



2015

Annual Activity Report

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



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INTRODUCTION

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 a staff of approximately 380. It is managed by Director-General Olivier Guersent under the political authority of Commissioner Jonathan Hill and contributes to projects steered by Vice-Presidents Jyrki Katainen (in charge of jobs, growth, investment and competitiveness) and Valdis Dombrovskis (in charge of the euro and social dialogue).

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.

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 28 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.

The year in brief

DG FISMA was created on 1 January 2015 in line with President Juncker's *Political guidelines for the new Commission* (15 July 2014) and the consequent reorganisation of Commissioners' portfolios. It groups the former DG MARKT directorates in charge of

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financial services and markets policy and part of a DG ECFIN directorate in charge of financial-sector surveillance and macro-prudential surveillance and policy. DG FISMA is responsible for initiating and implementing policy relating to the EU financial sector. Jonathan Faull was its first Director-General and Olivier Guersent

(previously Deputy Director-General) succeeded him as of 1 September.

In its first year of existence, DG FISMA worked hard to rise to various challenges on several fronts. While pursuing action to reinforce financial stability, it contributed significantly, with the launch of the CMU action plan, to the Commission's main priority of boosting jobs, growth and investment.

EXECUTIVE SUMMARY

This annual activity report (AAR) is a management report from the Director-General of DG FISMA to the College of Commissioners. It is the main instrument of management accountability within the Commission and constitutes the basis on which the Commission takes responsibility for the management of resources by reference to the objectives set in the management plan and the efficiency and effectiveness of internal control systems, including an overall assessment of the costs and benefits of controls.

a) Policy highlights (executive summary of section 1)

In order to achieve the goals set out in the DG's mission statement, the senior management team set the following general objective for 2015:

'The EU financial sector is properly supervised, stable, transparent and consumer-friendly; it brings benefits for citizens and businesses and is conducive to growth and jobs.'

Launch of the Capital Markets Union

In September 2015, DG FISMA launched an action plan aimed at creating a Capital Markets Union (CMU) encompassing all Member States by 2019. 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 will also underpin financial stability by reducing the EU economy's over-reliance on bank financing and promoting more robust forms of cross-border risk-sharing via the financial markets.

The **CMU action plan** is an innovative mix of 33 legislative and non-legislative measures to be taken over the period to 2019 with a view to achieving progress in three main policy areas:

- improved access to financing for all businesses across Europe, in particular innovative start-ups and small and medium-sized enterprises (SMEs), and for infrastructure investments;

The Capital Markets Union will put people's money to work to bolster the EU economy and benefit European consumers.

- more, and more diverse, sources of funding from retail and institutional investors; and

- making markets work better so as to ensure more efficient and effective connections, both within Member States and across borders, between investors and those who need funding.

In 2015, DG FISMA took the first steps to delivering the action plan. In September, the Commission adopted complementary proposals on **simple, transparent and standardised (STS) securitisation** to free up banks' capital for new lending. The overall objective is to promote 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. Key proposals include requirements that:

- assets packaged in securitisation are homogeneous loans/receivables (car loans packaged with car loans, residential mortgages with residential mortgages, etc.);
- loans packaged in securitisation have been created using the same lending standards as any other loan (no 'cherry-picking'); and
- the originator retains at least 5 % of the loan portfolio ('skin in the game').

At the same time as it published the action plan, the Commission issued a **call for evidence on the cumulative impact of financial legislation**. The feedback to this consultation will provide a clearer understanding of the interaction between individual rules and their cumulative impact on fostering growth in the EU economy. The Commission may consider taking action in particular areas if there is clear evidence of disproportionate costs or deficiencies.

A proposal to modernise the **prospectus arrangements** was adopted in November, with a view to making it easier and cheaper for companies to raise capital by issuing equities and bonds across the EU. The revamped rules will enable investors to make

The Commission proposal to overhaul prospectus rules was one of the key initiatives in 2015 aimed at benefiting businesses and contributing to growth.

informed investment decisions and make life easier for companies that wish to issue shares or debt and attract cross-border investment in the single market. Overall, it should improve such companies' access to funding, including on a cross-border basis.

In December, the Commission issued a green paper to seek views on how to help European consumers by improving choice, transparency and competition in **retail financial services** and how to facilitate the true cross-border supply of such services.

Also in 2015, the Commission presented new rules for the **treatment of infrastructure projects** in Directive 2009/138/EC on insurance and reinsurance (hereafter "Solvency II") to promote investment by insurance undertakings.

In addition to presenting a first package of CMU deliverables, the Commission began to **plan and prepare measures**, including:

- a report on crowdfunding;
- setting up a venture capital fund-of-funds;
- a proposal to improve the European venture capital funds regulation (EuVECA);
- improving feedback to SMEs when banks turn down their loan applications;
- assessing the case for a European approach to personal pensions;
- assessing remaining barriers to the cross-border distribution of investment funds;
- preparing a legislative initiative on insolvency to facilitate company restructuring and increase certainty for cross-border investors; and
- improving Member States' capacity to support the development of capital markets and promote supervisory convergence.

Completion of the Banking Union

The *Five Presidents' Report* of June 2015 set out a number of steps to strengthen the EU's Economic and Monetary Union (EMU). One of the key deliverables in the first stage

The Commission's legislative proposal introducing a European Deposit Insurance Scheme will strengthen the protection of bank depositors across the Banking Union.

is a **European Deposit Insurance Scheme** (EDIS) as a further step to fully-fledged Banking Union. The proposal, adopted 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.

The EDIS will be set up in three stages:

- a re-insurance stage;
- a co-insurance stage; and
- a full European system of deposit guarantees (envisaged for 2024).

The proposal is accompanied by a Communication setting out other measures to reduce remaining risks in the banking system, in parallel with work on the EDIS.

A further milestone on the Banking Union was reached at the end of 2015, when the **Single Resolution Mechanism** (SRM) became fully operational. The SRM bolsters the resilience of the financial system and helps avoid future crises by providing for the timely and effective resolution of cross-border and domestic banks.

b) Key performance indicators (KPIs)

KEY RESULT/IMPACT INDICATOR (DESCRIPTION)	TARGET	LATEST KNOWN RESULTS AS PER AAR
1. Level of market-based credit intermediation in the EU, in particular for large corporates, midcaps and SMEs	Continuous monitoring of the increase in the market-based credit intermediation in the EU, in particular for large corporates, midcaps and SMEs level.	2015Q3: €1.230 trillion (annual growth: 3.0 %) 2015Q2: €1.229 trillion (6.6 %) 2015Q1: €1.269 trillion (13.7%) Market-based financing slowed in the second half of 2015, reflecting developments in the broader economy; although bank lending recovered, this is largely a cyclical development and does not indicate a move away from market-based finance.
2. Capital Ratios of Banks – measured against the new qualitative requirements introduced by CRD IV/CRR	Ensure that at any time, the capital ratio of banks meets the capital requirements of CRD IV/CRR (7%).	The vast majority of banks do meet their capital requirements.
3. Reduction of over-reliance on ratings (measured by the number of references to credit ratings in EU legislation)	Decrease the number of references to credit ratings. The deadline in the CRA Regulation is for 2020.	DG FISMA is currently preparing a report (due in 2016Q2) which will assess existing references to ratings and feasibility of alternatives to credit ratings.
4. The number of EU citizens without a bank account	Gradual reduction in number of EU citizens without a bank account.	2014: 42.7 million EU citizens without a bank account according to World Bank data.
5. Awareness of anti-fraud measures following implementation of the Anti-Fraud Strategy (AFS) from December 2013	70 % positive responses on awareness of measures	In 2015, DG FISMA completed AFS implementation by conducting a survey on fraud awareness. The target has been achieved, since participants gave over 79 % correct answers.

c) Key conclusions on management and internal control (executive summary of section 2)

In 2015, in line with the Commission's governance statement, DG FISMA conducted 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 principles based on international good practice and aimed at ensuring the achievement of policy and operational objectives. The Financial Regulation requires that the organisational structure and internal control systems used to implement the budget are set up in accordance with these standards. DG FISMA has assessed the internal control systems during the reporting year and concluded that the internal control principles are implemented and function as intended (see section 2.3 for further details).

In addition, DG FISMA has systematically examined the available control results and indicators, including those for supervising entities, and the observations and recommendations of internal auditors and the European Court of Auditors. These have been assessed to determine their impact on the management's assurance as regards the achievement of control objectives (see section 2 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 has signed the declaration of assurance in his capacity as authorising officer by delegation (AOD).

d) Informing the Commissioner

The main elements of this report and the declaration of assurance were brought to the attention of Lord Hill, Commissioner responsible for DG FISMA, on 16 March 2016.

1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG

In order to achieve the goals set out in DG FISMA's mission statement, the senior management team established the following general objective for 2015:

'The EU financial sector is properly supervised, stable, transparent and consumer-friendly; it brings benefits for citizens and businesses and is conducive to growth and jobs.'

We measure progress towards achieving our general objectives through indicators designed to show how the DG contributes to ensuring EU financial market stability and integrity, the integration of financial service markets and progress towards a fully-fledged CMU. Some indicators provide a broad picture of the economic landscape; others are specific to a particular objective laid down in a piece of legislation. The performance tables in Annex 12 show the extent to which we reached the 2015 management plan targets for indicators that are measurable. In this section, we focus on policy achievements in 2015 and explain how they are conducive to achieving the general objectives.

FINANCIAL MARKETS

Capital Markets Union

Completing CMU by 2019 is one of the Juncker Commission's key priorities. In 2015, DG FISMA launched a public consultation on the basis of a **green paper** (18 February) and subsequently published an **action plan** (30 September). It delivered all action plan commitments for 2015, in particular:

Establishing a Capital Markets Union is one of the Juncker Commission's key priorities.

- the **securitisation** proposals;
- the **call for evidence** on the EU regulatory framework for financial services;
- the **prospectus** review; and
- the green paper on **retail financial services**.

As part of the work on CMU, the Commission also adopted amendments to the **Solvency II** Delegated Regulation to facilitate investment in infrastructure in European long-term investment funds and via multilateral trading platforms, and will clarify the application of the equity transitional measure.

Following the launch of work on CMU, DG FISMA established a Member State experts' group on **barriers to the free movement of capital**. The group should complement and support CMU by mapping national barriers to the free movement of capital, identifying those that are most damaging to the internal market and finding the most efficient ways to remove them. The ongoing cooperation with Member States should lead by the end of 2016 to a report on barriers and a roadmap for lifting or easing them, with commitments and timelines for specific action by Member States.

Financial market infrastructure

The number of centrally cleared over-the-counter (OTC) derivatives transactions is increasing steadily. A significant factor in this is the number of jurisdictions that apply central clearing requirements. In the EU, the first requirements for the **centralised clearing of interest-rate swaps** in euros, sterling, Japanese yen and US dollars were adopted on 6 August 2015; they will enter into force in 2016.

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The European Securities and Markets Authority (ESMA) made proposals for further clearing obligations on credit-default and interest-rate swaps and is expected to make further proposals, for

clearing obligations to cover additional products, in 2016. These should help increase the volumes of centrally cleared OTC derivatives, reducing counterparty risk in the financial system and improving financial stability.

In 2015, the Commission adopted a Delegated Regulation extending the **exemption from clearing for pension funds** until August 2017. In the meantime, centralised counterparties (CCPs) are encouraged to find the appropriate technical solutions for pension fund business models.

In addition, the Commission adopted a further **five equivalence decisions** for the regulatory CCP arrangements in Switzerland, the Republic of Korea, Canada, Mexico and South Africa (decisions for Australia, Hong Kong, Japan and Singapore were adopted in 2014). The CCPs in these jurisdictions will be eligible for recognition in the EU and therefore for use by market participants to clear OTC derivatives. The adoption of a legislative proposal on CCP recovery and resolution has been postponed to the third quarter of 2016 due to the need to take account of progress in work at G20 level.

The European Market Infrastructure Regulation (EMIR) has continued to improve **market transparency** for regulators and supervisors. Trade repositories received 27 billion reports in 2015, equivalent to about 330 million a week. ESMA continued to work on improving the quality of the data reported and submitted proposals to amend the current reporting standards so as to facilitate reporting. In the summer, DG FISMA launched a public consultation on the review of EMIR to assess the impact of the legislation; a high-level conference was organised at the start of the process.

In June, the European Parliament and the Council reached agreement on the proposed regulation on **securities financing transactions**, such as repos and securities lending transactions. Once implemented, this will introduce a reporting framework (similar to that under EMIR) for such transactions.

Lastly, following adoption of the Regulation on **settlement and central securities depositories** in 2014, work continued on the corresponding technical standards. ESMA submitted two proposals for regulatory technical standards (RTSs) and two for implementing technical standards (ITSs), and the European Banking Authority (EBA) submitted one proposal for an RTS to the Commission for review.

Securities markets

In November, the Commission adopted a proposal on a **review of the Prospectus Directive** to:

- improve companies', in particular SMEs', access to capital markets (thus enhancing growth); and
- simplify information for investors.

On 25 November, the co-legislators reached an agreement in trilogues on the **Benchmark Regulation**, which paves the way for establishing robust benchmarks for pricing financial instruments, such as interest-rate swaps, and financial (e.g. loan and mortgage) contracts.

Work continued on developing implementing measures for the **Markets in Financial Instruments Directive** (MiFID) and the **Market Abuse Regulation** (MAR). Given the complexity and number of measures, however, this can only be finalised in 2016. Once applied,¹ MiFID II will further improve the transparency and supervision of financial markets by ensuring that more financial instruments are traded on regulated platforms and are subject to trading rules. The MAR establishes a more uniform and stronger framework to ensure market integrity, avoid regulatory arbitrage and market manipulation.

Asset management

The European asset management sector currently manages assets worth over €11 trillion. Undertakings for collective investment in transferable securities (UCITS) funds account for the majority, but alternative investment funds are growing in volume. New specific-purpose funds such as European venture capital funds (EuVECAs) and European social entrepreneurship funds (EuSEFs) have got off to a slow start and exploring the reasons for this and possible remedies are key aspects of the CMU work plan in 2016. The **European Long-Term Investment Funds (ELTIF) Regulation** came into force on 9 December 2015.

In December, the Commission presented a delegated act under **UCITS V** relating to several issues, including depositories, sanctions and remuneration. Despite a degree of volatility in the markets, the number of UCITS suspensions fell substantially, partly thanks, perhaps, to closer supervision and clearer guidance from national and European supervisors.

As regards the **Alternative Investment Fund Managers Directive**, ESMA delivered advice relating to the third-country passport in July, but only a small number of jurisdictions were approved. The Commission therefore argued (and the European Parliament agreed) that work on the delegated act should be held back until a critical mass of countries had been analysed. ESMA has been asked to present advice on a second batch of countries by 30 June 2016.

Progress in negotiations on the proposed **Money Market Fund Regulation** was slow. The European Parliament agreed on a negotiation mandate in April, but there was very limited activity or progress in the Council.

Under the **Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation**, the Joint Committee of the European Supervisory Authorities (ESAs) was to present draft RTSs in two batches (autumn 2015 and March 2016). As aspects of the two batches are linked, the ESAs decided to deliver all draft RTSs in March 2016.

¹ In February 2016, the Commission adopted proposals to postpone the entry into force of MiFID II by a year.

FINANCIAL SYSTEM SURVEILLANCE

EU financial system and euro area

As part of its ongoing monitoring of financial market developments and financial stability in the EU and its preparation of specific financial-sector policies, DG FISMA continued to examine **structures and developments in the EU and euro-area financial system**. It cooperated with other Commission services, especially DG ECFIN (Economic Forecast, euro-area European Semester, euro-area deepening), DG TAXUD (financial taxation) and DG JUST (insolvency frameworks), and outside stakeholders (ECB, OECD and IMF). It continued to assess risks and vulnerabilities in the EU financial system on a regular basis, to monitor major financial systems outside Europe (e.g. China, the United States) and to follow and report on market trends, in particular in the context of major events. It also continued with the *ex ante* reporting of Member States' debt issuance plans, as stipulated in the Two-Pack Regulation.

An internal assessment of the EU macro-prudential framework was conducted. In support of this process, we developed a detailed database of macro-prudential measures introduced by Member State authorities, classified by instrument and macro-prudential risks addressed. This now contains assessments of over 200 macro-prudential measures in 28 Member States. The analysis is also fed into contributions to the Commission's macro-economic and financial-sector surveillance work, as reflected in several country reports in the 2015/2016 European Semester cycle.

Resolution and crisis management

As regards resolution and crisis management, DG FISMA prepared a legislative proposal for a **European deposit insurance scheme** (EDIS) and an accompanying Commission Communication. When adopted by the co-legislators, this will strengthen the Banking Union, increase bank depositor protection, reinforce financial stability and further reduce the link between banks and their sovereigns. The proposal builds on national deposit insurance schemes and would be accessible only on condition that agreed rules have been implemented.

In addition, the appropriate measures were adopted for implementation of the **Bank Recovery and Resolution Directive** (BRRD).

A **Resolution Task Force** set up on 1 July worked to organise and exercise the Commission's resolution function, which (under the SRM Regulation) was to take effect on 1 January 2016. It established cooperation frameworks inside and outside the Commission. The Task Force also supported the Commission in its role as SRB observer and ensured appropriate and timely application of the relevant legislation on bank resolution in the Banking Union, such as the rules for calculating banks' contributions. It developed the necessary delegated acts to complete the **SRM framework**, *inter alia* on the investment strategy of the Single Resolution Fund (SRF), and provided Member States with technical support in developing **bridge financing arrangements** to the SRF. Lastly, it coordinated DG FISMA's position on Commission state aid decisions and represented the Commission in its resolution function in the relevant EU and international fora.

REGULATION AND PRUDENTIAL SUPERVISION OF FINANCIAL INSTITUTIONS

Banking

DG FISMA leads the Commission's efforts to negotiate **international agreements on bank prudential requirements**. In 2015, it contributed significantly to ensuring that the outcome of negotiations reflected the Commission's policy objectives of fostering jobs and growth (e.g. in the leverage ratio calibration). It took part in international

discussions on impact analysis and helped forge an international consensus on the need to avoid any significant increase in overall capital requirements.

DG FISMA launched an important **review of existing EU banking legislation** (CRD IV and CRR) with a view to assessing its impact on bank lending to the real economy and the administrative burden on smaller banks. The review included a public consultation, a high-level conference and an external study (ongoing).

We focused efforts to implement the single rulebook in banking by preparing the adoption of **14 binding technical standards**. In line with the Commission's priorities of economic growth and reducing the regulatory burden on financial entities, we recommended that the Commission reject, or adopt with amendments, five of the standards proposed by the agency responsible (the EBA).

We carried out a check of the transposition of **CRD IV** and initiated the first periodic review of the Regulation transferring supervisory powers within the Banking Union to the ECB. We gave the ECB guidance on various regulatory questions, in particular the issue of national options and discretions.

We contributed significantly to finding a possible compromise for the European Parliament/Council Regulation on **structural measures improving the resilience of EU credit institutions**. A key result was achieved when, on 19 June, the Council adopted its general approach. We participated in all the Council working parties and several informal meetings, and contributed actively by providing technical input and facilitating the difficult political negotiations. Unfortunately, no compromise was reached in the Parliament in 2015.

In the course of 2015, we undertook preparatory work ahead of the inclusion of the **Financial Conglomerates Directive** (FICOD) in the Commission's regulatory fitness and performance programme in 2016.

Retail financial services

With the final adoption of the **Interchange Fee Regulation** and the revised **Payment Services Directive**, a crucial

The final adoption of the Interchange Fee Regulation and the revised Payment Services Directive represented a crucial step towards delivering better value for all payment service users.

step was taken towards delivering better value for all payment service users by bringing more security, competition and innovation to EU retail payment markets. In addition, DG FISMA made substantial efforts – through an intensive series of workshops – to support Member States in the

transposition of existing measures. Good implementation followed by proper enforcement is essential to ensuring that EU citizens benefit from new rights and obligations in EU legislation, including clearer mortgage rules, enhanced rights to open a bank account in Europe and better, more transparent cost information. The adoption in December of the green paper on retail financial services paves the way to the elimination of remaining barriers to a proper retail financial market in Europe and addressing the growth of digitalisation in the financial sector.

Insurance

In view of the application, from 1 January 2016, of the new **Solvency II** insurance framework, the Commission adopted ITSs, *inter alia* on internal models, templates for the submission of information to the supervisory authorities, procedures, formats and templates for the solvency and financial condition report, and the templates for and structure of supervisory authorities' disclosure of specific information.

Delegated decisions were adopted to recognise **equivalence under Solvency II for six jurisdictions** (full equivalence: Switzerland and Bermuda; provisional equivalence: Australia, Brazil, Canada, Mexico and the United States, and Japan; temporary equivalence for reinsurance only for Japan).

Political agreement between the European Parliament and the Council was reached on the recast of the 2002 **Insurance Mediation Directive**. The new Insurance Distribution Directive lays down new minimum rules on the transparency and conduct of business along the entire distribution chain. The Commission was given a mandate to open **negotiations with the United States** for a bilateral agreement on reinsurance and insurance.

As regards the Commission's 2014 proposal for recast of the 2003 **Directive on Institutions for Occupational Retirement Provision** (IORPs), the Council adopted a general approach in 2015 and the European Parliament progressed towards finalising its negotiating position.

European Parliament progressed towards finalising its negotiating position.

INVESTMENT AND COMPANY REPORTING

Free movement of capital

A staff working document on the **movement of capital** and the **freedom of payments** was adopted on 3 March. It describes the main trends of capital flows in 2013 and 2014, and explains how Europe coped with specific challenges. It also stresses the need to:

- develop cross-border investment within the EU, notably through genuine CMU;
- make Europe more attractive for foreign investors; and
- promote long-term financing, in particular through the Investment Plan for Europe.

Accounting and financial reporting

DG FISMA's key task as regards accounting and financial reporting is to ensure that companies are transparent and present high-quality and comparable financial reports. Efficient capital markets require the highest level of transparency and comparability. Therefore, the EU decided in 2005 to make the use of the **International Financial Reporting Standards (IFRSs)** mandatory for listed companies. As IFRSs are developed by a private organisation, the International Accounting Standards Board (IASB), the Commission has to adopt them before they become EU law. The Commission adopted six amendments to existing IFRSs in 2015 and worked on the adoption of two key new standards (IFRS 9 on financial instruments and IFRS 15 on revenue from contracts with customers).²

As the IFRSs had been used in the EU for over 10 years, the Commission carried out an

2 See paragraph (b) in section on 'Allocation of resources' for more detail.

ex post evaluation of its Regulation on their application. The key findings were that they:

- were successful in creating a common accounting language for capital markets; and
- helped to improve the transparency and comparability of listed companies' financial statements.

The adoption of IFRS in the EU provided a major impetus to their credibility and acceptance globally, as shown by the increasing number of countries (now about 130) that permit or require their use. The report identifies room for improvement in some areas, notably with respect to the governance and public accountability of the IFRS Foundation, which supervises the work of the IASB.

The recent governance reform of the **European Financial Reporting Advisory Group** (EFRAG), the Commission's technical advisor on IFRS-related issues, will strengthen the EU's voice in the international standard-setting process. EFRAG's plays a particularly important role in the IASB's development of new standards by ensuring that the Union's needs and interests are taken into account. The ultimate objective is to ensure that the EU can endorse close to 100 % of the standards.

APPLICATION OF EU LAW

DG FISMA monitored the correct application of Article 63 of the Treaty on the Functioning of the European Union (free movement of capital) in several areas. Infringement proceedings were launched against five Member States (Bulgaria, Hungary, Lithuania and Slovakia on 26 March, and Latvia on 29 April) for restricting who can invest in agricultural land. The laws in question contain several provisions which, under EU law, may be considered to restrict the free movement of capital and freedom of establishment or leave room for discriminatory treatment of investors from other Member States. Work is ongoing in accordance with Article 258 TFEU (*et seq.*).

On 18 June, infringement proceedings were launched to require five Member States (Austria, the Netherlands, Romania, Sweden and Slovakia) to terminate intra-EU bilateral investment treaties (BITs).³ A meeting with all Member States was organised in October to provide guidance so that intra-EU BITs are terminated in a coordinated way.

DG FISMA launched 120 new infringement cases against Member States in 2015, mostly for failure to communicate national transposition measures. A further 100 new cases were opened following complaints from citizens, market participants or other stakeholders, and 37 new procedures were launched under the EU pilot scheme.

³ BITs are agreements regulating private investment by one state's nationals and companies in another state.

COMMUNICATION

As part of the Commission's corporate communication efforts, DG FISMA engaged with citizens and stakeholders to inform them about its policy initiatives. As a newly created DG, it had to develop new communication platforms, including an electronic newsletter, a public website, an intranet and a Twitter account.

Newly created, DG FISMA had to develop its own communication platforms.

The DG's communication efforts focused on the Commission's political priorities, i.e. CMU and a single market for consumer financial services. Activities

included a live online chat with the Commissioner, a seminar for journalists, infographics and a series of videos on CMU and the **#MyMoneyEU** social media campaign to accompany the consultation on retail financial services.

ALLOCATION OF RESOURCES

The efficient allocation of DG FISMA's resources in 2015 was instrumental in delivering the achievements listed above.

As regards **human resources**, the new Directorate-General was created by merging three financial services directorates from the former DG MARKT and two and a half DG ECFIN units dealing with financial systems and macro-prudential supervision. The resources directorate and the top management were from DG MARKT. Annex 2 sets out detailed information on external personnel and establishment posts.

The main human resources challenges included:

- merging the components of the new DG into a cohesive whole;
- establishing new working methods; and
- introducing more flexible management of resources.

These issues were addressed at a DG 'away day' in March; follow-up is ongoing. The DG is increasingly organised in teams, with relevant expertise pooled to work on specific projects (e.g. strategic planning for 2016-2020; 2016 annual management plan).

According to the most recent staff survey, job satisfaction among DG FISMA staff is high, at 79 %. Senior management adopted the DG's strategic HR plan in the last quarter of 2015 and this is currently being implemented. Learning and development activity has been tailored to the DG's needs, with a focus on content-related training. The satisfaction rate for internally organised courses is 84.6 %. Annex 12 (section on administrative support objectives) sets out other HR result indicators.

DG FISMA's 2015 budget was allocated mainly to **operational expenditure** and a large part of this (64 %) was devoted to co-funding the ESAs: the EBA, the ESMA and the European Insurance and Occupational Pensions Authority (EIOPA).⁴

On the basis of the information in its possession and having regard to the Commission's and the ESAs' competences and remit, as set out in the Regulation establishing them, DG FISMA concludes that cooperation with the ESAs in 2015 was effective and met the

⁴ For more detail, see section 2 ('Management and internal control') and Annex 8 for information on subsidies to decentralised agencies.

requirements of its policy objectives. In particular, the ESAs:

- ✓ delivered over 40 sets of draft technical standards for adoption by the Commission, of which five were sent back for amendment and one was rejected;
- ✓ contributed to the single rulebook through the adoption of numerous sets of (non-binding) guidelines (e.g. on remuneration, bank exposures to shadow banks, cross-selling, etc.) and provided advice in view of the adoption of legislative proposals (e.g. proposal on STS securitisation) and delegated acts (e.g. MiFID II/R);
- ✓ provided the Commission with technical advice on third-country equivalence; and
- ✓ organised, with the Commission, a consumer protection day (3 June).

The EIOPA also organised its first stress test on occupational pensions.

DG FISMA's work programme under **grants direct management** included the following funding activities, which contribute to the EU's policy achievements:

- a) *Preparatory action with a maximum financial contribution⁵ of €1.75 million for the functioning of a European financial expertise centre, with direct benefits for European end-users and other non-industry stakeholders in the area of financial services*

The initiative stems from a pilot project which was started in 2011 in the context of the financial crisis to enhance those end-users' and stakeholders' capacity to participate in Union policy-making in the area of financial services.

The pilot project and preparatory action were evaluated in 2015 against the following main policy objectives:

- providing EU policy-makers with views other than those expressed by financial-sector professionals when initiating new legislation;
- informing the wider public about the issues at stake; and
- involving end-users and consumers more in policy-making in the area of financial services, resulting in well-balanced legislation.

The evaluation found that the objectives had been met since 2012, thanks to the research, policy analysis, advocacy and communication activities of two centres of financial expertise (Finance Watch and Better Finance); in particular:

- ✓ both beneficiaries had helped to provide policy-makers with views other than those of the financial industry and succeeded in communicating those views to the wider public;
- ✓ both centres had been in close contact with policy-makers, as shown by their participation in meetings and events in national parliaments or the European Parliament; and
- ✓ both had developed effective communication capacity through websites, press releases and conferences whereby they informed their members and the wider public about the issues at stake in the financial sector.

The evaluation also underlined that both organisations were not financially sustainable without EU funding, despite efforts in 2012-2014 to diversify their sources of funding.

Legislative work is still ongoing in the financial sector and new legislative initiatives (e.g. CMU) will come in the near future. Therefore, there is still a need to increase the participation of end-users and consumers of financial services in

⁵ In the form of operating grants for up to 60 % of the total eligible costs of the proposed work programme.

EU policy-making via a centre of expertise.

Further 'steps to take' are currently being assessed in the context of the *ex ante* evaluation, complementing the proposal for a Regulation for establishing a Union programme as of 2017.

b) *A Union grant programme⁶ started in 2014 to finance specific organisations' financial reporting and auditing activities*

The programme aims to improve conditions for the efficient functioning of the internal market and support the transparent development of international financial reporting and auditing standards.

Through the programme, DG FISMA has contributed to its specific objective of ensuring that 'EU companies can operate and move easily within the EU, are well governed and transparent, present high-quality and comparable financial reports and are subject to high-quality audits and ratings'.⁷

The programme also contributes to the Europe 2020 strategy by reinforcing the single market for financial services and capital, and the international dimension of the strategy.

In 2015, DG FISMA signed operating grants⁸ for a total of up to €7.96 million with the IFRS Foundation, EFRAG and the Public Interest Oversight Board (PIOB) for the following activities:

- the IFRS Foundation issues IFRSs and interpretations thereof;
- EFRAG provides the Commission with endorsement advice on new IFRSs and input to their development in order to ensure that European views are properly and clearly articulated in the standard-setting process; and
- PIOB supervises the adoption process for each international standard on auditing (ISA) to ensure that due process is followed.

The *effectiveness* of the programme is ensured by the principle of proportionality. The decision establishing the programme acknowledged that the objectives could not be achieved by Member States and could, because of its scale and effects, be better achieved at Community level with EU funding for well-defined bodies in the field of financial services.

The *value for money and impact* of the programme can be assessed by the beneficiaries' activities in 2014 and 2015, as reported by the Commission to the European Parliament and the Council.⁹ As regards the IFRS Foundation's activities, it should be noted that two major standards (IFRS 9 and IFRS 15) were finalised in 2015. The EU's adoption of IFRSs provides a major boost to their global credibility and acceptance, facilitating EU companies' access to global capital markets.

EFRAG established a new board, with balanced representation of public and private interests, and strengthened the scope of its assessments to ensure that new or proposed financial reporting requirements serve the Union's public good. This was particularly important in the development of new standards, where EFRAG ensured that the Union's needs and interests were taken into account.

PIOB pursued the diversification of its funding sources. This process, which the Commission will be monitoring in the coming years, will ensure that it can fulfil its

⁶ Regulation (EU) No 258/2014 repealing Decision No 716/2009/EC.

⁷ DG FISMA 2015 management plan, p. 16.

⁸ http://ec.europa.eu/dgs/finance/grants/index_en.htm.

⁹ COM(2015) 461, 17.9.2015.

public interest mission in an independent and efficient manner.

This positive assessment is supported by the result indicators in Annex 12.

DG FISMA's 2015 work programme under **procurement direct management** included the funding of study activities of which the results are under the control of the AOD.

- a) The DG started assessing its completed study contracts in terms of outputs and contributions to policy development or monitoring. We reviewed the outputs of study contracts completed by 2014 and July 2015 and, where applicable, their use in the context of the policy activities referred to in the original objectives of the calls for tenders.

Overall, this assessment was satisfactory and justifies the expenditure from the EU budget. We will continue to monitor the use of the results of our study contracts with a view to:

- ensuring effective and timely use of EU funds; and
 - facilitating future planning and allocation of resources.
- b) The DG also continued to fine-tune internal arrangements and procedures to ensure that the principles of economy and efficiency¹⁰ are constantly upheld and that specific initiatives are actually:
- efficient (e.g. workflows contribute to efficient cooperation between staff, units, etc.); and
 - economical (e.g. the procurement rules ensure quality offers and savings based on the most economically advantageous offers criterion).

The following initiatives (announced in the 2015 management plan) show how DG FISMA contributed to these principles in the course of the year:

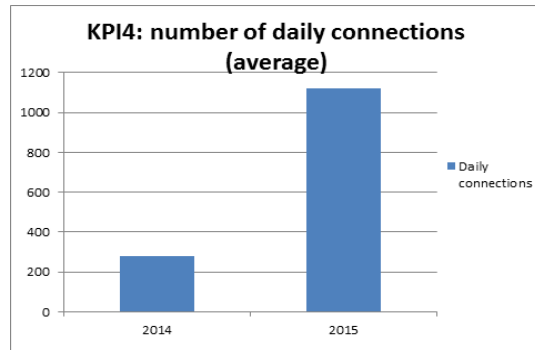
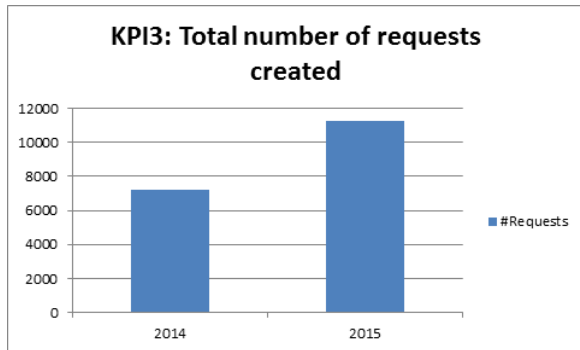
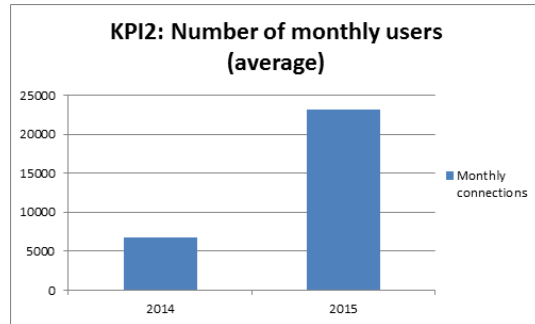
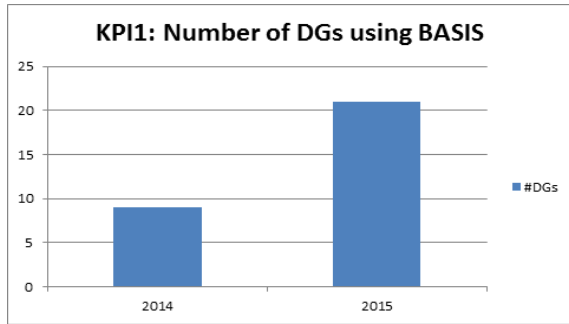
- i) We are working with DG COMP to develop the Briefings and Speeches Information System (BASIS) for managing requests for briefings, speeches and other documentation. A successor to the old TSAR II system, BASIS has search and notification functions and includes features for event management (e.g. relations with stakeholders).

BASIS is funded from common expenditure – a total annual average of €354 000 (2014-2018), including training and support, and €82 000 for hosting and employing one official (FTE). It offers the following benefits:

- ✓ a single centralised system;
- ✓ faster and more effective information-sharing and cooperation between DGs to produce briefings and speeches;
- ✓ a harmonised user experience (same user interface) in all DGs; and
- ✓ better service, including hands-on training, an e-learning module and a user manual.

In 2015, BASIS was rolled out in 12 additional DGs, so that a total of 21 were using it by the end of the year. It was improved further, resulting in seven new releases, and was used to deliver 11 283 briefings and speeches to senior management, with an average of 1 280 persons connecting each day (see detailed indicators below).

¹⁰ Article 30 of the Financial Regulation requires that the resources used by the institution in the pursuit of its activities be made available in due time, in appropriate quantity and quality, and at the best price. The principle of efficiency requires the best balance to be struck between resources employed and results achieved.



The development and operation of a single system generated estimated savings of up to €1.56 million in 2015. In addition, end-users have a better tool to work with and cross-DG workflows are possible without complex developments.

- ii) We conducted an assessment of operational units' workload with a view to optimising the use of resources and the allocation of tasks.

Units were asked to draw up management plans with estimates of the number of FTEs allocated to each ongoing and planned project/activity under their responsibility. A comparative overview of workload and staffing in units and directorates was produced, using a set of overall workload indicators compiled by the HR unit.

Hearings were then organised between each directorate (director and all heads of unit) and the Director-General, where the gathered data was examined in the light of each unit's positive and negative priorities, staff allocation and potential synergies, and possible redeployments within the DG or staffing needs were identified.

DG FISMA will continue working on this pilot project and feed conclusions into future planning and management exercises.

2. 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, which monitors the functioning of internal control systems on a continuous basis, and by internal and external auditors. The results are explicitly documented and reported to the Director-General in the form of:

- reports by the AOD on the use of the budget received in cross-subdelegation;
- reports by authorising officers by sub-delegation on the legality and regularity of the transactions implemented under their responsibility;
- the contribution of the internal control coordinator (ICC), including the results of internal control monitoring at DG level;
- opinions and observations resulting from European Court of Auditors (ECA) and Internal Audit Service (IAS) audits;
- reports following *ex post* checks by the financial unit on a sample of DG FISMA's financial transactions; and
- reports following on-the-spot checks on grant beneficiaries.

These reports are based on systematic analysis of the available evidence. 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.

This section reports on the control results and other relevant elements that support management's assurance. It is structured as follows:

- control results (section 2.1);
- audit observations and recommendations (section 2.2);
- effectiveness of the internal control system (section 2.3); and
- conclusions as regards assurance.

2.1 Control results

This section reports and assesses the elements, as identified by management, that support the assurance on the achievement of the internal control objectives.¹¹ The DG's assurance-building and materiality criteria are outlined in Annex 4. Annex 5 outlines the main risks, together with the control processes designed to mitigate them and the indicators used to measure the performance of the control systems.

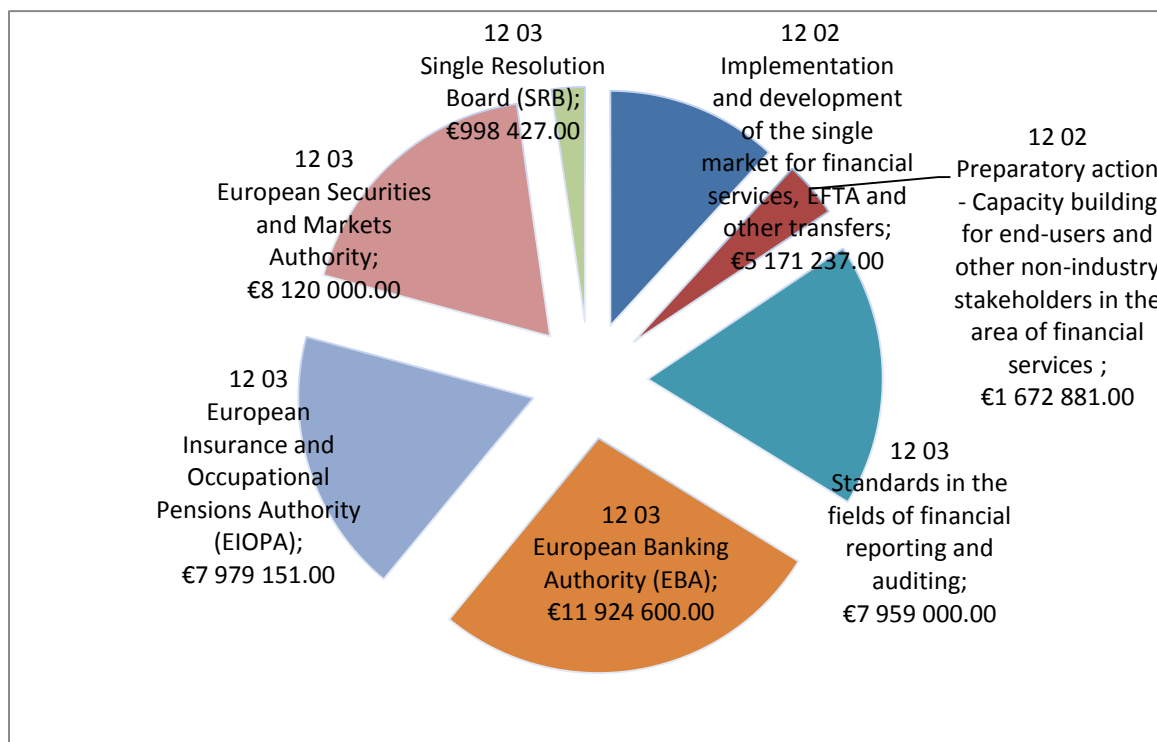
In 2015, DG FISMA's operational budget included appropriations for activities under two chapters:

- single market policy and free movement of services (12 02) – €6.8 million; and
- financial services and capital markets (12 03) – €36.9 million. 76 % of the credits from this second chapter were earmarked for subsidies to the ESAs (EBA, EIOPA and ESMA).

¹¹ 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 and the nature of the payments (Article 32 of the Financial Regulation).

The DG's voted budget also included a total of €3.3 million on the operational line 12 03 05 for pre-financing SRB activities (mainly establishment costs) through refundable¹² advance appropriations once the SRB became financially autonomous in April. Unused credits were either deployed or transferred to other budget lines (e.g. 12 02 01) for preparatory activities under the CMU action plan.

The following chart gives a breakdown of **commitment appropriations** from available credits in 2015:



DG FISMA implemented the 2015 budget by direct management and indirect management¹³.

The results of the internal controls processes set up for the following management modes and their related operations support DG FISMA's assurance on the achievement of the internal control objectives. The materiality criteria applied consist in the estimated error rate (referring to authorised financial operations that do not comply with the applicable contractual or regulatory provisions) below 2% of total annual expenditure (see Annex 4).

In 2015, DG FISMA detected no event, control results or issues that could have a material impact on assurance as to achievement of the internal control objectives. With the exception of cases reviewed for the purposes of fraud prevention and detection, it registered no risk or audit findings linked to or affecting its expenditure through direct procurement, grant management and subsidies to entrusted entities.

¹² Funds refunded in 2015 after collection (by the SRB) of contributions from the banking sectors of the Member States participating in the Banking Union.

¹³ Annexes 2, 3, 8 and 10 contain detailed information on budget implementation in 2015.

Direct management

1) Procurement and grants direct management

DG FISMA implemented 100 % of its **operational credits** by direct procurement and grant management (see section 1) 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;
- provide specific organisations with financial support in relation to financial service supervisory convergence and financial reporting and auditing; and
- finance preparatory action on 'capacity-building of end-users and non-industry stakeholders in Union policy-making in the area of financial services', 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.

The **administrative credits** for conferences, technical assistance, missions, meetings and contributions to external experts were almost all used (98 %).

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.

While no event endangered achievement of the objectives, DG FISMA has experienced some delays for a) the approval of the financing decision needed to initiate implementation of the operational budget in direct grant and procurement management, and b) completion of three contracts. In both instances, the AOD made appropriate consideration and took appropriate measures (e.g. recorded exceptions) to ensure implementation of expenditure in a timely and effective manner¹⁴ and with no impact on the planned policy activities.

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

In 2015, DG FISMA:

- a) established a cross-subdelegation (€114 255) with the Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) for the purpose of developing a corporate system for managing meetings; and
- b) completed implementation of the appropriations received in 2013 (€57 062) and 2014 (€79 733) from the Directorate-General for Informatics (DG DIGIT) for interoperability solutions for European public administrations (ISA).

All cross-subdelegations require the entrusted DG's AOD to report on the use of appropriations in line with the internal control objectives under the Financial Regulation.

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.

¹⁴ Apart from some activities under the CMU action plan, which will be initiated in early 2016, almost all expected procurement procedures were carried out by the end of 2015. In the end, two studies were not procured and resources were redeployed for other activities within the operational budget line.

DG FISMA has reported to DG DIGIT that the appropriations received were finally used in 2015 and managed in accordance with the Commission's rules and internal control framework. Some late interest payments were notified in relation to a payment processed later due to unavailability of credits.

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.

Indirect management (Union's contribution to the ESAs)

European supervisory authorities (ESAs) (see section 1)

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 2015 was based on the budget approved by the budgetary authority at the end of 2014 to cover staff and administrative expenditure, and operational expenditure relating to the ESAs' 2015 work programme (see Annex 8 for information on subsidies paid).

The costs of 'representation' control (ICT for indirect management — stage 3) on ESAs have been estimated at 0.31 % of the annual subsidies paid to them. The controls on the payment and recovery of unused Commission contributions (ICT for indirect management — stage 4) are identical to those on the execution of the DG's budget.

In order to ensure effective collaboration with the ESAs, DG FISMA established two working arrangements with the three Authorities: a working arrangement on the ESAs' proposal to issue Guidelines (2013) and a working arrangement on the process of for the development of Technical Standards (2015). [A third working arrangement on the international cooperation is under preparation.](#)

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:

- an adviser on agencies and authorities in Directorate A (Resources and Communication) monitors how DG FISMA's agencies operate; he works closely with ESAs' heads of administration and ensures follow-up on all procedural issues;
- Unit 01 (Financial Services Policy and International Affairs) coordinates with the ESAs on horizontal operational, institutional and legal questions;
- Directorate A and its adviser provide 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 and/or the adviser in Directorate A. The DG was represented at all management board meetings in 2015. It has a vote on budgetary issues only; and
- the Director-General represents the Commission on the ESAs' boards of supervisors. Other meetings of the board and *ad hoc* policy meetings are attended by the director or head of unit in charge at operational level. The DG's participation in such meetings at operational and adviser level is essential for its monitoring of the ESAs' work.

The review of the European System of Financial Supervision published on 8 August 2014 showed that the ESAs performed well overall in their first three years of operation. They succeeded in building functioning organisations, started delivering on their mandates and

developed their own profiles. In particular, by preparing uniform standards and contributing to supervisory convergence and coordination, they successfully contributed to shaping the development of a single rulebook applicable to all Member States and thus to the smooth functioning of the single market. Some improvements are envisaged in both the short and the long term. Areas for consideration in the longer term include a revision of funding arrangements to enable the ESAs to deliver on their broad range of tasks, while taking account of EU and national budgetary constraints.

In the CMU action plan, the Commission indicates that it will produce a white paper in the second half of 2016. The intention is to move to industry funding in line with the broader Commission objectives for agencies. The overall objective is to ensure that the ESAs have the funds they need to deliver, while providing for a credible, non-expansive budgeting process.

DG FISMA did not detect, nor was it made aware of, any fact that could prejudice the good working relations that have been established. The IAS performed a first follow-up audit to review the working arrangements that DG FISMA has agreed with the ESAs. No issue was raised in the context of this follow-up audit.

Internal control objectives and main indicators

Control effectiveness as regards legality and regularity

DG FISMA has set up internal control processes aimed to ensure adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the character of its initiatives and the nature of the payments concerned.

The control objective in this area is to ensure that the estimated error rate (i.e. the value of financial operations not complying with applicable contractual or regulatory provisions) does not exceed 2 %.

Given the volume, nature, risks and scale of its transactions (and its reorganisation last year), DG FISMA does not have an established *ex post* verification function to ensure that errors are detected and reported. Since 2012, however, in order to ascertain whether the objective has been achieved and to have an indication of the error rate, it has carried out quantitative and qualitative analysis of indicators relating to the legality and regularity of its procurement and grant procedures (see Annex 4) and the materiality of results (irregularities/errors) on the basis of:

- *Ex post checks by the Financial Resources and Internal Control Unit*
 - 142 financial operations (commitments and payments totalling €85.1 million) underwent quarterly *ex post* checks. Transactions were sampled according to the criteria specified in the *ex post* checks procedure (e.g. time of year, amounts, etc.). The checks revealed minor procedural errors (i.e. documentation, use of checklists or encoding practices); and
 - in accordance with its *Financial circuits procedure manual*, DG FISMA performed random checks on payments of experts' meetings expenses to verify whether its calculations matched the final payments from the PMO as authorising officer. About 100 files were checked (26 % of total reimbursements for experts' meetings at the time). No substantial discrepancy was found; the majority of final reimbursements (over 90 %) corresponded to the payment instructions referred to the PMO and complied with the Commission Decision of 5 December 2007;

- *Analysis of exceptions and non-compliance recorded in 2015*

There were 12 exceptions and four recorded instances of non-compliance, none of which had an impact on the legality and regularity of the transactions. Regular reports were submitted to the Director-General and ICC.

The exceptions were requested mainly to commit expenditure for operational activities (e.g. launch procurement procedures, award or sign contracts) before the approval of the planned financing decisions¹⁵ so as to ensure the timely initiation of activities and deliverables. The exceptions required no change to the planned budget and activities and the significance of the requests is low in qualitative terms.

Other exceptions were requested to make payments for additional committees, experts' expenses or outstanding invoices. The significance of these exceptions is low also in quantitative terms.

The four instances of non-compliance concerned inaccurate monitoring and implementation of the budget. Their significance is low in qualitative and quantitative terms and there was no major risk or impact for the DG.

The nature and recurrence of deviations from the established rules have been analysed with a view to strengthening preventive measures (e.g. financial training and other communication activities to improve knowledge of financial management in the DG) or detective controls (e.g. budget and contract monitoring) in the future, where necessary;

➤ *On-the-spot checks on grant beneficiaries*

DG FISMA carried out five on-the-spot check missions under:

- its grant programme on financial services supervisory convergence, financial reporting and auditing; and
- its operating grants to the financial centres of expertise for European end-users and other non-industry stakeholders in the area of financial services.

The checks focused on:

- verifying the eligibility of costs declared by beneficiaries for 2013 and 2014 grants (actual payments totalling € 16.3 million); and
- evaluating beneficiaries' internal control systems, accounting procedures, the award and management of contracts with third parties, and publicity concerning the EU grants, as appropriate.

The checks were conducted in accordance with DG FISMA's internal guidelines. No material errors or irregularities were detected, nor any significant issues as regards implementation of recommendations resulting from the previous on-the-spot checks in 2012/2013. In general, beneficiaries' controls were considered sufficient and commensurate with their size.

As a result of the checks, total costs of €34 443 were rejected as ineligible under the 10 grant agreements in question. Where appropriate, amounts were deducted from the balance payments for 2014 grants. For efficiency reasons, offsetting amounts was preferred to issuing recovery orders.

DG FISMA communicated to all beneficiaries its main recommendations for improving their procedures and practices for EU grant management and the beneficiaries accepted these. The DG will follow up their implementation after receiving the respective beneficiary's final report for the 2015 grants or during the next on-the-spot checks;

➤ *Other errors detected ex post in the course of standard control or reporting activities, and notified to the ICC*

Since 2014, in order to ensure comprehensive AAR 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

¹⁵ Article 84(2) of the Financial Regulation.

procurement/contracts and grant awards, liquidated damages applied, and contracts terminated, extended or performed late. It assesses this information regularly as part of its ongoing financial and internal control of management operations, once a year when reporting to the Commissioner on the overall state of internal control in the DG¹⁶ and later in the AAR.

With the exception of errors that were the object of non-compliance events or transactions 'refused for correction', DG FISMA did not notify the ICC of any detected errors in 2015.

The results of the checks listed above (e.g. the ineligible costs for € 34 443 detected following the on-the-spot checks of operating grants) contributed to the estimated DG's ex-post control corrective capacity.

As compared with 2014, fewer transactions¹⁷ were '**refused for correction**' by DG FISMA financial agents responsible for initiating, verifying or authorising them. In the context of this type of *ex ante* control, DG FISMA also worked with central Commission services to develop a new functionality in ABAC¹⁸ to record *ex ante* controls on transactions, including the value of errors prevented and detected. Such reporting will be available as from next year.

To ensure appropriate control of access to and use of the corporate accounting system, DG FISMA carried out a review of **access rights** granted to staff members in respect of their financial functions and updated the local profile manager's guide to include a monitoring tool for documenting what rights are granted and withdrawn in the course of the year.

As regards budget performance and the specific objective of ensuring sound financial management of resources and the legality and regularity of its underlying transactions, DG FISMA achieved the target of **90 % of payments made within the contractual time**.¹⁹

The above controls and the control effectiveness (see below) demonstrate that the DG's control strategy, risk analysis, mitigating controls on financial circuits and procurement and grant processes are working effectively. The assessments have revealed no significant weaknesses that could have a material impact on the legality and regularity of the financial operations. It is therefore concluded that the control objective has been achieved.

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 risk²⁰ for the 2015 payments made is maximum € 1 million. This is the Authorising Officer by Delegation's best, conservative and maximum estimation of the amount of expenditure authorised during the year 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 (i.e.,

¹⁶ DG FISMA reported to the Commissioner on 16 December 2015.

¹⁷ 103 transactions, including invoices, payments and open commitments (2014: 128).

¹⁸ Accrual-based accounting (ABAC) executes and monitors all the Commission's budgetary and accounting operations.

¹⁹ This is one of the result indicators highlighted in the 2015 management plan.

²⁰ In order to calculate the weighted average error rate (AER) for the total annual expenditure in the reporting year (i.e. € 50 892 152.42), the estimated error rate has been used.

ex-post checks and on-the-spot checks of grant beneficiaries) and a sizeable proportion of the underlying error will be detected and corrected in successive years.

In addition to the Financial Resources Unit's *ex post* checks on transactions, the DG's internal control strategy involves further controls to detect and correct errors, such as on-the-spot checks on grant beneficiaries, which allowed for recoveries of about 1.08 % (€610 689) of total expenditure in 2013.

Although it is not possible to identify the specific errors and amounts that will actually be corrected in the coming years, since 2009 these corrective controls have resulted in recoveries representing on average 0.2 %²¹ of total payments. Applying this percentage to payments made in 2015 provides the best available indication of the corrective capacity of the DG's *ex post* control systems.

Conservatively estimated future corrections²² for 2015 payments total €101 784. This represents errors that the DG conservatively estimates that it will identify and correct from controls in the coming years.

In the light of the review of elements supporting assurance and the expected corrective capacity of the controls, it can be concluded that the DG's internal control systems provide sufficient assurance to manage the risks relating to the legality and regularity of the underlying transactions. It can also be concluded that the systems provide sufficient assurance as to the achievement of the other internal control objectives.

Efficiency and cost-effectiveness

DG FISMA has assessed the cost-effectiveness and efficiency of the control system on the basis of the most relevant key indicators and control results, 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 template in annex 5 , outlines the indicators used to monitor the efficiency and cost-effectiveness of controls.

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 they are.

To gauge the cost-effectiveness of controls, DG FISMA analyses certain efficiency indicators over time. The estimated costs of controls of all processes, expressed as a percentage of the payments made, fell to 4 % (from 4.7 % in 2014). A reduction (from 3.4 % to 3 %) has also been noted in the estimated costs of controls on the processing of all payments²³ and recovery orders.²⁴ This is due to the lower number of transactions and payments in 2015.

Overall, DG FISMA's controls on the management of budget appropriations in 2015 were **cost-effective**, considering:

²¹ DG BUDG's calculation (last release - March 2016).

²² This estimate is based on past performance, i.e. average recoveries and financial corrections (ARC) implemented since 2009 and applied to payments in the year in question. The DG has adjusted this in view of the specificities of its control system, in order to maintain the conservative character of the estimate.

²³ The costs of controls on all commitments have been included at the evaluation, selection and award stage. This better reflects DG FISMA's financial circuits and controls on files.

²⁴ Including recovery orders issued on behalf of the SRB.

- the policy achievements (see section 1);
- that controls on procurement and grant management are mandatory and a significant proportion of the appropriations concerned would be at risk were they not in place;
- the absence of errors and the non-financial benefits of control, including better value for money, deterrence, efficiency gains and regulatory compliance;
- the lower number of financial transactions refused for correction;²⁵
- the lack of complaints or litigation cases filed in respect of procurement and grant procedures;
- the high rate of implementation of the operational budget and the flexibility applied to optimise resources for other emerging activities;
- the very low number of requests for clarification (average 1.18) in the context of procurement procedures; and
- the low value of cost-claim errors under grants as a proportion of the total value of cost claims (0.1 %).

This assessment is made considering the 2015 values of the effectiveness indicators for both procurement and grants direct management (see annex 11).

DG FISMA uses a fully centralised financial circuit to process its financial transactions and has produced upper estimates of the costs of the main control processes based on corporate guidelines²⁶ and validated internally by sampled services in the DG. Calculations are based on such estimates and the relevant available financial data. To assess efficiency indicators over time, the estimated costs of controls on the main processes have been compared with data from the previous year(s).

Procurement

Approximate costs have been calculated for controls in 2015 on new procurement procedures and all other commitments using administrative and operational credits for contract renewals, purchase orders below €15 000 and specific contracts within framework contracts without re-opening competition.

The cost of controls²⁷ for planning new procurement procedures is stable as compared with 2013 (€3 752) and 2014 (€3 790). With an estimated average cost of around €3 800 per call for tender, controls in the planning phase are certainly cost-effective as a preventive measure to avoid procuring existing data or results that could have been obtained otherwise within the institution.

The same stable trend (€10 750 as compared with €10 500 in 2014) has been registered for the estimated average cost of a procurement procedure in respect of the assessment of needs and their definition. The cost-effectiveness of such controls is demonstrated by the fact that on average 2.2 offers are still received for each procurement procedure. This has ensured competition and bids that can be reasonably compared.

The average costs of controls on the selection and evaluation of offers following

²⁵ See footnote 19.

²⁶ Estimates based on standard maximum cost of a full-time equivalent (FTE) employee, time spent on each operation by each relevant control function, for each control stage of direct procurement, grant management; processing of financial transactions (payments and recovery orders) and supervisory measures.

²⁷ Including financial initiation and verification.

procurement procedures were estimated at around €12 400 per tendering procedure. These controls were cost-effective, since savings were made in respect of the most economically advantageous offers received, but average costs are higher because there are fewer procedures than in previous years.

Grants

The cost of programming, evaluating and selecting grants, expressed as a percentage of the value of the grants awarded, was stable as compared with 2014 (0.2 % against 0.1 %). The cost of control for monitoring grants rose slightly (0.5 % of the amount paid to beneficiaries, as compared with 0.3 % in 2014) because of the on-the-spot checks on all grant beneficiaries in 2015.

Financial transactions

The estimated average cost of controls for ensuring acceptance of deliverables and processing of payments and recovery orders was similar (€3 400) in 2014. The large number of recovery orders processed on behalf of the SRB offset the lower number of payments in 2015. Improvements have been noted in terms of days to process payments (see above reference to 90% of payments made on time).

Supervisory measures

Financial agents performed *ex post* supervisory controls costing an estimated average of €5 300 on 142 transactions for a total of €85.1 million, i.e. 80 % of the value of all open commitments and payments processed in 2015. Since (for efficiency reasons) 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 **efficiency** indicators below demonstrate improvement:

- on average, it took 17.1 days to make a payment in 2015, as compared with 19.5 in 2014; and
- the average time to sign grant agreements/notify decision on grants fell to 15 days, from 26 in 2014.

The average time to inform grant applicants about the results of their application increased by two days (92 days). However, this is still below the 180-day maximum established in the Financial Regulation.²⁸

Only 10 % of payments were processed late, as compared with 15 % in 2013 and 5 % in 2014.

Despite this overall positive performance, in the future DG FISMA will continue assessing the intensity/type of its controls towards some operations and transactions. This shall contribute to optimising control resources by reinforcing or reducing controls as appropriate.

Fraud prevention and detection

DG FISMA developed its own anti-fraud strategy (AFS) in 2013 on the basis of a methodology produced by OLAF. Implementation of the AFS action plan started in 2014 and was completed in 2015.

²⁸ Article 128(2).

In order to maintain a high level of ethics and fraud awareness among staff, the DG introduced a unified, structured approach for recording contacts and meetings with stakeholders and lobbyists. Since January 2015, all staff receiving requests to meet interest representatives or attend conferences have had to register these using the **Events Management Tool** (EMT), a database that brings more transparency to the management of meetings and contacts with stakeholders. EMT helps staff to avoid duplication of meetings and facilitates the *ex post* identification and record of discussions held. The DG presented EMT to the Fraud Prevention and Detection Network as part of the implementation of the AFS.

DG FISMA helped to promote an **anti-fraud culture in the ESAs** under its remit by providing assistance and feedback on their anti-fraud strategies and action plans.

The final activity under the AFS action plan was to conduct a **survey on fraud awareness** in DG FISMA. The target of 70 % of correct answers was reached easily (see result indicators on fraud prevention and detection in Annex 12).

As part of the established regular anti-fraud activities, the AFS was presented to new staff joining the DG following Commission re-organisation in 2014. All staff were also informed of the main features of the new agreement on cooperation and information exchange between the Commission and OLAF (e.g. procedure for investigations, access to information and databases, cooperation and shared competences between OLAF and IDOC²⁹ and the IAS).

DG FISMA ensured that its activities, such as on-the-spot checks on grant beneficiaries and its annual risk assessment exercise also focused on fraud risks.

Implementation of the AFS was monitored regularly throughout the year and reports were submitted to DG FISMA's ICC.

Result indicators (as set out in the DG's 2015 management plan)³⁰ and implementation of all AFS activities demonstrate that DG FISMA has helped to increase fraud awareness since 2013.

As announced in the 2016 annual management plan and the 2016-2020 strategic plan, DG FISMA's fraud risks will be re-assessed in the course of 2016 and it will pursue fraud prevention and detection accordingly in the coming years. A new AFS will be established as appropriate.

In 2015, DG FISMA also helped to implement the Commission's anti-fraud strategy³¹ and contributed to its report to the European Parliament and the Council on the protection of the EU's financial interests. The DG's contribution included the provisions made in the Single Resolution Mechanism Regulation and the Single Supervisory Mechanism on OLAF cooperation for the prevention and detection of fraud.

Finally, on an operational level, it is worth noting that DG FISMA's control activities to prevent and detect fraud are no different from those to ensure the legality and regularity of transactions and procedures. Through financial verifications (the central financial unit's *ex ante* verifications and the annual *ex post* checks of sample transactions), the DG reviews transactions, contracts, tenderers and beneficiaries to identify any fraud 'red flags'. Procurement and grant procedures or transactions assessed as entailing greater

²⁹ Investigative and Disciplinary Office of the Commission.

³⁰ Percentage of AFS actions implemented on time and degree of awareness of anti-fraud measures following AFS implementation.

³¹ COM(2011) 376, 24.6.2011.

risks are verified at two levels before being approved by the authorising officer. This second financial verification is carried out by staff who are familiar with fraud prevention and detection 'red flags'.

In 2015, DG FISMA applied effective controls in procurement and grant management to prevent and detect fraud risks. A second *ex ante* financial verification was performed on amounts above €60 000. No contract was terminated at the request of either DG FISMA or the contractors.

In addition, two contract files underwent in-depth control to assess potential conflicts of interest or fraud (we reported last year on the review of one of these). No files were transmitted to OLAF as a result of the review, nor did OLAF open any cases in respect of DG FISMA's activities or contractors.

2.2 Audit observations and recommendations

This section reports and assesses the observations, opinions and conclusions in audit reports and the internal auditor's opinion on the state of control, where these could have a material impact on the achievement of internal control objectives, and therefore on assurance, together with any management measures taken in response to the audit recommendations.

In 2015, DG FISMA was audited by the ECA and consulted by the IAS. It 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 2014 statement of assurance (DAS), the ECA sampled two transactions for review:

- a cost claim regarding the Union's contribution to EBA in 2013; and
- a final payment for an outsourced study.

It completed the review in 2015 with no findings or remarks.

In 2015, the ECA carried out an audit (desk review) of the preliminary accounts and reviewed DG MARKET's annual accounts as of 31 December 2014. No audit finding or recommendation was issued as a consequence.

For the 2015 DAS, the ECA sampled one DG FISMA transaction for review – a cost claim under the Union's 2014 contribution to EIOPA. The review is ongoing.

In November, the ECA adopted special report No 22/2015 (*EU supervision of credit-rating agencies – well established but not yet fully effective*),³² with ESMA and to a very limited extent DG FISMA as auditees. The objective was to assess whether ESMA had succeeded in establishing itself as the credit-rating agency watchdog in the EU. 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

³² Published on 1 February 2016.

ESMA.

DG FISMA implemented the outstanding recommendation of ECA special report No 5/2014 (*European banking supervision taking shape – EBA and its changing context*), on clarifying the ESAs' and DG FISMA's roles and responsibilities.

At the end of 2015, there were no open ECA recommendations to be implemented by DG FISMA.

Internal Audit Service audits and conclusion on the state of control

No IAS audit engagements were performed or completed in DG FISMA in 2015. However, in September the IAS issued its final report on a consulting engagement on objective- and indicator-setting in the context of the DG's management plan. As this was a consulting engagement, DG FISMA did not need to prepare a formal action plan for implementing the recommendations. The analysis and recommendations were nevertheless taken on board in the drafting of the DG's 2016-2020 strategic plan and 2016 annual management plan.

Following reorganisation in which the Commission's internal audit function was centralised in the IAS from 1 January 2015, the IAS took over the monitoring and follow-up of outstanding recommendations from the audits of former DG IACs. In 2015, it followed up the following audits, for which most of the recommendations were implemented:

- IAS audit on cooperation with the ESAs on financial services;
- IAS audit on human resources management (HRM) in response to the financial crisis;
- IAC audit on staff learning and development; and
- IAC audit on the management and planning of studies and the use of the results.

The IAS concluded that nine of 10 followed-up recommendations could be closed.³³ In view of measures already taken, the remaining 'very important' recommendation on HRM strategy was downgraded to 'important' and will be implemented by the end of 2016. The IAS will conduct a second follow-up engagement in 2016 to assess the implementation of recommendations not covered in the 2015 follow-up.

DG FISMA implemented four 'important' recommendations from the IAC audit on its procedures for managing complaints and infringements; these related to corporate memory; implementation plans and workshops; internal guidance; and IT data consistency. Of the two 'very important' recommendations, one does not concern DG FISMA, because (following the reorganisation) DG GROW is now in charge of the *DMI (Droit du Marché Intérieur)* database. The other, on strategic reporting, was implemented at the beginning of 2016, as specified in the action plan.

In 2016, DG FISMA has to finalise implementation of one 'very important' and three 'important' IAS and IAC recommendations, in line with the action plans agreed with the IAS. The outstanding 'very important' recommendation classified as overdue (> 1 year) concerns HRM monitoring and reporting. The DG has taken action to implement this. Senior management agreed key performance indicators for human resources in early 2016 and these will be reviewed regularly.

On the basis of the results of the IAS and IAC audits in DG FISMA in 2013-2015 and given that:

³³ Including one deemed obsolete as a result of the reorganisation of the Commission.

- for the accepted recommendations made by the IAS and the IAC in 2013-2015, 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 one very important finding remains to be addressed in line with the agreed action plan. DG 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 Human Resource Management.

Overall, DG FISMA's audit record is positive. In the five years to 2015, 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 open recommendations do not raise assurance implications and are being implemented as part of ongoing improvement efforts.

2.3 Assessment of effectiveness of internal control systems

The Commission has adopted a set of internal control standards (ICSs), based on international good practice, to ensure that policy and operational objectives are achieved. As regards financial management, compliance with the ICSs is mandatory.

DG FISMA has put in place a suitable organisational structure and internal control systems to achieve its policy and control objectives, in accordance with the ICSs and taking due account of the risks associated with the environment in which it operates.

The DG assesses annually the effectiveness of its key internal control systems. In 2015, its review of ICS implementation was based on an initial ICC desk review of compliance and the effectiveness of the control arrangements, complemented by contributions from horizontal units responsible for implementing specific ICSs.

Internal control systems were assessed on the basis of various monitoring measures and sources of information, including reports to management, relevant audit and consulting results, risk assessments and reported exceptions, non-compliance events and internal control weaknesses. The underlying causes of the exceptions and weaknesses were analysed and corrective and alternative mitigating controls implemented where necessary. The analysis enabled the ICC to report to the Director-General that internal control in the DG was satisfactory.

DG FISMA carried out various activities to improve effective implementation of the ICSs prioritised by management: ICS 3 (staff allocation and mobility), ICS 7 (operational structure) and ICS 9 (management supervision). In particular, activity accompanying the DG's reorganisation contributed to a smooth handover of tasks and business continuity; clear delegations were established within the new organisational structure.

The DG is continually looking for ways of making its control arrangements more effective. Therefore, despite overall compliance and effective implementation of ICSs in 2015, further monitoring will be performed on the new processes and activities recently put in place e.g. for competence mapping, assessing Units' workload and staff allocation.

In conclusion, ICSs are implemented effectively and function well. No weaknesses were

identified in 2015 that might have a significant impact on assurance.

2.4 Conclusions as regards assurance

This section reviews the assessment of the elements reported above (in sections 2.1, 2.2 and 2.3) and draws conclusions supporting the declaration of assurance and whether it should be qualified with reservations.

The information in section 2 stems from management's and auditors' monitoring, as set out in various reports based on systematic analysis of the available evidence. The following factors provide sufficient guarantees as to the completeness and reliability of the information reported, a true and fair view of activities in 2015 and complete coverage of the budget delegated to the Director-General of DG FISMA:

- ✓ the DG's internal controls systems provide sufficient assurance to manage appropriately the risks relating to the legality and regularity of the underlying transactions;
- ✓ 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.
- ✓ the DG received no critical observations or recommendations from auditing bodies (ECA and IAS) and the IAS's conclusion on the state of control for 2015 is satisfactory, although one 'very important' recommendation remains to be addressed in line with the agreed action plan;
- ✓ resources were used for the intended purposes, sound financial management was applied and it was ensured that significant information would not be omitted; and
- ✓ the DG has put in place suitable control measures to limit risks of error and prevent, detect and correct fraud and irregularities.

In conclusion, 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 2015.

Overall conclusion

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended, risks are appropriately monitored and mitigated, and necessary improvements and reinforcements are being implemented. In his capacity as AOD, the Director-General has signed the declaration of assurance.

3. Declaration of Assurance

'I, the undersigned,

Director-General of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union, in my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view³⁴;

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 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 European Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here that could harm the interests of the Commission.'

Brussels, 18 March 2016

[signed]

Olivier GUERSENT

³⁴ 'True and fair' in this context means a reliable, complete and correct view of the state of affairs in the Directorate-General.