next year and are not visible in the column 'Corrective measures' in the *Table: Amounts of preventive and corrective measures in DG FISMA*.

⁽¹¹⁾ See Annex 3, table 8 for more details. EUR 68.206,13 due to rejection of ineligible costs at the payments stage for grants; EUR 25.174,37 of credit notes from contractors; EUR 64.485,90 of damages paid by contractors following delays in the performance of the work.

Table: Estimated risk at payment and at closure (amounts in EUR million)12

DG FISMA	Paym ents made (2022; MEUR)	minus new prefinanci ng [plus retentions made] (in 2022;ME UR)	plus cleared prefinancing [minus retentions released and deductions of expenditure made by MS] (in 2022;MEUR)	Releva nt expen diture (for 2022; MEUR)	Detected error rate or payment equivalent estimates (2022;MEUR)		Adjusted Average Recoveries and Corrections (<i>adjusted</i> ARC; %)		Estimated future corrections [and deductions] (for 2022;MEUR)		Estimated risk at Closure (2022;MEUR)					
-1	-2	-3	-4	-5		-6		-7			-8		-9		-10)
Procurement and administrative expenditure	8.78	0.00	0.00	8.78	0.5%	- 0.50%	0.04	-	0.04	0.00%	- 0.00%	0.00	- 0.00	0.04	-	0.04
Grants	10.67	- 7.02	5.59	9.24	2.00%	- 2.00%	0.18	-	0.18	0.50%	- 0.50%	0.05	- 0.05	0.14	-	0.14
Payments to the ESAS	49.86	- 49.86	47.31	47.31	0.50%	- 0.50%	0.24	-	0.24	0.00%	- 0.00%	0.00	- 0.00	0.24	-	0.24
DG total	69.31	- 56.88	52.90	65.33			0.47	-	0.47	0.07%	- 0.07%	0.05	- 0.05	0.42	-	0.42
				Overall risk at		0.71%	_	0.71%			Ov	erall risk at	0.64%	-	0.64%	
					ра	yment in %	(7) / (5)		(7) / (5)			closure in %		in % (10) / (5)		(5)

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 $^(^{12})$ The full detailed version of the table is provided in Annex 9.

The **estimated overall risk at payment** for 2022 expenditure is the AOD's best, conservative estimate of the amount of relevant expenditure during the year, not in conformity with the contractual and regulatory provisions applicable at the time the payment was made. This expenditure will subsequently be subject to ex-post controls and a proportion of the underlying errors will be detected and corrected in subsequent years. This amount corresponds to the conservatively estimated future corrections for 2022 expenditure.

The difference between those two amounts results in the **estimated overall risk at closure** corresponding to 0.64% of the relevant expenditure (¹³). There is no change compared to 2021 (0.65%).

For an overview at Commission level, the departments' estimated overall risk at payment, estimated future corrections and risk at closure are consolidated in the AMPR.

On the basis of the above, DG FISMA considers its **ex-ante and ex-post controls are adequate** to detect and correct errors, ensure the legality and regularity of its transactions and maintain a low residual error rate. The average detected error rate and corrective capacity of DG FISMA may further increase in the following years due to the fact that on-the-spot checks have been re-initiated after the COVID-19 pandemic.

b) Fraud prevention, detection and correction & safeguarding information 14

DG FISMA has developed and implemented its **own anti-fraud strategy** since 2020, on the basis of the methodology provided by OLAF. It is updated every three years. It was last updated in December 2020. Its implementation is being monitored and reported to the management once a year. All necessary actions except one specific training have been implemented.

DG FISMA did not have **any financial recommendations from OLAF** to follow up in 2022.

Given the low value and nature of DG FISMA's expenditure, the exposure to **fraud entailing financial risks is low**. However, by implementing its anti-fraud strategy DG FISMA continued its efforts to limit risks of fraud, even if only reputational.

DG FISMA contributed to several actions of the Commission anti-fraud strategy including by **training and raising staff awareness** on professional ethics and anti-fraud matters, **sharing best practices with the ESAs** and **checking for plagiarism** in final reports by using a dedicated IT tool.

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⁽¹³⁾ This is the AOD's best, conservative estimation of the expenditure authorised during the year that would remain not in conformity with applicable regulatory and contractual provisions by the end of implementation of the programme.

⁽¹⁴⁾ These two internal control objectives are integrated into DG FISMA's antifraud strategy and reported jointly.

During the year the DG also implemented a new set of **in-house annual ethics declarations**, developed a new **policy related to financial interests** held by staff involved in bank resolution and the monitoring of national financial systems and completed its **annual assessment of sensitive functions**.

DG FISMA kept strict controls in place to **protect sensitive information** and raised awareness of staff, for example on cybersecurity, and by monitoring and mapping the correct marking of sensitive documents. High security standards were applied in daily IT development (e.g. static code analysis, implementation of DG DIGIT's standards and building blocks, IT security plans).

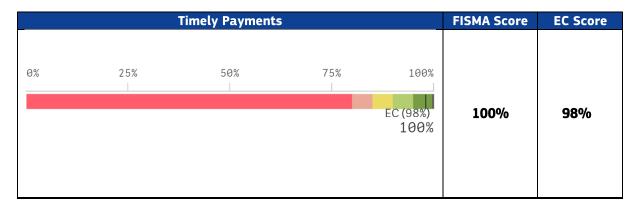
As a result of the above anti-fraud and security measures **DG FISMA did not detect** cases of violation of data integrity in **IT systems** managed by DG FISMA. **No suspicious fraud cases** were notified to OLAF and no OLAF own-initiative investigations were launched. The results of the annual quiz on ethics show a high level of staff awareness on major ethics topics relevant for the DG. **No disciplinary cases** were launched in 2022 due to professional ethics. **One leak of sensitive information** was detected

On the basis of the available information, DG FISMA has **reasonable assurance that the anti-fraud measures in place are effective**. The security of its information and IT systems is adequately ensured and stringent measures to protect it should be continuously applied.

2. Efficiency of controls

DG FISMA has achieved excellent results in 2022 by recording **high scores in all major financial performance indicators** (see Annex 4). This reflected the efforts deployed during the year to properly plan and monitor budget implementation, to ensure the timely payment of invoices and to ensure accounting quality.

Time-to-pay, decommit, invoice



As last year very close to 100% of the total value of payments were made on time in accordance with article 116.1 of the Financial Regulation. Only one payment out of 334

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was executed late. The average net time to make a payment in DG FISMA was 14.8 days which is slightly improved compared to 2021 (16.5) and 2020 (16.9).

DG FISMA registered incoming invoices within an average time of 1.5 days confirming the positive results of 2021 (2 days) and 2020 (1.6 days). Only one invoice out of 336 was registered late. As last year DG FISMA also made 100% of its decommitments on time.

Budget implementation

DG FISMA implemented **100% of its commitment and payment appropriations** expiring in 2022 which confirms the positive results of last year. DG FISMA also showed an excellent budgetary forecast of commitments and payments (99%).

Time-to-award

Tenders for 1 open procedure and 1 negotiated procedure above EUR 15.000 were awarded within an **average of 114 days** from the invitation to tender to the award compared to 2020 (136,5 days) and 2019 (139,7 days). The negotiated procedure received no offers at first and had to be re-launched with a longer deadline to be successfully awarded. Two other open procedures have been launched in 2022 and are under evaluation.

Since all beneficiaries of the five grants managed by DG FISMA are identified in a basic act, DG FISMA has no elements for reporting on time-to-inform or time-to-grant as required by the Financial Regulation for grants awarded through calls for proposals.

3. Economy of controls

DG FISMA calculated the **costs of all staff members involved in functions/activities related to financial and programme management**. This also included horizontal tasks such as budget and accounting and – when linked to spending programmes – antifraud, legal cases, internal control and strategic planning.

The overall costs of controls related to all DG FISMA expenditure in both direct and indirect management corresponded to **2,5% of the payments made**. The overall costs of controls remain stable compared to 2021 (2,2%), 2020 (3%) and 2019 (2,9%) and below 5% of DG FISMA expenditure in line with the objectives established in the Management Plan.

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Overall indicators								
Description	Type of expenditure	Year 2020	Year 2021	Year 2022				
Total costs of controls/ value of payments made (15)	Operational and administrative expenditure	3%	2,2%	2,5%				
	Only operational expenditure	2,3%	1,9%	2,1%				

Since 2021, DG FISMA also calculates the **costs of controls linked to the protection of sensitive information** and the security of its IT systems. These costs are estimated to be indicatively EUR 830.000 in 2022 which constitutes a substantial increase compared to EUR 350.000 of 2021 and shows the increasing controls of DG FISMA in this area. These costs are not linked to expenditure.

4. Conclusion on the cost-effectiveness of controls

Based on the most relevant key indicators and control results, DG FISMA has assessed the effectiveness, efficiency and economy of its control system and reached a **positive** conclusion on the cost-effectiveness of the controls for which it is responsible.

The main drivers that contribute to DG FISMA's cost of controls are linked to the **basic checks being done by staff on a high number of low value transactions** (e.g. administrative expenditure and contracts with a relatively low value) and to operations such as the preparation of procurement procedures for studies, including drafting of tender specifications. Such basic checks, regardless of the value of the transactions made, **cannot be reduced since they contribute to ensuring the legality and regularity of the transactions and sound financial management**. Therefore, the costs of controls are overall low compared to the total expenditure made but slightly higher in the area of procurement and administrative expenditure where the amounts concerned are often low but still require basic checks for each operation.

In 2022 DG FISMA continued to implement **initiatives to improve efficiency in financial management** for example by fostering the use of framework contracts, using

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⁽¹⁵⁾ For the cost calculation of its overall indicator DG FISMA used as denominator the amount of total payments mentioned in table 2 of Annex 3 plus the amount of administrative expenditure paid by PMO and DG HR but for which controls are also taking place in DG FISMA (i.e. missions, external and expert group meetings, committee meetings, trainings). In the nominator the costs include not only costs of staff involved in financial management but also costs of staff carrying out horizontal tasks not attributable to direct management or indirect management specifically: budget and accounting, and – if linked to the policy or operational dimension of spending programmes – the costs of evaluations, internal control, antifraud, audits, financial procedures and strategic planning activities. For more detailed information on the calculation method used, refer to Annex 7.

the services of the Publications Office (including its framework contracts) for the procurement of subscriptions to databases and sources of information, using electronic workflows for all its financial circuits and strengthening the monitoring of administrative expenditure and IT contracts.

2.1.2. Audit observations and recommendations

This section sets out the **observations, opinions and conclusions reported by auditors** – including the limited conclusion of the Internal Auditor on the state of internal control. Summaries of the management measures taken in response to the audit recommendations are also included, together with an assessment of the likely material impact of the findings on the achievement of the internal control objectives, and therefore on management's assurance.

Based on all work undertaken by the **Internal Audit Service** in the period 2018-2022, namely,

- Audit on effectiveness and efficiency of DG FISMA's performance management system (2018);
- Limited review on the implementation of the new internal control framework (2020);

and taking into account that:

- Management has accepted all the recommendations issued in 2018-2022;
- Management has adopted action plans to implement all the accepted recommendations;
- The IAS considers that these action plans are adequate to address the residual risks identified by the auditors;
- The implementation of these action plans is monitored through reports by management and follow-up audits by the IAS;

the IAS has concluded that the internal control systems in place for the audited processes are effective.

The **European Court of Auditors** finalised the following audits that involved DG FISMA, none of which had an impact on assurance:

- Special report 04/2022: Investment funds EU actions have not yet created a true single market benefiting investors;¹⁶
- Report on any contingent liabilities arising as a result of the performance by the Single Resolution Board, the Council or the Commission on their tasks under the Single Resolution Mechanism for the 2021 financial year.¹⁷

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⁽¹⁶⁾ https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=60837.

The on-going audits in which DG FISMA was involved are mentioned in Annex 7.

2.1.3. Assessment of the effectiveness of internal control systems

The Commission has adopted an **Internal Control Framework** based on international good practice, to ensure the achievement of its policy and management objectives. Compliance with the internal control framework is a compulsory requirement.

DG FISMA uses the **organisational structure and the internal control systems suited to achieving its policy and internal control objectives** in accordance with the internal control principles and has due regard to the risks associated with the environment in which it operates.

DG FISMA has assessed its internal control system during the reporting year and has concluded that it is **effective and the components and principles are present and functioning well overall, but some improvements are needed** as minor deficiencies were identified related to the timely preparation of data protection risk assessments, management oversight of IT, the formalisation of data governance responsibilities for databases and a more effective planning of studies and meetings.

The above **are not critical or major deficiencies** and do not entail risks for the functioning of the internal control principles and components to which they are linked. They are balanced by many strengths, and their overall impact on the DG FISMA control framework is minor. Actions are also already ongoing to rectify the identified deficiencies. More details on the process related to the annual internal control assessment and overall functioning of DG FISMA internal control system are available in Annex 8.

2.1.4. Conclusions on the assurance

According to the information provided in the previous sections of this report:

— DG FISMA's controls on financial operations provide sufficient assurance that risks related to the legality and regularity of the operations are properly managed. Controls are sufficient and proportionate to the risks. They have allowed DG FISMA to correct errors, keep a low residual error rate and ensure an efficient implementation of the budget. They have also brought important qualitative benefits.

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^{(17) &}lt;a href="https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=62323">https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=62323. This is an annual audit on any contingent liabilities arising as a result of the performance by the Single Resolution Board, the Council or the Commission on their tasks under Articles 63(2) and 92(4) of Regulation (EU) No 806/2014 on the Single Resolution Mechanism.

- No legal proceedings were initiated by tenderers/contractors/beneficiaries and divergent views on a few cases were settled without leading to formal litigation cases.
- The complaints received by the Ombudsman in 2022 do not have an impact on the assurance.
- The IAS's conclusion on the state of control for 2022 is positive. The European Court of Auditors did not raise observations on DG FISMA's financial management and internal control system.
- DG FISMA's assessment of the presence and functioning of its internal control framework was comprehensive and did not detect any deficiencies having an impact on assurance. The minor deficiencies identified were accompanied by adequate remedial measures.
- DG FISMA continued to implement its **antifraud strategy** to prevent, detect and correct fraud and irregularities, protect sensitive information and ensure a high level of staff awareness on their ethics obligations.
- The controls on the ESAs are proportionate and limited to DG FISMA's responsibilities in the ESAs' governance. They are sufficient and appropriate to ensure the legality and regularity of the payment of the annual contribution to them and the effectiveness of the annual budget programming.
- The assessment of the elements above is corroborated when needed by adequate
 evidence (reports to managers or data extracted from IT tools), is complete and
 comprehensive and covers all budget areas of DG FISMA.
- Deficiencies and deviations from targets are transparently reported and explained and no significant information has been omitted from this report.

In conclusion, based on the elements reported above, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

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2.1.5. Declaration of Assurance

Declaration of Assurance

I, the undersigned,

Director-General of DG FISMA

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view (18).

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here which could harm the interests of the institution.

Brussels, 31/03/2023

(Signed)

John BERRIGAN

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⁽¹⁸⁾ True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG.

2.2. Modern and efficient administration – other aspects

2.2.1. Human resource management

In 2022, DG FISMA maintained its efforts to employ a **competent and engaged workforce in support of the priorities set out by the von der Leyen Commission**. The highly committed staff demonstrated once again its ability to adapt with the enormous extra workload due to Russia's war of aggression against Ukraine and the ensuing consequences (including work on sanctions and linked to the energy crisis). Staff have continued to deliver high quality work and numerous legislative proposals, including nearly all the proposals set out in the Commissioner's Mission letter.

The DG maintained its approach to **collaborative work based on trust** at all levels of our organisation where staff can deploy its full potential and where access to senior management is fluid. The **DG's matrix structure with work in project teams** continued to complement unit work and support collaborative working.

To **enhance cohesion and inclusion** both horizontally and vertically in the DG, DG FISMA favoured better knowledge-sharing and building networks across the DG by:

- integrating new staff by offering regular newcomers' trainings on DG FISMA policies, processes and culture twice a year. The mentoring and buddy-on-the-job schemes were promoted across the DG and prolonged. All newcomers were also systematically invited to an introductory meeting with the Director-General and his assistant.
- making (senior) management accessible (e.g. mini-coachings for staff members by Directors, direct access to the Director-General).
- Maintaining and developing further networks among peers (esp. AST professionalization, weekly coordination meeting of heads of unit on policy issues and regular meetings on corporate HR developments, development programmes and group coaching for specific audiences such as Deputy Heads of Unit, initiatives to promote female talent, ...).
- Giving trainings for and by staff in the form of DG FISMA Knowledge Hours. Following the trend of previous years, in 2022 knowledge hours continued to be extremely successful in terms of attendance rate and demonstrated the willingness of colleagues to share their know-how.
- Focusing on talent management to prepare staff for new job opportunities.

The close partnership between the Human Resources Correspondent team and DG FISMA's communication unit enhanced **effective internal communication within the DG**, which continued to be crucial during 2022 considering the important changes to the ways of working that were implemented (so called "new normal"). DG FISMA continued to hold very

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regular all staff meetings to keep staff informed about both policy developments, also with the participation of the Commissioner, and organisational developments and to give them an opportunity to engage. All staff were actively encouraged to contribute ideas on an on-going basis either via polls in all staff meetings, via emails to the HRC team and calls, and use of targeted focus groups (i.e. regular consultation of the working group on new normal gathering colleagues of all grades and contracts). This was complemented by targeted consultation of middle and senior management (including new quarterly meetings with heads of units dedicated to corporate HR issues and exchange of best practice, as well as ongoing regular meetings of the senior management board dedicated to HR issues). This allowed DG FISMA to contribute actively and in detail, in a representative way, to the main discussions taking place at corporate level (including around the new normal, working time decision, new HR strategy, greening of the Commission).

In 2022, DG FISMA continued its **efforts to mainstream equality and to ensure diversity and inclusion among its staff**. In particular, DG FISMA pursued actions to promote women in their career, and in particular to ensure a pipeline of women ready to take on management roles in the future. Such actions included **ensuring participation in female talent programmes** organized by the Commission at corporate level as well as a **specific programme for less senior women** organised by DG FISMA with other DGs. The efforts in recent years seem to be paying off, leading to broadly **balanced numbers of men and women at head of unit level in DG FISMA**.

Finally, DG FISMA created a **dedicated space for equality issues on its intranet**. The page is used to disseminate relevant information, news, events, and to promote awareness-raising actions for staff.

2.2.2. Digital transformation and information management

Digital transformation

DG FISMA took further steps to **modernise administrative processes** and facilitate collaboration in line with the objectives of the Commission's new digital strategy¹⁹. The following steps were taken:

— A network of 'M365 champions' was set up to promote the move to M365 Teams and develop standard conventions for the use of Teams in the DG. The work of the champions was accompanied by a significant investment into the training and coaching of staff. The move to SharePoint Online was launched by initiating the cleaning of existing SharePoint on premises sites.

(19) C(2022)4388 final.

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- A new co-authoring functionality was added to the briefings information system
 BASIS that DG FISMA provides to the whole of the Commission. It allows staff to cooperate more easily in the preparation of briefings while strengthening security.
- The interfaces of BASIS and EMT (stakeholder relations management system) with other IT systems were improved. This contributes to a more seamless digital workplace.
- The IT service providers management system MICE was rolled out in another
 DG and makes the financial management of IT contracts more efficient.

New digital solutions were also developed to support EU policies. The successive packages of EU sanctions against Russia following its war of aggression against Ukraine required an urgent upgrade of the sanctions IT cluster including new functionalities, and first steps were taken to develop a new Sanctions Information Exchange Repository (SIER). It will facilitate reporting by and secure information exchanges between the Member States on the implementation of sanctions. The performance of FIU.net was enhanced. It now offers more stable and secure possibilities to the Financial Intelligence Units (FIU) when they investigate suspected cases of money laundering. Measures were prepared to add new features to the Digital Finance Platform and foster data-driven innovation in the financial sector.

Renewed emphasis was put on the **cyber-security** of DG FISMA's IT systems, and DG FISMA staff benefitted from both corporate and local learning opportunities for better cyber-awareness.

Data protection

DG FISMA contributed to the implementation of the Commission's data protection action plan.²⁰ More than 120 FISMA colleagues attended internal data protection **trainings**. Training courses by the Commission's Data Protection Officer (DPO) were systematically advertised on DG FISMA's Intranet. The DG also conducted an overall **mapping and review of its data processing records**, which led to updates of three existing records, the filing of two new records and the alignment of four privacy statements with the DPO's latest templates. Data protection provisions were added in internal data processing arrangements with other DGs. As a result, all of DG FISMA's data processing records in DPMS have either been reviewed or are in the process of being drafted. Further raising awareness action is also planned to reinforce the timely preparation of data protection risk assessments.

Data governance

DG FISMA monitored the application of its Quality framework and guidelines for the statistical activity and data acquisitions²¹, which were adopted in 2021 and are

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^{(&}lt;sup>20</sup>) C(2018)7432 final.

⁽²¹⁾ Ares(2021)5990424.

aligned with the Reference Quality Framework for statistics produced by Commission services²² where relevant for DG FISMA. DG FISMA also worked to ensure the implementation of the principles of the **corporate data governance and policies**²³ for its key data assets.

To coordinate DG FISMA's statistical and data needs and work, **DG FISMA's Centre of expertise** for data met at management level, and regular exchanges took place at staff level. Particular attention was devoted to the rigorous implementation of the terms of use of new contracts for commercial databases and further improvements will be made by formalizing the data governance responsibilities for each database.

2.2.3. Sound environmental management

DG FISMA continued contributing to an environmentally friendly Commission by pursuing the related objectives in its Strategic Plan and the Commission's EMAS action plan to become carbon neutral by 2030.

DG FISMA was one of the first DGs to sign the **corporate pledge on greening missions and expert travel** and participated in the voluntary closure of its building during the summer and end of the year holidays to save energy. It implemented the pledge by raising staff awareness and monitoring centrally the CO₂ emissions of its missions and the number of events organised in virtual or hybrid mode. It also continued to implement its **information management policy** for SharePoint to reduce digital waste by automatically deleting obsolete documents, limit the saving of minor versions and monitoring monthly the storage of each unit.

DG FISMA also joined several corporate actions to **promote sustainable commuting** and **circular economy projects** which resulted in an important participation of staff.

⁽²²⁾ Ares(2020)7310518.

⁽²³⁾ Ares(2019)7468514.