



# 2016

# Annual Activity Report

**Directorate-General  
for Financial Stability,  
Financial Services and  
Capital Markets Union  
(DG FISMA)**



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## THE DG IN BRIEF

The European Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) is responsible for initiating and implementing policies relating to the EU's financial sector. It is based in Brussels and has approximately 380 employees. The DG is composed of 5 directorates and 21 units.

It is managed by Director-General Olivier Guersent under the political authority of Vice-President Valdis Dombrovskis in charge for the Euro and Social Dialogue and responsible for Financial Stability, Financial Services and Capital Markets Union after the resignation of Commissioner Jonathan Hill that took effect on 15 July 2016. DG FISMA also contributes to projects steered by Vice-Presidents Jyrki Katainen in charge of Jobs, Growth, Investment and Competitiveness.

DG FISMA's mission is to develop stable, well-regulated and globally competitive EU financial markets in the interest of businesses, investors and consumers. To this end, the DG presents and monitors the effectiveness of financial sector reforms, responds to emerging financial-stability risks and ensures that relevant EU legislation is fully implemented. To improve access to funding for businesses, especially SMEs, and thereby promote growth and job creation, the DG is bringing forward initiatives to create an EU-wide Capital Markets Union. DG FISMA is working closely with the three European supervisory authorities for banking, insurance and securities.

More specifically, the DG's work involves:

- initiating policies that contribute to investment, growth and jobs in the EU by improving the long-term financing of the economy while safeguarding financial stability. This requires further progress towards a well-regulated CMU encompassing all Member States;
- consolidating financial reforms while adapting them to changed circumstances where necessary, and ensuring that EU legislation is properly enforced;
- presenting new policy initiatives to ensure that financial markets are well regulated and supervised;
- making financial services work better for consumers and retail investors;
- monitoring financial-sector developments and structure in the Member States and ensuring satisfactory implementation of EU legislation at national level; and
- working closely with international partners to promote consistent regulation and the implementation of agreed standards and principles around the world.

## **EXECUTIVE SUMMARY**

The 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<sup>1</sup>.

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<sup>1</sup> Article 17(1) of the Treaty on European Union.

## a) Key results and progress towards the achievement of general and specific objectives of the DG (executive summary of section 1)

As set out in its Strategic Plan, DG FISMA will in the period of 2016-2020 contribute to the following three general objectives:

1. A New Boost for Jobs, Growth and Investment
2. A Deeper and Fairer Market with a Strengthened Industrial Base
3. A Deeper and Fairer Economic and Monetary Union

The DG will contribute to these general objectives through various specific objectives, as well as yearly outputs which are set each year in the annual Management Plan. In this executive summary the key achievements over 2016 are described per general objective. A full narrative on the results over 2016 can be found in Part 1 of this Annual Activity Report as well as in more detail in the performance tables in Annex 12.

### A New Boost for Jobs, Growth and Investment

The **Capital Markets Union** encompasses the reforms of our financial system needed to enable the flow of private capital to fund the EU's pressing investment challenges – in the domains of infrastructure, energy transition, and particularly in financing growing businesses.

The Capital Markets Union seeks to better connect savings to investment and to strengthen the EU financial system by enhancing private risk-sharing, providing alternative sources of financing, and increasing options for retail and institutional investors. Removing obstacles to the free flow of capital across borders will strengthen the Economic and Monetary Union by supporting economic convergence and helping to cushion economic shocks in the euro area and beyond, making the EU economy more resilient.

In 2016, further progress has been made towards the implementation of the **Capital Markets Union Action Plan**. Among other successes the following milestones were reached:

- Trilogues on the **Prospectus** revision were closed;
- The European Parliament agreed on a negotiating mandate on **Securitisation**;
- In Council a general approach was agreed on the **Venture capital** revisions;
- A proposal on a **Common Consolidated Corporate Tax Base**<sup>2</sup> was adopted by the Commission, as well as
- A proposal on **preventive restructuring and second chance**.

As Capital Markets Union has become even more important in an evolving economy, the Commission presented on 14 September 2016 a Communication calling for **an acceleration of reforms and developing further priorities**.

### A Deeper and Fairer Market with a Strengthened Industrial Base

Reviewing legislation that is already in place remained an important priority for DG FISMA in 2016. One of the key examples of this work was the **Call for evidence**, a

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<sup>2</sup> Within the European Commission DG TAXUD is the leading DG on this file.

public consultation on the financial services legislative framework. Following the public consultation in early 2016 a Communication setting out the results was adopted<sup>3</sup> by the Commission in November 2016.

Also in November the Commission adopted<sup>4</sup> a comprehensive package of proposals to further improve resilience and reduce risks in the banking sector. This **banking package** is in line with the roadmap to complete the Banking Union agreed on at the ECOFIN Council in June 2016<sup>5</sup>, where the Commission was invited to put forward relevant proposals no later than the end of 2016. The package consists of the following key elements:

- Measures to **increase the resilience of EU institutions and enhancing financial stability**
- Measures to **improve banks' lending capacity** to support the EU economy
- Measures to further facilitate the role of banks in achieving **deeper and more liquid EU capital markets** to also support the creation of a Capital Markets Union

### **A Deeper and Fairer Economic and Monetary Union**

The above mentioned **banking package**, which consists of legislative proposals focused on further reducing risk in the banking sector, will contribute to creating a deeper and fairer Economic and Monetary Union. In parallel to the work on the banking package regular discussions continued to take place in 2016 between Member States on a **European Deposit Insurance Scheme (EDIS)**, as set out in the roadmap to complete the Banking Union. The work on the EDIS continued in 2016 also in the European Parliament. ECON published<sup>6</sup> its draft report on EDIS on 4 November 2016.

The EDIS is one of the key deliverables of the Five Presidents' Report of June 2015 in order to strengthen the EU's Economic and Monetary Union (EMU) as a further step to a fully-fledged Banking Union. The proposal, adopted<sup>7</sup> by the Commission in November 2015, will contribute significantly to financial stability in the Banking Union by further weakening the link between banks and their national sovereigns and reinforcing trust in the safety of retail bank deposits, regardless of the bank's location. Ultimately, greater confidence in bank deposits will also enable increased lending to the economy, meaning more growth and jobs for Europe.

### **Other work**

In 2016 the DG was also involved in many other work streams. The DG participated for instance in the **European Systemic Risk Board (ESRB) Expert Group on safe bonds (ESBies)**, as well as in the **Financial Services Committee (FSC) Working Group on**

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<sup>3</sup> COM/2016/0855 final; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Call for Evidence - EU regulatory framework for financial services.

<sup>4</sup> [http://europa.eu/rapid/press-release\\_IP-16-3731\\_en.htm](http://europa.eu/rapid/press-release_IP-16-3731_en.htm)

<sup>5</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/06/17-conclusions-on-banking-union/>

<sup>6</sup> 2015/0270(COD); European Parliament, Committee on Economic and Monetary Affairs draft report on the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme.

<sup>7</sup> COM/2015/0586 final - 2015/0270 (COD); Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme.

**non-performing loans. Implementation of financial services legislation** in Member States also remained a key issue for the DG. In 2017 the DG will keep monitoring Member State progress closely and will contribute on a regular basis to reports for the ECOFIN Council. In addition to this the DG continued to **asses and monitor financial markets**, also at country level in the context of the **European Semester**.

## b) Key Performance Indicators (KPIs)

| Result/Impact indicator (description)  | Target (or milestones) as per Strategic Plan 2016-2020  |                           |        |  |               | Latest known results as per Annual Activity Report  |       |
|--|---|---------------------------|--------|--|---------------|---|-------|
| <b>PUBLIC EQUITY: NEW EQUITY ISSUANCE YEAR-ON-YEAR GROWTH</b>  | <b>Source of data:</b> European Central Bank, Data Warehouse.   |                           |        |  |               | 2016: 0,65%   |       |
|  | <b>Baseline</b>   | <b>Interim Milestones</b> |        | <b>Target</b>  |               |   |       |
|  | 2014 Average  | 2015                      | 2016   | 2020   |               |   |       |
|  | 0,4%  | 0,45%                     | 0,5 %  | 0,55%  |               |   |       |
| <b>SHARE OF MARKET FUNDING IN TOTAL OUTSTANDING DEBT</b>   | <b>Source of data:</b> ECB Statistical Data Warehouse.  |                           |        |  |               | 2016: 18.3%   |       |
|  | <b>Baseline</b>   | <b>Interim Milestones</b> |        |  | <b>Target</b> |   |       |
|  | 2014 Average  | 2015                      | 2016   | 2017   | 2018          |   | 2019  |
|  | 16.3%   | 16.6 %                    | 16.9 % | 17.2 %   | 17.5 %        |   | 17.8% |
| <p>While the policy progress made in 2016 is reassuring, it cannot be made accountable for the marked improvement in some of the key performance indicators. Favourable third factors such as the persisting low interest rate environment, changes to risk sentiment and buoyant equity prices boosted equity issuance and market funding above trend. It remains to be seen whether this improvement in the indicators can persist in less favourable external circumstances or whether implementation of policy proposals can enhance further the measurable performance.</p> |   |                           |        |  |               |   |       |
| <b>INSURANCE COMPANIES' INVESTMENTS IN INFRASTRUCTURE</b>  | <b>Source of data:</b> European Insurance and Occupational Pensions Authority (EIOPA) as of mid-2016. |                           |        |  |               | 2016:<br>No quantitative data available before the adoption of a Solvency II amendment on infrastructure planned in 2017. |       |
|  | <b>Baseline</b>   | <b>Interim Milestone</b>  |        | <b>Target</b>  |               |   |       |
|  | mid-2015<br><br>Before the adoption of a Solvency II amendment on infrastructure.                     | 2018                      |        | 2019   |               |   |       |
|  | No quantitative data available at this point.   | A first increase.         |        | A general increase in insurance companies' investment in infrastructure by |               |   |       |



|   |   |                           |       |  |   |
|---|---|---------------------------|-------|--|---|
|   |   |                           | 2019. |  |   |
| <b>AVERAGE OF INWARD AND OUTWARD INTRA-EU FOREIGN DIRECT INVESTMENT (FDI)</b>   | <b>Source of data:</b> Eurostat: Balance of Payments, European Union direct investments [bop_fdi6] and GDP and main components (output, expenditure and income) [nama_10_gdp].  |                           |       | 2015: 2.72%  |   |
|   | <b>Baseline</b>   | <b>Interim Milestone</b>  |       |  | <b>Target</b>   |
|   | 2013  | 2016                      |       |  | 2018 A higher index indicates higher new cross-border direct investment during the period in relation to the size of the economy as measured by GDP. If this index increases over time, intra-EU direct investment is becoming more integrated. |
|   | 2%  | Stable increase.          |       |  | Stable increase.  |
| <b>NUMBER OF INFRINGEMENTS FOR NON-CONFORMITY CLOSED WITHIN BENCHMARK</b>   | <b>Source of data:</b> NIF Database.  |                           |       | 15 cases in December 2016;<br>2 cases eventually closed in February 2017 |   |
|   | <b>Baseline</b>   | <b>Interim Milestones</b> |       |  | <b>Target</b>   |
|   | 2015  | 2017                      | 2018  |  | 2020  |
|   | No specific benchmark is set for the non-conformity assessment. However, a three-year benchmark is set for all Article 258 TFEU infringements. There are currently 14 cases still open >3 years since their registration. | 10                        | 5     |  | No cases open three years after their registration by 2020.   |
| Compared to the baseline (14 cases) no substantial progress appears to have been achieved in 2016 (13 cases after taking out the 2 already closed in February 2017). This is due to various reasons. In a majority of cases the Commission decided to pursue infringement procedures. Some cases are however likely to be closed during the course of 2017. |   |                           |       |  |   |

## **c) Key conclusions on Financial management and Internal control (executive summary of section 2.1)**

In accordance with the governance statement of the European Commission, (the staff of) DG FISMA conducts its operations in compliance with the applicable laws and regulations, working in an open and transparent manner and meeting the expected high level of professional and ethical standards.

The Commission has adopted a set of internal control standards, based on international good practice, aimed to ensure the achievement of policy and operational objectives. The financial regulation requires that the organisational structure and the internal control systems used for the implementation of the budget are set up in accordance with these standards. DG FISMA has assessed the internal control systems during the reporting year and has concluded that the internal control standards are implemented and function as intended. Please refer to AAR section 2.1.3 for further details.

In addition, DG FISMA has systematically examined the available control results and indicators, including those aimed to supervise entities to which it has entrusted budget implementation tasks, as well as the observations and recommendations issued by internal auditors and the European Court of Auditors. These elements have been assessed to determine their impact on the management's assurance as regards the achievement of 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; 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.

## **d) Information to the Commissioner(s)**

In the context of the regular meetings during the year between the DG and the Commissioner(s) on management matters, also the main elements of this report and assurance declaration, have been brought to the attention of Vice-President Valdis Dombrovskis, responsible for the Euro and Social Dialogue and Directorate-General Financial Stability, Financial Services and Capital Markets Union (DG FISMA)<sup>8</sup>.

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<sup>8</sup> Vice-President Valdis Dombrovskis took over the portfolio of Commissioner Jonathan Hill who was previously responsible for DG FISMA until his resignation on 15/07/2016.

# 1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG<sup>9</sup>

As part of the Commission's performance management framework, Directorate-Generals identified those political priorities determined by President Juncker in 2014 towards which they could contribute the most. These long-term priorities were set as "general objectives" in the multi-annual "Strategic Plan" 2016-2020 which is designed to orient the work of the DGs.

In its Strategic Plan<sup>10</sup>, DG FISMA selected three general objectives that closely correspond to these priorities:

1. A New Boost for Jobs, Growth and Investment
2. A Deeper and Fairer Market with a Strengthened Industrial Base
3. A Deeper and Fairer Economic and Monetary Union

The DG has formulated specific objectives that contribute to achieving the goals set under the general objectives. Progress under the general and specific objectives is measured through indicators, designed to show how the DG is contributing to the overall objectives.

In addition to this the DG is expected to plan each year the main outputs for that year. For 2016 this was done in the Management Plan 2016. This Annual Activity Report will report on the progress made in 2016, on the basis of the outputs and their targets as set out in that Management Plan.

The performance tables in Annex 12 provide a full overview of the extent to which the DG reached the 2016 Management Plan targets. In this section, the focus is on key policy achievements in 2016.

There was a limited number of cases in 2016 where targets were achieved later in the year than expected, or where the target is expected to be achieved in 2017. When it comes to achieving its goals, DG FISMA is in many cases also depending on other actors. The causes for delay can have various reasons: internal, external or a combination of the two. Internal delays can for instance be caused by discussions between DG FISMA and other Commission services that take longer than expected. External reasons are often delays on the side of co-legislators. This can for instance result in a situation where trilogues on a legislative file cannot start because both co-legislators have not agreed on a negotiating mandate.

## **A New Boost for Jobs, Growth and Investment**

The **Capital Markets Union (CMU)** is a core component of the Commission's Investment Plan for Europe to boost jobs, including youth employment, and growth. The aim is to diversify financing sources for European businesses and realise efficiency gains from further integration of Europe's markets for capital. The CMU action plan, adopted in 2015, is a mix of 33 legislative and non- legislative measures. The following actions have been carried out/completed in 2016:

### ***Securities markets***

In December 2016 co-legislators reached an agreement on reforming the EU **prospectus**

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<sup>9</sup> See footnote 2.

<sup>10</sup> [https://ec.europa.eu/info/publications/strategic-plan-2016-2020-financial-stability-financial-services-and-capital-markets\\_en](https://ec.europa.eu/info/publications/strategic-plan-2016-2020-financial-stability-financial-services-and-capital-markets_en)

**rules.** The Prospectus reform was one of the key goals of the Capital Markets Union and the new rules should help to diversify sources of funding for European companies, especially SMEs. A special prospectus regime for SMEs intends to allow smaller companies to obtain easier listings on specialized stock exchanges and thus access non-bank capital.

### ***Asset management***

During 2016, numerous actions in the **asset management** field have contributed to the general objectives of FISMA to enhance the financing of the economy and thereby contribute to growth. In July the Commission presented a proposal for changes to the **EuVECA (European Venture Capital Funds) and EuSEF (European Social Entrepreneurship Funds) Regulations** in order to increase the uptake of these funds. The Council adopted a General Approach<sup>11</sup> in December 2016, and the European Parliament is well under way in their deliberations. The proposal for a **Money Market Funds Regulation** has been negotiated for a long time, but during 2016 there was a breakthrough in the Council negotiations, and subsequently the trilogues were successfully concluded in December. With the adoption of this regulation, the EU fulfils important international financial stability recommendations to make the international money markets more resilient.

A major consultation relating to the CMU project on **cross-border fund frameworks** was conducted during 2016. The Commission will decide in the beginning of 2017 on what measures should be taken following the consultation. Such measures could be legislative (changes to Directives and Regulations, new acts) or non-legislative (guidance, interpretations etc by either the Commission or European Securities Markets Authority (ESMA).

Information to retail customers is crucial for the confidence in financial markets. In 2014, the **PRIIPs (Packaged Retail Investment and Insurance Products) Regulation** was adopted and in June 2016 the Commission adopted a Regulated Technical Standards (RTS) on the detailed contents of the **Key Information Document (KID)**. On 14 September the RTS was rejected by the European Parliament, and the Commission therefore proposed that the entry of application of the PRIIPs Regulation should be deferred for one year to 1 January 2018. This proposal was accepted by co-legislators, and the change was published on 23 December 2016. The Commission is currently preparing a new version of the RTS, which was adopted in March 2017 and then sent to the co-legislators. The final text will therefore be in place well in advance to give companies time to implement the PRIIPs KID.

### ***Insolvency and tax***

In April 2016 the Commission Services presented a first status report on the overall **implementation of the CMU Action Plan**. Furthermore, the Commission presented a proposal on **preventive restructuring and second chance** to avoid unnecessary liquidation of viable companies in November as well as a proposal to address the issue of the debt-equity bias as part of the re-launch of the **Common Consolidated Corporate Tax Base (CCCTB)** on 25 October. As part of the CMU action plan, the CCCTB proposal will take steps to address the bias in the tax system towards debt over equity, by providing an allowance for equity issuance. A set rate, composed of a risk-free interest rate [0.7% currently] and a 2% risk premium of new company equity will become tax deductible each year. Under current market conditions, the rate would be 2.7%.

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<sup>11</sup> Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 345/2013 on European venture capital funds and Regulation (EU) No 346/2013 on European social entrepreneurship funds - Negotiating mandate <http://data.consilium.europa.eu/doc/document/ST-15279-2016-INIT/en/pdf>

## **Securitisation**

The Commission's 2015 proposals on **simple, transparent and standardised (STS) securitisation** aim at promoting a safe, deep, liquid and robust market for securitisation which is able to attract a broader and more stable investor base to help allocate finance to where it is most needed in the economy. The aim is to differentiate between simpler and more transparent securitisation products and products that do not satisfy such criteria. This should restore an important funding channel for the EU economy without endangering financial stability. The proposals furthermore cover a complete overhaul of the capital requirements for banks originating, sponsoring and investing in securitisation, updating the existing framework in order to align it better with risk and reflect the differentiation between STS and other securitisations. The Commission's proposals were examined by the Council in 2015 and by the European Parliament in 2016. DG FISMA actively engaged with both the Council and the European Parliament in order to facilitate the start of trilogues in early 2017.

## **Other Capital Markets Union work**

The DG also made progress in 2016 on a number of other CMU-related workstreams, in particular the preparation of a revision of the **Solvency II Delegated Regulation regarding infrastructure corporates** (following revised Solvency II calibrations for infrastructure projects, adopted in 2015, which came into effect in 2016), and preparatory work for an initiative on personal pensions, both things planned for 2017. The DG has also laid the foundations for a possible initiative in the area of **covered bonds** that would foster the use of covered bonds as a means to finance bank lending to the economy. In addition to this, the DG has coordinated the work of a Member States' Expert Group on **barriers to free movement of capital**<sup>12</sup>. Through a collaborative process with Member States, this ongoing work-stream has led to the adoption in March 2017 of a Report on national barriers and a roadmap for lifting or easing them, with commitments and timelines for specific actions by Member States.

CMU has become even more important in an evolving economic, technological and political context. This is why the Commission presented on 14 September 2016 a Communication calling for an acceleration of reforms<sup>13</sup>. The Communication also underlined the importance of developing further priorities looking forward, particularly in the areas of **personal pensions, sustainable finance, technology in the financial sector (FinTech), removing barriers in the post-trading environment and effective and consistent supervision**.

The **mid-term review of the CMU Action Plan**, announced in the 2017 Commission's Work Programme of 25 October 2016, will take stock of progress on the implementation of the CMU and identify potential additional measures required to improve the financing of the economy.

## **Pension funds**

A political agreement was achieved on the revision of the Directive on **Institutions for Occupational Retirement Provisions (IORPs)**, leading to final adoption of the directive in November. This is a key measure for the modernisation and updating of the Commission's pension policy, in application of the White Paper on Pensions of 2012.

## **Free movement of capital**

A **Report on the movement of capital and the freedom of payments** was adopted

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<sup>12</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3388>

<sup>13</sup> COM(2016) 601 final; Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions Capital Markets Union - Accelerating Reform

by the Commission on 30 March 2016. This Staff Working Document describes the main trends of capital flows in 2015 and underpins the yearly examination of the developments concerning such freedoms by the Economic and Financial Committee (EFC), as required by article 134 TFUE.

Reasoned Opinions requesting Austria, Netherlands, Romania, Sweden and Slovakia to terminate their outstanding **intra-EU bilateral investment treaties** ("intra-EU BITs") were adopted on 29 September. Our work towards termination of the intra-EU BITs proceeds in parallel to discussions with Member States and all interested parties on whether and how to further improve investment protection within the single market.

### **A Deeper and Fairer Market with a Strengthened Industrial Base**

In line with the priorities defined by the Juncker Commission, DG FISMA has in 2016 continued to work towards a deeper and fairer internal market.

#### ***Call for evidence***

In the 2016 State of the Union address, President Juncker emphasised the commitment of the Commission to a thorough review of all existing European legislation to ensure it delivers real value and results. In line with this commitment, DG FISMA conducted a broad consultation exercise: the "**Call for evidence: EU regulatory framework for financial services**" and adopted, as a follow up to this exercise, a Communication on 23 November 2016. The call for evidence was a key contribution to the Commission's Better Regulation agenda and the Regulatory Fitness and Performance (REFIT) programme, which ensured that EU legislation delivers results for citizens and businesses effectively, efficiently and at minimum cost. This contribution was explicitly acknowledged in the Commission's Communication (COM (2016)855 Final). The call for evidence was also the first example of such an exercise internationally.

#### ***Retail financial services***

The results of the public consultation on the **Green Paper on retail financial services**, which were summarised in a feedback statement of July 2016, provide the basis for gradually eliminating the remaining barriers to a proper retail financial market in Europe, and addressing the challenges and opportunities arising from the rapid digital transformation in the financial sector.<sup>14</sup>

To ensure that end-users/consumers have a say in EU policy making on financial services, alongside the industry, the Commission adopted on 15 June 2016 a proposal for a regulation that foresees financial **support to not-for-profit organisations capable of expressing consumers'/users' interests** and contributing to a better information of the public. This proposal follows the implementation of a preparatory action in 2014 to 2016, thanks to which the two beneficiaries carried out actions to make the voice of citizens and non-industry stakeholders heard in the debate on financial services, such as the participation to all relevant consultations, the production of position papers, the publication of relevant researches (i.e. CMU citizens' barometer, Robot Advice or Better Finance report on the state of pensions in Europe), and extensive communication activities (i.e. the organisation of a conference on "representation of public interest in banking", or "between a rock and a hard place: the future of traditional banking"). This pilot project was subject to an evaluation in which the Commission found that EU funding was effective and efficient in helping the two beneficiaries, Finance Watch and Better Finance, build a strong technical expertise and communication capabilities in a short period of time.

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<sup>14</sup> Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions - Consumer Financial Services Action Plan: Better Products, More Choice

## ***Financial markets infrastructure***

In 2016 DG FISMA continued to make improvements in the transparency of derivatives markets. The Commission adopted ESMA's proposal to improve the quality of data reported to **trade repositories**.

The number of globally centrally cleared **OTC derivatives transactions** continues to rise. An important factor is the number of jurisdictions which have central clearing requirements in effect. In 2016, the first clearing obligations for interest rate swaps entered into force and further clearing obligations for interest rate swaps in additional currencies as well as for credit default swaps were introduced. In addition, the Commission adopted a further 6 equivalence decisions for the regulatory regimes for centralised counterparties in Japan, Dubai, India, Brazil, New Zealand and the US (CFTC). At the same time, in 2016, the Commission adopted a Delegated Regulation further extending the exemption from clearing for pension funds until August 2018. The Commission also adopted important new requirements for mitigating the risks of OTC derivatives not cleared by CCPs. These requirements will be phased in during 2017. Finally, a **review of the implementation of the European Market Infrastructure Regulation (EMIR)** was conducted, resulting in a report published in November 2016. This report concluded that while there does not seem to be a need for fundamental changes to be made to the nature of the core requirements of EMIR, some targeted modifications to EMIR should be considered. To this end, a legislative proposal is planned for 2017.

The Commission adopted a package of six measures to implement the **Regulation on Central Securities Depositories (CSDR)**. These measures include detailed requirements for the authorisation and registration of CSDs, prudential and other requirements for CSDs, and rules for settlement internalisers.

## ***Securities markets***

In 2016, FISMA successfully contributed to the adoption by the Commission of more than 50 implementing measures (Delegated Acts, RTS and ITS) necessary to ensure the operation of the **Markets in Financial Instruments (MiFID II)** rules and the rules that govern the **prevention of market abuse (MAR)**. This package of secondary legislation will enable the new rules on securities markets to become operational and ensure the competitiveness and integrity of European securities trading. The rules on the prevention of market abuse affect issuers and market participants and their timely adoption ensured that the Market Abuse Regulation could apply as of 3 July 2016. Due to a quick political agreement on a proposal to extend the MiFID II timelines, ESMA and national regulators will now have ample time (until 3 January 2018) before they have to apply the new rulebook.

## ***Financial reporting***

The DG has also made considerable progress on the non-binding guidelines on methodology for reporting non-financial information by certain undertakings and groups. These guidelines aim at helping companies to draw up relevant and high quality non-financial reports. This is expected to make companies more resilient and will contribute to jobs, growth and investment as companies, investors and society at large will benefit from increased transparency. The Commission proposed on 12 April 2016 that multinational companies operating in the EU, with global revenues exceeding EUR 750 million a year, publish key information on where they make their profits and where they pay their corporate income tax in the EU on a **country-by-country** basis. The proposal is a simple, proportionate way to inform the public and increase large multinationals' accountability on tax matters without damaging their competitiveness.

The Commission adopted a proposal in 2016 on the financing of the **European Financial Reporting Advisory Group (EFRAG)** in order to make sure that EFRAG will continue to



play a key role in ensuring Union's needs and interest are duly taken into account in the development phase of new standards as well as to provide the Commission with high quality endorsement advice on new or amended standards. During 2016 EFRAG prepared six Draft Endorsement Advices and provided four Final Endorsement Advices to the Commission (amendments to IAS 12, amendments to IAS 7, clarifications to IFRS 15, and amendments to IFRS 2). The draft endorsement advice on IFRS 16 *Leases* including a full impact analysis was finalised in February 2017 and the draft endorsement advice on *Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts* was finalised in January 2017. EFRAG provided also continuous input on the future IFRS 17 *Insurance Contracts* and issued in 2016 seven Final Comment Letters to various other IASB projects. Finally, EFRAG worked on a series of own research projects and published in 2016 the *EFRAG Quantitative Study - What do we really know about goodwill and impairment?*, and held various outreach events.

## **Banking**

An **update of the EU delegated and implementing acts** was performed to continue to be consistent with the **Basel Committee on Banking Supervision (BCBS)** framework as regards the **identification methodology and disclosure requirements for global systemically important institutions (G-SIIs)**, as otherwise there would be two diverging requirements for large banks.

The **Single Supervisory Mechanism (SSM)** regulation requires the Commission to report on a number of questions regarding the effectiveness of the SSM supervision and its implications for the smooth functioning of the single market. An effective and common supervisory function will contribute to a financial system that is safe and resilient and where financial institutions can absorb losses and liquidity risks. As the Commission is working under a broad review mandate covering many areas of an entirely new supervisory structure, certain arrangements had to be set up for the first time. These included in particular a Memorandum of Understanding regarding the submission of non-public information which had to be agreed between DG FISMA and the ECB. In view of these circumstances, the timeframe for the review of the SSM regulation has been extended and is now anticipated to be concluded by summer 2017. In addition, a postponement was seen as beneficial to the informative value of the report, since the originally planned adoption date would have translated into a period of operation of the SSM being reviewed which would have been too short to draw reliable conclusions in several instances.

On 23 November 2016 the Commission adopted **a package of measures concerning the EU prudential and resolution frameworks** applicable to credit institutions. The measures address remaining weaknesses and implement some outstanding elements of the post-crisis reforms already agreed at international level (leverage ratio, net stable funding ratio, fundamental review of the trading book, total loss-absorbing capacity). It is intended to make institutions more resilient and to substantially strengthen the prudential framework. Various measures are proposed to render rules more proportionate (reporting, disclosure, remuneration) and to encourage bank financing to promote growth and jobs in line with European Fund for Strategic Investments and CMU (SME supporting factor, infrastructure lending). Through this package, the Commission is proposing significant and credible risk reducing measures delivering on its commitments taken in the 2015 Communication "Towards the completion of the Banking Union".

## **Recovery and resolution**

In the first semester of 2016 the DG worked towards the adoption by the Commission of **three delegated acts which increase legal certainty and predictability for investors and resolution authorities in future bank resolution cases**, and which also contribute to financial stability and ensure a level playing field within the EU.

The adoption by the College of a **legislative banking reform package and TLAC Implementation/MREL review** on 23 November 2016 aims to complete the reforms

that the EU implemented in the wake of the financial crisis, which made the financial system more stable and resilient. This legislative package implements standards agreed with international partners at the G20 and updates existing EU-legislation in this field. This was also called for in the ECOFIN Council in its June 2016 conclusions, where the Commission was invited to put forward its proposals to further reduce risks in the financial sector no later than by the end of 2016. Such risk reduction measures will not only further strengthen the resilience of the European banking system and increase market confidence, but will also allow further progress in completing the Banking Union.

The College adopted a legislative proposal on the **recovery and resolution of central counterparties** on 28 November 2016. This proposal for a Regulation will introduce new rules to ensure that systemic market infrastructures in the financial system, known as Central Counterparties (CCPs), can be dealt with effectively in the event of financial stress or a default. This proposal implements standards agreed with international partners at the G20.

In 2016 the DG fully established the Commission's function as the authority responsible for approving **bank resolution decisions** by the Single Resolution Board (SRB). In particular, the DG set up all necessary procedures and arrangements both within the Commission and with the other actors of the process (European Central Bank, Council, SRB). Furthermore, the DG increased the Commission's preparedness by organizing or participating in a number of dry runs or resolution exercises, including international ones which enhanced the cooperation and mutual understanding with relevant authorities in key third countries, and it represented the Commission in a number of committees and working groups within the EBA and the Financial Stability Board.

As regards the substantial implementation of the Single Resolution Mechanism (SRM), the DG prepared or directly exercised the representation of the Commission in the Single Resolution Board, where one of the core tasks was **assessing the resolution plans** of the largest banking groups in the Banking Union.

Finally, the DG worked on the completion and application of implementing and delegated acts under the **SRM Regulation**, and extensively contributed to the work in Council on the establishment of a **common backstop** to the Single Resolution Fund.

All these activities allowed the Commission to be able to respond quickly and efficiently to the developing cases in the banking sector, while doing so in an informed manner and preserving the integrity of the new EU crisis management framework, and to be driving the completion of the Banking Union forward.

### ***Macro-prudential policy***

Macro-prudential policy aims to use mainly prudential tools to limit systemic risk. In 2016, the Commission launched a **review of the EU macro-prudential policy framework**, starting with a public consultation to gather the views of all relevant stakeholders on what reforms might be needed to make the existing macro-prudential framework more effective. The public consultation was closed in October 2016 and was complemented by a public hearing on 7 November. A summary of the findings was published in a public feedback statement just before year end. Work was launched to assess possible next steps. The Five President's report "Completing Europe's Economic and Monetary Union" refers to the need to possibly expand and strengthen the available macro-prudential framework, therefore this initiative also contributes to the third general objective of DG FISMA "A deeper and fairer Economic and Monetary Union", discussed below.

### **A deeper and Fairer Economic and Monetary Union**

After the adoption of the **European Deposit Insurance Scheme** proposal on 24 November 2015, the negotiations with the Council and European Parliament are still on-going. In parallel, the European Parliament also made progress in its internal process, ECON published its draft report on EDIS on 4 November 2016. The EP draft report

subordinates explicitly the start of the second phase of EDIS (the so-called 'reinsurance phase') to the implementation of a number of de-risking measures.

On 17 June 2016, the Council adopted a roadmap to complete the Banking Union, calling on the Commission to table legislative proposals covering a number of risk reduction measures by the end of 2016.

In response to the calls from both the Council and EP, the Commission presented on 22 and 23 November 2016 the above mentioned **banking package**, which consists of legislative proposals aiming at reducing the risks in the banking sector.

These objectives need to be achieved in a way that is fully supportive of the EU economy and its continued recovery. Banks are a key source of funding for businesses and households.

## **Other work in 2016**

### ***Monitoring and assessing of financial markets***

In 2016 the DG carried out the **monitoring and assessing of EU/EA and international financial markets**, including drafting periodical reports and disseminated these assessments across the entire Commission. The DG reinforced monitoring after key events (i.e. UK referendum, US elections or Italian constitutional referendum). Furthermore, it provided an **ongoing assessment of the EU/EA financial system and subsectors**, including its structure, performance, efficiency and stability.

Building on that, DG FISMA provided **input to policy analysis and development**, in case of significant systemic impact. In particular, it worked on the upcoming economic analysis of the CMU mid-term review, issues of non-performing loans (NPLs) in European banking, the situation and development in securities settlement, so-called European Safe bonds (ESBies), medium- and long-term trends in European finance and possible regulatory and other policy responses, and issues of the international allocation of financial services.

DG FISMA contributed to the **treasury management of Commission funds** by DG ECFIN and the preparation of the **regular Commission Economic Forecasts** and other work on macroeconomic issues (i.e. related to EMU) or monetary policy issues.

The DG supported the **Commission representation in the European Sovereign Debt Managers subgroup** of the Economic and Financial Committee, including specific work on Member States' reporting under the Harmonised Reporting Format (HRF), in the **European Systemic Risk Board (ESRB) Expert Group on safe bonds (ESBies)**, as well as in the **Financial Services Committee (FSC) Working Group on non-performing loans**. The DG also continued carrying out the **ex-ante reporting of sovereign debt issuance by Member States** (as required under the Two-Pack Regulations), including developing methodology, data compilation, aggregation, and reporting.

### ***European Semester***

In addition to this the DG has continuously been **monitoring financial markets and institutions at country level**. Through this regular follow-up of market trends and contributions to shaping the policy framework, in particular via the **European Semester**, macro financial stability is better preserved and imbalances addressed via the formulation of appropriate **Country-Specific Recommendations**. Progress has been achieved in many countries, including those under mandatory Post-Programme Surveillance to which the DG is contributing, but the results are uneven and, notably, the reduction of non-performing loans appears difficult in some Member States. In addition, considerable resources remain devoted to Greece which is the only Member State with an active assistance programme and where the overall financial situation remains fragile, but some progress has been made there too.

## ***Compliance and free movement of capital***

The DG has also been directly monitoring the correct **application of art. 63 TFUE (free movement of capital)** in several areas. Within this framework, Reasoned Opinions concerning the existing **restrictions to investments in agricultural land** in Bulgaria, Hungary, Lithuania, Slovakia and Latvia were adopted by the Commission on 16 May, and an infringement proceeding was launched against Croatia on 17 June concerning the obligation for credit institutions, upon the agreement of borrowers, to retroactively convert **Swiss franc loans to euro loans** at historical exchange rates.

The **implementation of financial services legislation in Member States** remained an important topic in 2016. DG FISMA monitored Member States progress in the transposition of EU Directives closely and engaged with them, including via infringement proceedings where needed. Timely implementation across the EU is important in order to ensure that the post crisis legislation can actually deliver. In 2017 DG FISMA will continue to follow this work closely and will contribute to ECOFIN Council discussions by providing updates on the latest state of play.

## ***European Supervisory Authorities***

On the basis of the information in its possession and having regard to the Commission's and the European Supervisory Authorities' competences and remit, as set out in the Regulation establishing them, DG FISMA concluded that cooperation with the ESAs in 2016 was effective and met the requirements of its policy objectives. **The Commission adopted in 2016 26 Implementing acts and 58 Delegated acts based on Technical Standards drafted by the ESAs.** In particular, the ESAs:

- contributed to the single rulebook through the adoption of numerous sets of (non-binding) guidelines and provided advice in view of the adoption of legislative and delegated acts;
- provided the Commission with technical advice on third-country equivalence; and
- organised, with the Commission, the 4th **"Joint ESAs Consumer Protection Day"** which took place on 16 September 2016 in Paris<sup>15</sup>.

The EBA also organised stress tests to demonstrate the resilience of the EU banking sector.<sup>16</sup>

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<sup>15</sup> <https://www.esma.europa.eu/joint-esas%E2%80%99-consumer-protection-day-2016>

<sup>16</sup> <https://www.eba.europa.eu/-/eba-publishes-2016-eu-wide-stress-test-results>

## 2. ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL

This section answers to the question *how* the achievements described in the previous section were delivered by the DG. This section is divided in two subsections.

The first subsection reports the control results and all other relevant information that support management's assurance on the achievement of the financial management and internal control objectives. It includes any additional information necessary to establish that the available evidence is reliable, complete and comprehensive; appropriately covering all activities, programmes and management modes relevant for the DG.

The second subsection deals with the other components of organisational management: human resources, better regulation principles, information management and external communication.

### 2.1 Financial management and internal control

Assurance is an objective examination of evidence for the purpose of providing an assessment of the effectiveness of risk management, control and governance processes.

This examination is carried out by management, who monitors the functioning of the internal control systems on a continuous basis, and by internal and external auditors. Its results are explicitly documented and reported to the Director-General. The reports produced are:

- the reports by authorising officers by sub-delegation on the legality and regularity of the transactions implemented under their responsibility;
- the reports from authorising officers by delegation in other DGs managing budget appropriations in cross-delegation;
- the contribution of the Internal Control Coordinator (ICC), including the results of internal control monitoring at the DG level;
- the reports following *ex-post* checks by the financial unit on a sample of DG FISMA's financial transactions;
- the limited conclusion of the internal auditor on the state of control, and the observations and recommendations reported by the Internal Audit Service (IAS);
- the observations and the recommendations reported by the European Court of Auditors (ECA).

These reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director-General of DG FISMA.

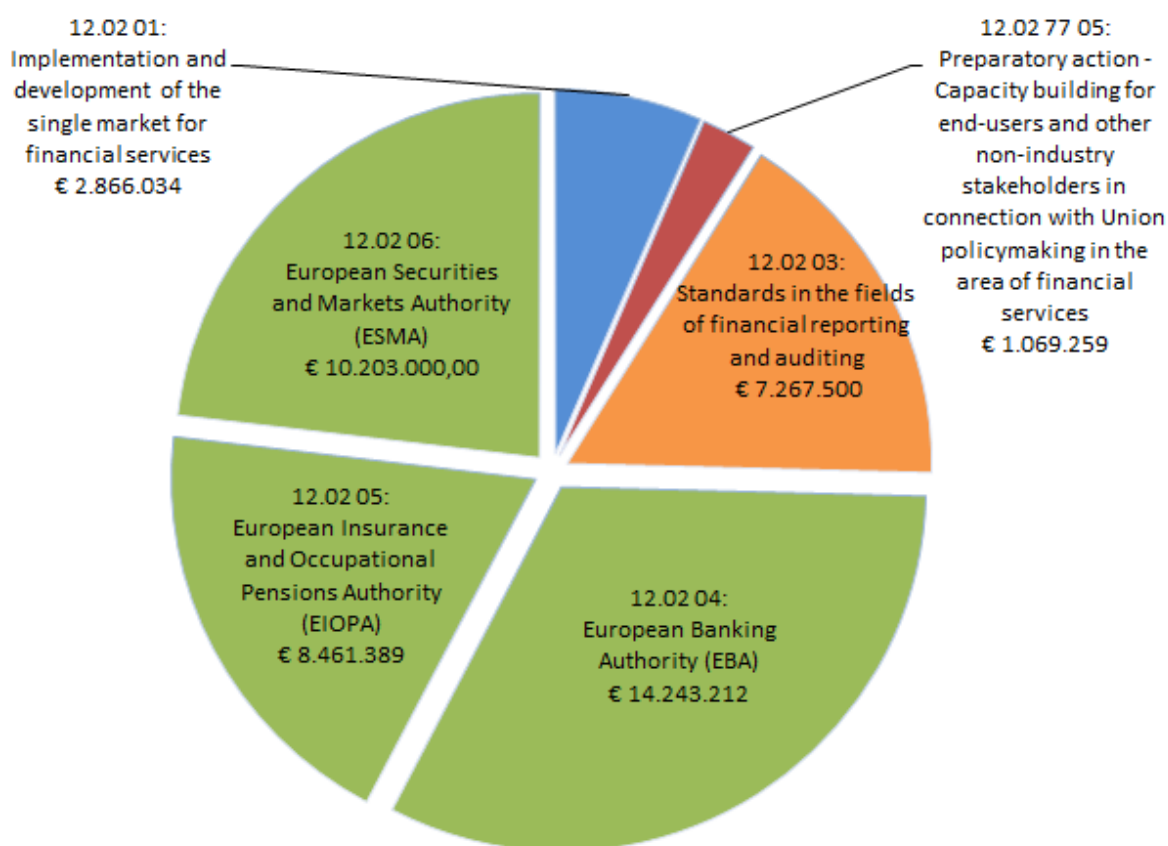
This section reports the control results and other relevant elements that support management's assurance. It is structured into (a) Control results, (b) Audit observations and recommendations, (c) Effectiveness of the internal control system, and resulting in (d) Conclusions as regards assurance.

## 2.1.1 Control results

This section reports and assesses the elements identified by management that support the assurance on the achievement of the internal control objectives<sup>17</sup>. The DG's assurance building and materiality criteria are outlined in the AAR Annex 4. Annex 5 outlines the main risks together with the control processes aimed to mitigate them and the indicators used to measure the performance of the control systems.

DG FISMA total operational and administrative expenditure for 2016 was **€ 46 605 975**. DG FISMA operational expenditure for 2016 was **€ 44 110 394<sup>18</sup>** and included activities under chapter 12 02 'Financial services and Capital Markets'. Almost 75% of this expenditure (**€ 32 907 601**) was paid as a subsidy to the European Supervisory Authorities (ESAs). The remaining expenditure (**€ 11 202 793**) was used to procure studies/contracts and award operating/action grants within the framework of the activities and programmes managed by the DG.

The following chart provides an overview of all significant operational expenditure of DG FISMA in 2016 by budget line. This expenditure represents a comprehensive coverage of around 95% of all payments made by the DG in 2016 and reflects its major budget areas of activity without excluding any operations with higher risks.



The table below provides a more detailed overview of the different risk types linked to DG FISMA main activities. It also lists the relevant control objectives being part of the assurance for each of the activities concerned.

<sup>17</sup> Effectiveness, efficiency and economy of operations; reliability of reporting; safeguarding of assets and information; prevention, detection, correction and follow-up of fraud and irregularities; and 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 32).

<sup>18</sup> Excluding € 138 401 from the total amount of operational payments made indicated in table 2 of Annex 3 since implemented by other DGs through cross-subdelegations.

| Activities/<br>Risk-type   | <b>Activity 1</b><br>Implementation and development of the single market for financial services                           | <b>Activity 2</b><br>Standards in the fields of financial reporting and auditing | <b>Activity 3</b><br>Preparatory action – Capacity building for end-users and other non- industry stakeholders in connection with Union policymaking in the area of financial services | <b>Activity 4</b><br>European Supervisory Authorities (EBA, ESMA, EIOPA) | Total        |
|--|---|--|--|--|--------------|
| <b>Grants</b>  |   | € 7 267 500  | € 1 069 259  |  |              |
| <b>Procurement</b>   | € 2 866 034   |  |  |  | € 44 110 394 |
| <b>Subsidies</b>   |   |  |  | € 32 907 601   |              |
| ICO-related indicators available at this level?  | <b>Legality &amp; Regularity: AER &lt;2%</b><br><b>Sound Financial Management: YES</b><br><b>Anti-fraud Strategy: YES</b> |  |  |  |              |
| Independent info from auditors (IAS, ECA) on assurance or on new/overdue critical recommendations available? | YES and has no impact on assurance  | NO   | NO   | YES and has no impact on assurance                                       |              |
| Reservations   | NO  | NO   | NO   | NO   |              |

DG FISMA implemented the 2016 budget by direct management and indirect management.

### **Direct management**

DG FISMA's controls on the execution of its own budget by direct management (see internal control template (ICT) for direct procurement and grant management in Annex 5) revealed no events, control results or issues that could have a material impact on assurance as to the achievement of the internal control objectives.

#### **1) Procurement**

- **(Budget line 12 02 01) Studies/service contracts.** To procure or renew study/service contracts for collecting information on the transposition status of EU legislation or market information and data across various markets in the EU to feed into impact assessments and evaluations.

#### **2) Grants**

- **(Budget line 12 02 03) Union programme to support specific activities in the field of financial reporting and auditing<sup>19</sup>.** DG FISMA's grant programme consists in awarding **operating grants** to three beneficiaries identified in the legal basis (*International Financial Reporting Standards (IFRS) Foundation*, the *European Financial Reporting Advisory Group (EFRAG)* and the *Public Interest*

<sup>19</sup> Regulation No 258/2014 of the European Parliament and of the Council, which extended a Union programme to support specific activities in the field of financial reporting and auditing for the period from 1 January 2014 to 31 December 2020 (OJ L 105/1, 8.04.2014).

*Oversight Board* (PIOB) which are involved in the development of standards in the field of financial services, financial reporting and auditing.

- **(Budget line 12 02 77 05) Preparatory action 'Capacity building of end-users and other non-industry stakeholders in Union policy making in the area of financial services'**. Following a call for proposals, two **action grants** were awarded to Finance Watch and Better Finance to give policy-makers a counterbalance to financial-sector lobbies and inform the wider public (consumers, end-users and retail investors) of the issues at stake in the regulation of financial markets.

### **3) Cross-subdelegations** (budget entrusted to/from other Commission services)

DG FISMA's controls on the cross-subdelegated credit appropriations were identical to those on the execution of its own budget (see internal control template (ICT) for direct procurement management in Annex 5). DG FISMA detected no events, control results or issues that could have a material impact on assurance.

- Cross-subdelegations given:
  - **(Budget line 12.020100)** DG FISMA subdelegated powers to DG EMPL for the purpose of developing AGORA, an IT system for the management of experts' group meetings. DG FISMA deems the information reported by DG EMPL to be reliable and sufficient to conclude as to its efficient and effective use of resources for the projects. No irregularity, audit finding or other issue was raised in the context of reporting on the implementation of the entrusted funds (€ 109 895 commitments and € 121 506 payments appropriations used).
- Cross-subdelegations received:
  - **(Budget line 26.030100)** DG DIGIT subdelegated powers to DG FISMA for implementing interoperability solutions for European public administrations, businesses and citizens (ISA). DG FISMA has reported to DG DIGIT the commitment (€ 849 398) and payment appropriations (€ 51 117) used in 2016 and confirmed the operations were managed in accordance with the Commission's rules and internal control framework.
  - **(Budget line 01.020100)** DG ECFIN subdelegated powers to DG FISMA for financing the study "*Benchmarking National Loan Enforcement (Including Insolvency) Regimes from Bank Creditor Perspective*". DG FISMA confirmed to DG ECFIN the commitment appropriations (€ 250 000) made under this cross-subdelegation in 2016 and reported no payments executed in this financial year.

In addition, DG FISMA also executed its administrative credits under direct management for conferences, technical assistance, missions, meetings and contributions to external experts for a total amount of € 2 357 180 (Budget line 12 01).

### **Indirect management**

#### **1) (Budget lines 12 02 04, 12 02 05 and 12 02 06) Union contribution to European Supervisory Authorities (ESAs)**

Since the ESAs were established in 2011, their operating costs have been funded by the national supervisory authorities (60 %) and the EU (40 %). ESMA is also funded by operators (credit-rating agencies and trade repositories). Funding in 2016 was based on the budget approved by the budgetary authority at the end of 2015 to cover staff and administrative expenditure, and operational expenditure relating to the ESAs' 2016 work



programme (see Annex 8 for information on subsidies paid). The DG's controls on the payments to ESAs and recoveries of ESAs' budgetary surplus (ICT for indirect management – stage 4) are identical to those performed during the execution of the DG's budget by direct management.

In order to ensure effective collaboration with the ESAs, DG FISMA established working arrangements with the three Authorities: a working arrangement on the ESAs' proposal to issue Guidelines (2013), a working arrangement on the process of the development of Technical Standards (2015) and a working arrangement on the coordination of international matters (2016).

The Commission does not perform financial reviews or checks on the agencies' individual transactions.

DG FISMA's supervision/monitoring arrangements are limited to the following:

- Unit 01 (Financial Services Policy and International Affairs) coordinates with the ESAs on horizontal operational, institutional and legal questions;
- Directorate A provides support for budgetary procedures and internal control, including awareness-raising in the field of fraud prevention and detection (e.g. anti-fraud strategy and action plan);
- DG FISMA represents the Commission on the ESAs' management boards, usually through the director or head of unit in charge at operational level. It has a vote on budgetary issues only; and
- DG FISMA also represents the Commission on the ESAs' boards of supervisors. The DG's participation in such meetings at operational level is essential for its monitoring of the ESAs' work.

Article 81 of the ESAs' founding regulations provides that an evaluation report covering the operations of the ESAs shall be published by 2 January 2014 and every three years thereafter. In 2014, the Commission adopted a review report on the European System of Financial Supervision covering the operations of the ESAs and the European Systemic Risk Board. With respect to the ESAs, the report concluded that the ESAs performed well overall in their first three years of operation. However, improvements could be considered in a number of areas, namely, funding arrangements, governance, tasks and powers, and the institutional structure of the ESAs. The Commission's 2017 work programme envisages a review of the European System of Financial Supervision to strengthen the effectiveness and efficiency of oversight at both macro- and micro-prudential level. This review might lead to amendments to the ESAs' founding regulations.

Within the limits of DG FISMA governance remit and based on the above supervisory/monitoring arrangements, we did not detect, nor we were made aware of, any fact that could prejudice the good working relations that have been established (see also section 2.1.2 on IAS audits) or the reliability of the key conclusions mentioned under point C) of the Executive summary.

## ***Coverage of the Internal Control Objectives and their related main indicators***

### ***2.1.1.1 Control effectiveness as regards legality and regularity***

DG FISMA has set up internal control processes aimed to ensure the 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 concerned.

The control objective is to ensure that the value of DG's financial operations not complying with applicable contractual or regulatory provisions does not exceed the materiality criteria of 2 % established in Annex 4.

Given the volume, nature and low risk level of its transactions, DG FISMA does not have a comprehensive and systematic yearly *ex-post* audit strategy. For this reason DG FISMA bases its assurance on an estimated error rate ranging from a **minimum** of **0,5%** up to a **maximum** of **2%** of the payments made.

This range has been judged appropriate considering the following quantitative and qualitative elements which have proven to be proportionate to the scale of transactions managed by the DG and sufficiently adequate to ensure a reliable and conservative estimation of the error rate:

#### **– Internal *ex-post* desk checks**

*Ex-post* desk checks on 69 operations (33 commitments and 36 payments) have been carried out by the Financial Resources and Internal Control Unit of DG FISMA. Operations were sampled according to the criteria specified in the *Guidelines for ex-post checks* of DG FISMA. The sampling is not supposed to lead to a "representative" error but to provide a reliable overview of the level of compliance towards the internal control process in place.

The checks revealed only minor procedural errors (i.e. documentation, use of checklists, encoding practices) which did not require any financial correction.

#### **– Analysis of exceptions and non-compliance events**

DG FISMA recorded 8 exceptions and 4 non-compliance events in 2016. The events recorded were of low impact and significance and generated by specific internal circumstances or external factors beyond DG FISMA control (examples: reimbursement of travel expenses for additional experts, inaccuracy in the advertisement of a procurement document, late validation of a mission order, signature of a commitment before the adoption of a financing decision, late signature of a grant agreement). None of them led to the detection of a structural internal control weakness.

The central register of exceptions and non-compliance events is systematically updated and regular reports were submitted to the Director-General and the internal control coordinator. Mitigating actions were duly identified for each event when needed.

#### **– On-the-spot checks**

DG FISMA carries out on-the-spot checks on grant beneficiaries once every two years. The decision to adopt a biannual frequency of on-the-spot controls is due to the low risk inherent to the type of grants managed by the DG and also justified by reasons of cost-effectiveness and proportionality. Since on-the-spot checks on all grants' beneficiaries were carried out in 2015, no on-the-spot checks were performed by DG FISMA in 2016.

However, DG FISMA can still confidently rely on the results of 2015 on-the-spot checks which revealed a very low level of detected error below 0,2%.

– **Standard control and reporting activities**

In order to ensure a comprehensive annual activity reporting on the effectiveness and efficiency of controls, DG FISMA has recorded errors detected *ex-ante*, calls for tenders cancelled, complaints filed, cases of exclusion from procurement procedures and grants award, liquidated damages applied or contracts terminated. DG FISMA assesses this information regularly as part of its on-going financial and internal control of management operations, when reporting to the Commissioner on the overall state of internal control in the DG and later in the context of the AAR preparation.

With the exception of errors linked to non-compliance events (see second point above), thirty transactions 'refused for correction' and one call for tenders cancelled, DG FISMA did not record any of the above events. The transactions 'refused for correction' are mainly due to administrative encoding errors.

The existence and results of the above controls demonstrate that the DG's control strategy and the financial processes governing its transactions are working effectively and that no internal control weakness affects DG's operations. It is therefore concluded that the control objective has been achieved and that the controls in place are proportionate compared to the inherent risks of DG's transactions and adequate to ensure the legality and regularity of its transactions.

In the context of the protection of the EU budget, at the Commission's corporate level, the DGs' estimated overall amounts at risk and their estimated future corrections are consolidated.

For DG FISMA, the estimated overall amount at risk at payment<sup>20</sup> for the 2016 payments made is minimum 0,2 M€ and maximum 1 M€. This is the AOD's best, conservative estimation of the amount of *relevant expenditure*<sup>21</sup> during the year (48,1 M€) not in conformity with the applicable contractual and regulatory provisions at the time the payment is made.

This expenditure will be subsequently subject to ex-post controls and a sizeable proportion of the underlying error will be detected and corrected in successive years. The conservatively estimated future corrections for those 2016 payments made are 0,1 M€. This is the amount of errors that the DG conservatively estimates to identify and correct from controls that it will implement in successive years.

The difference between those two amounts leads to the estimated overall amount at risk at closure of minimum 0,1 M€ and maximum 0,9 M€.

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<sup>20</sup> In order to calculate the weighted average error rate (AER) for the total *relevant expenditure* in the reporting year, the *detected*, estimated or other equivalent error rates have been used.

<sup>21</sup> "*Relevant expenditure*" during the year = payments made, minus new pre-financing paid out, plus previous pre-financing cleared.

**DG FISMA - Estimated overall amount at risk at closure**

| DG FISMA   | Payments made (2016; €)     | New prefinancing (2016; €) | Cleared prefinancing (2016; €) | Relevant expenditure (2016; €) | Average Error Rate (weighted AER; %) |     | Estimated overall amount at risk at payment (2016; €) |                    | Average Recoveries and Corrections (%)              | Estimated future corrections (and deductions) (2016; €) | Estimated overall amount at risk at closure (€) |                    |
|--|-----------------------------|----------------------------|--------------------------------|--------------------------------|--------------------------------------|-----|---|--------------------|---|---|---|--------------------|
|  |                             |                            |                                |                                | MIN                                  | MAX | MIN   | MAX                |   |   | MIN   | MAX                |
| (1)  | (2)                         | (3)                        | (4)                            | (5)                            | (6)                                  |     | (7)   |                    | (8)   | (9)   | (10)  |                    |
| Programme, Budget Line(s), or other relevant level                       | As per AAR annex 3, table 2 | As per prefinancing report | As per prefinancing report     | = (2) - (3) + (4)              | MIN                                  | MAX | MIN<br>= (5) x (6)                                    | MAX<br>= (5) x (6) | Based on 7 years average recoveries and corrections | = (5)x(8)   | MIN<br>= (7) - (9)                              | MAX<br>= (7) - (9) |
| <b>Financial Stability, Financial Services and Capital Markets Union</b> | € 46 605 975                | € 37 477 600               | € 39.036.261                   | € 48 164 636                   | 0,5%                                 | 2%  | € 240 823   | € 963 293          | 0,2%  | € 96 329  | <b>€ 144 493</b>                                | <b>€ 866 963</b>   |

### **2.1.1.2 Cost-effectiveness and efficiency**

Based on an assessment of the most relevant key indicators and control results, DG FISMA has assessed the cost-effectiveness and the efficiency of the control system and reached a positive conclusion.

The principle of efficiency involves striking the best balance between resources employed and results achieved. This section, together with the internal control templates in Annex 5, outlines the indicators used to monitor the efficiency and cost-effectiveness of controls of the DG.

#### **1. Cost-effectiveness and efficiency**

DG FISMA has estimated the costs of its main control processes (procurement and grant direct management, management of financial transactions, *ex-post* supervisory measures and indirect management of the ESAs) and calculated how efficient and cost-effective they are. To gauge the cost-effectiveness of controls, DG FISMA analyses all relevant internal control template (ICT) for budget implementation indicators over time (see in Annex 5).

In general terms, the estimated costs of controls of all processes, expressed as a percentage of the payments made, fell from 4% in 2015 to 3 % in 2016. This is due to the lower number of transactions processed in 2016 compared to 2015. The costs of controls under each procurement/grant stage remain stable and in certain cases also show a clear improvement compared to previous years.

DG FISMA uses a fully centralised financial circuit to process its financial transactions and has produced estimates of the costs of the main control processes (step by step FTE workload) based on corporate guidelines and validated internally by sampled services in the DG. The intensity of controls is adapted to the risks of the transactions (e.g. a second verification is requested in case of high value transactions) so to allow the necessary flexibility and avoid unnecessary controls.

To assess cost-efficiency and cost-effectiveness indicators over time, the estimated costs of controls on the main processes have been compared with data from the previous years (see Annex 10 "Cost-efficiency indicators" and "Cost-effectiveness indicators" for more details on the evolution of the indicators over the last three years).

#### **– Procurement**

The cost of controls for planning new procurement procedures is stable at around €3 900 per call for tender. Controls in the planning phase remain cost-effective since they are a valuable preventive measure to avoid procuring existing data or results that could have been obtained otherwise within the institution and to ensure an efficient implementation of policy objectives by avoiding discontinuation of services.

The estimated average cost of a procurement procedure in respect of the assessment of needs and their definition is €11 250 and follows the same stable trend as in previous years. The cost-effectiveness of such controls is demonstrated by the fact that, on average, 2,9 offers are still received for each procurement procedure and that only 1,9 requests for clarifications are submitted by the tenderers. This has ensured competition and bids that can be reasonably compared and avoided litigations with unsuccessful tenderers.

In line with the estimations of 2015, the average costs of controls on the selection and evaluation of offers following procurement procedures were estimated at around €12 300 per tendering procedure. These controls were cost-effective, since savings were made in respect of the most economically advantageous offers received. In addition, they secured the regularity and legality of the operations and prevented

conflicts of interests, complaints and the risk of litigations or fraud which would have entailed substantially higher costs.

#### – **Grants**

As a global indicator, the ratio between the overall costs of controls and the total grant expenditure was 0,4%, which shows a positive trend compared to previous year (0,7%).

The cost of programming, evaluating and selecting grants, expressed as a percentage of the value of the grants awarded, remains stable at 0,1% and confirms previous years' trend.

The costs of controls for contracting and monitoring grants over the payments made were lower compared to previous year (from 0,5% in 2015 to 0,3% in 2016). This is due to the fact that in 2016 DG FISMA did not perform on-the-spot checks as they are organised on a biannual basis.

#### – **Financial transactions**

The estimated average cost of controls for ensuring acceptance of deliverables and processing of all payments and recovery orders (procurements, grants, subsidies) was similar as in previous years and remains stable at around € 3 400 per transaction.

As in 2015, the overall costs of controls on financial transactions represented around 2% of the total payments and recovery orders made. They also represented 2% of the payments made (excluding recovery orders) which constitutes one percentage point decrease compared to 2015 (3%). This is due to the lower amount of recovery orders processed by DG FISMA in 2016.

#### – **Supervisory measures**

As every year, the Financial Resources and Internal Control Unit performed *ex-post* desk supervisory controls on a sample of transactions. These checks cost an estimated average of € 1 650 and covered 69 commitments and payments for a total of € 48 559 950 (respectively 60% of the total value of commitments and 38% the total value of payments processed in 2016).

Since (for efficiency reasons and as mentioned above) DG FISMA does not have a permanent *ex-post* control function, these controls are deemed efficient and cost-effective in detecting possible fraud/errors and more generally preventing the erroneous processing of financial transactions in the established circuits.

The costs of supervisory measures substantially decreased compared to 2015 (€ 5 300) due to a revision in DG FISMA *ex-post* supervisory methodology (reduced frequency of checks and decreased sample coverage). This did not influence the qualitative results of the checks which remained effective and efficient. In relation to the total value of transactions checked the costs of the supervisory measures remain very low (0,003%).

#### – **Indirect management**

As in previous years, the costs of 'representation' control (see internal control template (ICT) for indirect management in Annex 5) on ESAs have been estimated to 0,3% of the annual subsidies paid to them.

## **2. Time based efficiency**

DG FISMA measures the time based efficiency of its operations by analysing the most relevant efficiency indicators on procurement and grant management reported in Annex 5:

- **Time to inform.** The average time to inform grant applicants about the results of their application was 63 days. This constitutes a substantial amelioration compared to 2015 (92) and remains below the maximum time-limit of 180 days established in the financial regulation.
- **Time to grant.** The average time to sign grant agreements or notify award decisions was 21 days. As in previous years (15 days in 2015 and 26 days in 2014) this is substantially below the applicable threshold of 90 days.
- **Time to payment.** The average time to make a payment was 17,5 days and remains in line with 2015 (17,1 days) and 2014 (19,5 days) and within the maximum time-limit of 30 days. Only 1 payment was processed late corresponding to 0,38% of the total payments made. This constitutes a substantial improvement compared to 2014 (5%) and 2015 (10%) performance.

### **3. Overall conclusion**

Based on the above set of indicators, DG FISMA's controls on the management of budget appropriations in 2016 are considered to be cost-efficient and effective. The minor increase of the average costs of controls under certain procedural stages is only due to the increase of the average costs for FTE decided on 2016 at Commission level and does not originate from additional controls.

There are no sufficient data to quantify the preventive benefits of controls in monetary terms. However, DG FISMA has at its disposal several elements demonstrating the non-quantifiable benefits of its controls, as for example:

- better value for money, deterrence, efficiency gains and regulatory compliance;
- the low number of financial transactions 'refused for correction';
- the lack of complaints or litigation cases filed in respect of procurement and grant procedures;
- the very low number of requests for clarification in the context of procurement procedures (average 1,9);

In addition, the above indicators demonstrate that the controls are not only cost-effective but also flexible and proportional enough not to jeopardize the smooth and timely execution of DG's activities.

DG FISMA will continue monitoring the cost-effectiveness and efficiency of its controls in 2017 and explore possibilities for reducing the frequency/intensity of the controls when this would not have an impact on the level of assurance.

### **2.1.1.3 Fraud prevention and detection**

DG FISMA has developed and implemented its own anti-fraud strategy 2013, elaborated on the basis of the methodology provided by OLAF. It is updated every three years.

As planned, DG FISMA anti-fraud strategy has been reviewed in 2016 and will be formally adopted early 2017. The new antifraud strategy is aligned to the new "Methodology and guidance for DGs' anti-fraud strategies" adopted by OLAF in February 2016.

The new anti-fraud strategy is focused on DG FISMA specific needs and aims at targeting identified risks linked to the portfolio within which the DG operates.

DG FISMA's control activities to prevent and detect fraud are an integral part of the controls carried out by our staff on the legality and regularity of operations. This ensures that the anti-fraud activities of the DG are fully embedded in its financial circuits so to maximise their effectiveness and efficiency. Anti-fraud 'red flags' are used by the staff to detect potential anomalies through the various stages of the processes.

Procurement and grant procedures or transactions which are considered as entailing greater risks are verified at two levels before being approved by the authorising officer. This second verification is carried out by staff who are familiar with fraud prevention and detection 'red flags'. In addition, a second *ex-ante* verification is automatically performed for transactions involving an amount higher than € 60 000.

No issues were transmitted to OLAF as a result of the above verifications nor did OLAF open any cases in respect of DG FISMA's activities or contractors.

As part of its established regular anti-fraud activities, DG FISMA continued to maintain a high level of awareness among staff on its major anti-fraud risks. This year DG FISMA focused its attention on the risk related to the leaking of sensitive information by providing additional training to staff on how to protect the information (for example by publishing practical tips on DG FISMA Intranet and organise antifraud sessions during newcomers mandatory trainings).

Issues linked to the protection of sensitive information are also continuously monitored by senior management during Directors' meetings or ad hoc meetings to tackle specific risks.

This allowed the DG to put in place a 'zero tolerance' policy on this matter and therefore to secure its operating environment by discouraging any uncontrolled exchange of information with external actors. The Events Management Tool (EMT) database directly contributes to this key objective by ensuring a transparent tracking of all meetings with external stakeholders.



## 2.1.2 Audit observations and recommendations

This section reports and assesses the observations, opinions and conclusions reported by auditors in their reports as well as the limited conclusion of the Internal Auditor on the state of control, which could have a material impact on the achievement of the internal control objectives, and therefore on assurance, together with any management measures taken in response to the audit recommendations.

In 2016, DG FISMA was audited by the ECA. The DG also implemented the recommendations from previous audits by the ECA, the IAS and the DG's former internal audit capability (IAC). It monitors implementation of all accepted audit recommendations centrally by:

- notifying the units responsible for implementation in due time, to ensure that agreed deadlines are met; and
- recording the action taken using dedicated IT tools in order to report to the auditors and to management.

### European Court of Auditors audits

For the 2015 Statement of Assurance (DAS) the ECA sampled for review one transaction of DG FISMA – 2014 Union Subsidy to the EIOPA. The review was completed in March 2016 without any findings or remarks from the ECA.

For the 2016 Statement of Assurance (DAS) the ECA sampled three transactions of DG FISMA:

- service contract for carrying out a study – the review was completed in October 2016 without any findings or remarks from the ECA;
- 2015 Union contribution to the European Banking Authority – the review was completed in February 2017 without any findings or remarks from the ECA;
- administrative expenditure for DG's teambuilding event – the review is ongoing, with draft observations received from the ECA in March 2017.

In February 2016 the ECA published special report No 22/2015 "EU supervision of credit rating agencies – well established but not yet fully effective", with the ESMA and to a very limited extent DG FISMA as auditees. The objective of this audit was to assess whether the ESMA has succeeded in establishing itself as the EU's credit rating agency "watchdog". In particular, the ECA checked the effectiveness of ESMA's registration process and supervision of the credit rating agencies. All audit recommendations are addressed to the ESMA.

Also in 2016, the ECA published for the first time Report pursuant to Article 92(4) of Regulation (EU) No 806/2014<sup>22</sup> on any contingent liabilities arising as a result of the performance by the Single Resolution Board, the Council and the Commission of their tasks under this Regulation. The report contains only factual observations, with no opinion or recommendations.

At the end of 2016, there were no open ECA recommendations to be implemented by DG

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<sup>22</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010

FISMA.

### **Internal Audit Service audits and conclusion on the state of control**

No IAS audit or consulting engagements were performed or completed in DG FISMA in 2016. DG FISMA continued to implement recommendations from previous years' audits.

In 2016 the IAS performed a follow-up of several earlier audits:

1. IAS audit on DG FISMA's cooperation with the three supervisory bodies on financial services;
2. IAC<sup>23</sup> audit on DG FISMA's staff learning and development;
3. IAC audit on the process of managing complaints and infringements in DG FISMA.

Based on the results of these follow-up audits, all recommendations of the relevant audits are considered by the IAS as implemented.

4. IAS audit on HR management in DG FISMA in response to the financial crisis – based on the results of this 2nd follow-up audit further measures need to be taken by DG FISMA to consider the recommendation on monitoring and reporting of HR management as fully implemented.

At the end of 2016, DG FISMA had in total two open IAS recommendations – one very important recommendation (on monitoring and reporting of HR management) and one important recommendation of this audit (on HR management strategy).

The IAS acknowledged at the end of the follow-up audits that DG FISMA has taken actions to implement both recommendations. As residual risks identified by the IAS in relation to these recommendations have not materialised during 2016 and in view of implementation actions in 2017, DG FISMA management believes that there is no significant impact on assurance.

On the basis of the results of the IAS and IAC audits in DG FISMA in 2014-2016 and taking into account that:

- for the accepted recommendations made by the IAS and the IAC in 2014-2016, DG FISMA management has adopted plans to implement them, which the IAS considers adequate to address the residual risks identified by the auditors,
- the implementation of these plans is monitored through reports by management and through follow-up audits by the IAS,
- management has assessed a number of action plans not yet followed up by the IAS as implemented, and
- management has not rejected any critical and/or very important recommendations,

the **IAS concluded** that the internal control systems audited are overall working satisfactorily although at the end of 2016 one very important finding remained to be addressed in line with the agreed action plan. The IAS highlighted that particular attention should be given to the impact of the delay observed in implementing this very important recommendation on monitoring and reporting on HR management.

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<sup>23</sup> Internal Audit Capability (IAC) was the name of internal auditor of each DG before the centralisation of the Commission's internal audit function in 2015.

The very important recommendation on monitoring and reporting on HR management was implemented in February 2017 by reporting HR management KPIs to DG's senior management. The IAS will follow up the actual implementation in the course of 2017.

Also the remaining important recommendation on HR management strategy was implemented in March 2017 when the new DG FISMA Strategic HR Plan 2017-20 was discussed and accepted by the DG's senior management.

Overall, DG FISMA's audit record is positive. In the five years to 2016, the audit bodies (IAC, IAS or ECA) issued no critical recommendations. Having assessed the risks underlying the auditors' observations and the management measures already taken in response, DG FISMA management believes that the two IAS audit recommendations that remained open at the end of 2016 do not raise assurance implications.

### 2.1.3 Assessment of the effectiveness of the internal control systems

The Commission has adopted a set of internal control standards, based on international good practice, aimed to ensure the achievement of policy and operational objectives. In addition, as regards financial management, compliance with these standards is a compulsory requirement.

DG FISMA has put in place the organisational structure and the internal control systems (ICSs) suited to the achievement of the policy and control objectives, in accordance with the standards and having due regard to the risks associated with the environment in which it operates.

In previous years, DG FISMA assessed the effectiveness of identified ICSs prioritised by the management in the annual Management Plan. However, since no ICSs were prioritised in 2016 Management Plan, DG FISMA carried out a broader and more general self-assessment.

DG FISMA concluded that there were no major deficiencies or combination of deficiencies in the components of its internal control system which would undermine their effectiveness or prevent the achievement of DG objectives. DG FISMA reached this conclusion based on a set of several sources:

- **ICS compliance screening.** DG FISMA assesses yearly the compliance of its internal control system with each ICS requirement. This is done through a detailed desk review complemented by direct contributions from the responsible units. The results of the exercise provided useful indicators to demonstrate the effectiveness of DG FISMA ICSs. The contributions received from the units also highlighted the concrete measures taken by DG FISMA in order to maintain its internal control system compliant and effective in a changing environment.
- **Exceptions and non-compliance events.** DG FISMA has a well-functioning system for reporting operations deviating from established ICSs. The nature and extent of the exceptions and non-compliance events have been systematically recorded in the DG register and assessed in order to verify their potential structural nature and recurrence and to determine the existence of gaps in the effectiveness of the ICSs. Mitigating controls were implemented when necessary. None of the exceptions or non-compliance events reported constituted an internal control weakness or put into question the functioning or effectiveness of the ICSs.
- **Risk assessment.** In 2016 DG FISMA performed its yearly risk assessment through a high-level review. The review highlighted the same type of risks as in previous years which were mainly linked to DG's operational activities. Also, a more targeted anti-fraud risk assessment was performed. None of the risks identified was critical or putting into question the functioning or effectiveness of the ICSs.
- **Reports to Commissioner.** The DG regularly reports to its Commissioner during the year to inform about the state of play of internal control.
- **IAS/ECA's audit results and recommendations.** As mentioned in section 2.1.2, in the last five years, the audit bodies (IAC, IAS or ECA) issued no critical recommendations. DG FISMA has fully implemented all recommendations except two IAS recommendations which are still pending and which do not impact significantly on the effective functioning of the ICSs concerned.

DG FISMA also achieved the targets on the effectiveness and reliability of its internal control system established in its 2016 Management Plan (see Annex 10 "Implementation of 2016 Management Plan's objectives and targets").

Even if all ICSs are fully implemented further improvements are possible and needed under some specific requirements and will be assessed by DG FISMA in light of the principles established by the new internal control framework which will enter into force in 2017. For example, DG FISMA plans to boost its risk assessment and effectiveness yearly exercises by making them more participative and by encouraging the active involvement of staff.

Therefore, DG FISMA has assessed the internal control systems during the reporting year and has concluded that the internal control standards are implemented and functioning as intended.

## 2.1.4 Conclusions as regards assurance

This section reviews the assessment of the elements reported above (in Sections 2.1.1, 2.1.2 and 2.1.3) and draws conclusions supporting the declaration of assurance and whether it should be qualified with reservations.

The information reported in Section 2.1 stems from the results of management and auditor monitoring contained in the reports listed. These reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a comprehensive coverage of the budget delegated to the Director-General of DG FISMA.

- DG FISMA internal controls systems provide sufficient assurance to manage appropriately the risks relating to the legality and regularity of the underlying transactions. They are proportionate and targeted to the risks stemming from its activities.
- DG FISMA has applied appropriate *ex-ante* controls, to the extent that they remain cost-effective. No substantial error has emerged from the results of the ex-post verification of a sample of transactions. No cases were received by the Ombudsman and no legal proceedings were initiated by tenderers/contractors/beneficiaries.
- DG FISMA received no critical observations or recommendations from auditing bodies (ECA and IAS) and the IAS's conclusion on the state of control for 2016 is satisfactory, although one 'very important' and one 'important' recommendation remains to be addressed in line with the agreed action plan.
- DG FISMA used its resources for their intended purposes and the principle of sound financial management was applied in the implementation of its budget.
- DG FISMA has taken all necessary internal measures to ensure that no significant information is omitted from this report which has been prepared with the support and direct involvement of the management and all services involved.
- DG FISMA has put in place suitable control measures to limit risks of error and prevent, detect and correct fraud and irregularities.

Therefore, DG FISMA considers that it has met its control objectives and assesses the information reported as complete, reliable and effectively underpinning its AOD's declaration of assurance for 2016.

### Overall Conclusion

In conclusion, 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.

## 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<sup>24</sup>.*

*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 limited conclusion of the Internal Auditor on the state of control, the observations 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.*

*Bruxelles, 29/03/2017*

*[signed]*

*Olivier GUERSENT*

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<sup>24</sup> True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG.



## 2.2 Other organisational management dimensions

### 2.2.1 Human resource management

In 2016, DG FISMA focused on achieving its objectives defined in the management plan. In order to improve the female representation in middle management, the DG successfully implemented a number of actions. A survey on equal opportunities was run among AD women with a higher than expected response rate. With the objective of ensuring a sufficient pool of qualified applicants when middle management vacancies become available, the DG offered a coaching programme similar to the coaching programme offered until now only to Deputy head of unit to female colleagues interested in pursuing a career in management. There was considerable interest in the programme.

DG FISMA has also been working towards improving further its working conditions. In spite of its high workload, the DG does its utmost to support staff in finding a good work-life balance. In 2016, the DG ran a survey on well-being and organised a number of well-being activities and information sessions. According to the latest staff survey, 43 percent of staff members feel that the Commission cares about their well-being. This is 8 percentage points higher than the Commission average. Furthermore, the internal survey on well-being showed that 89 percent of DG FISMA's staff are satisfied with its flexible working conditions. Additionally, according to the 2016 staff survey results the staff engagement index of DG FISMA is the fourth highest at the Commission.

In 2016, the DG pursued its efforts to maximise the use of its resources by organising work in project teams pooling expertise from the whole DG outside the unit-based structure. This allows to deliver on policy priorities in a context of zero growth of resources. The DG also ran a yearly workload assessment exercises to ensure that resources are aligned to priorities and to identify redeployment possibilities as well as negative priorities.

### 2.2.2 Better regulation (only for DGs managing regulatory acquis)

The DG has delivered on its objectives in various ways. First, a REFIT item (Review European Venture Capital (EuVECA) and European Social Entrepreneurship (EuSEF) Fund regulations) planned in the Management plan 2016 was adopted on 14 July 2016.

Second, related work started and advanced in 2016 for two other REFIT items (the Financial Conglomerates Directive, the Motor Insurance Directive).

Third, the DG concluded its "Call for evidence: EU regulatory framework for financial services" exercise (consultation closed on 31 January 2016) by adopting a Communication on 23 November 2016 (COM (2016)855 Final). More specifically, in the 2016 State of the Union address, President Juncker emphasised the commitment of the Commission to a thorough review of all existing European legislation to ensure it delivers real value and results. As acknowledged in the Commission's Communication (see p. 1) the call for evidence on the EU regulatory framework for financial services was an important example of such an exercise. It was a key contribution to the Commission's Better Regulation agenda and the Regulatory Fitness and Performance (REFIT) programme, which ensured that EU legislation delivers results for citizens and businesses effectively, efficiently and at minimum cost.

The call for evidence was also the first example of such an exercise internationally. Where appropriate and possible, the results of the call for evidence have been integrated

into existing reviews and legislative initiatives. The feedback submitted by stakeholders has been incorporated into legislative proposals and actions, including the review of the Capital Requirement Regulation and Directive (CRR/CRD IV) which resulted in the so-called "CRR2 package" proposed by the Commission on 23 November 2016, the development of future actions contained in the Capital Markets Union (CMU) Action Plan and a REFIT revision of the European Market Infrastructure Regulation (EMIR). The Communication also announced that the feedback provided by stakeholders will be taken into account in upcoming fitness checks and evaluations that will be conducted once more data on the results and longer term impacts of the measures is available. The call for evidence also identified a number of other issues which might require new policy action. These items were analytically indicated in the Communication.

Finally, in 2016, DG FISMA adopted 7 retrospective reviews/reports in 2016.

For the proper implementation of the Better Regulation principles, the DG has extensively relied on its internal economic analysis and evaluation capacity. On particular topics that require specific knowledge of industry structure, business models, or technology being used, external studies continued to complement the DG's internal economic analysis.

### **2.2.3 Information management aspects**

DG FISMA implemented the main outputs that it had set in the Management Plan. The Document Management Officer (DMO) completed the visits to all units started in 2015. In this context, a sample of the unit's files was checked. All Filing Plan Officers have confirmed that the unit has a filing plan that is up-to-date following a review by the head of unit. All units are fully aware of their responsibilities for a proper document management. The DMO provided training and coaching to interested staff on AresLook and the Commission's other document management instruments. Filing Plan Officers and secretaries were regularly informed about new developments and received training about new Ares features.

The DG adopted an action plan to maintain a high level of document management. It includes specific actions to be undertaken regularly every year targeted at heads of unit, Filing Plan Officers, secretaries and all staff.

### **2.2.4 External communication activities**

DG FISMA informed stakeholders and the public at large about its policy initiatives as part of the Commission's broader corporate communication. A special focus was on policy deliverables linked to the Commission's political priorities, i.e. Capital Markets Union and a single market for consumer financial services. DG FISMA carried out e.g. a special Eurobarometer on financial products and services, a live online chat on retail financial services, a number of infographics and factsheets, a video on Central Counterparties, and three Twitter campaigns to accompany the consultations on retail financial services, investment products and personal pensions. DG FISMA put an emphasis on the interaction with stakeholders and citizens whenever possible.

DG FISMA worked to improve user satisfaction with its main information channels in line with the objective set in the Strategic Plan 2016 – 2020. To define the baseline for the related objective in the Strategic Plan, it conducted an online survey for the readers, followers and visitors of its Finance Newsletter, Twitter account and web pages. DG FISMA also revamped its web pages as part of the Commission's general overhaul of the EUROPA website.

## 2.2.5 Initiatives to improve economy and efficiency of financial and non-financial activities

The following are two examples of how DG FISMA strives to improve its operations with a view to optimising the economy and efficiency of resources.

a) **Event Management Tool ( EMT)** is an information system that was developed in 2015 by DG FISMA to provide a transparent overview of all the meetings held with interest representatives, while rationalising (e.g. avoiding duplication of meetings) these interactions. EMT contributes to the reduction of administrative workload linked to the organisation of meetings by supporting the lifecycle of such meetings, from meeting requests to draft and automatic transfer of the minutes into the corporate document management system.

b) **E-submission** is an electronic submission process allowing tenderers to send their bids to the Commission in an electronic way. This process implements the Commission commitment made in 2012 to a complete e-procurement by mid-2015. E-submission has been developed by DIGIT and it is planned to be rolled out though the whole Commission on a mandatory basis by end 2018.

Following delays in its development, DG FISMA could not join the pilot in 2016 as initially foreseen in its 2016 Management Plan but aims to join this process in the course of 2017 for compliance purposes and to make efficiency gains in terms of time and administrative management of tenders. To this end, an electronic authentication and validation process will replace the manual initialisation of unbound voluminous tenders; storage will also be dematerialized with corresponding economies for tenderers and the contracting authority; security of tenders will be improved by the use of encryption protocols.