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COVER NOTE

From:	Mr Klaus-Heiner LEHNE, President of the European Court of Auditors
date of receipt:	28 November 2017
To:	Mr Märt KIVINE, President of the Council of the European Union
Subject:	Report on the annual accounts of the Single Resolution Board for the financial year 2016 together with the Board's reply

Delegations will find attached the European Court of Auditors' report on the annual accounts of the Single Resolution Board for the financial year 2016.

This report is accompanied by the Board's reply and will shortly be published in the *Official Journal of the European Union*.

Encl.: Report on the annual accounts of the Single Resolution Board for the financial year 2016 together with the Board's reply.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts
of the Single Resolution Board
for the financial year 2016

together with the Board's reply

INTRODUCTION

1. The Single Resolution Board (hereinafter “the Board”, aka “SRB”), which is located in Brussels, was established by Regulation (EU) No 806/2014 on the Single Resolution Mechanism (“SRM Regulation”)¹. The mission of the Board is to ensure an orderly resolution of failing credit institutions and certain investment firms (hereinafter “Credit Institutions”) with minimum impact on the real economy and the public finances of the participating Member States of the Banking Union.
2. The Board is in charge of administering the Single Resolution Fund (hereinafter “the Fund”) which was established by the SRM Regulation and shall support the Single Resolution Mechanism. The Fund will be gradually built up during the period 2016 to 2023 and shall reach the target of at least 1 % of the amount of covered deposits of all Credit Institutions within the European Banking Union by 31 December 2023.
3. The Board has an autonomous budget which is not part of the EU budget. Contributions are raised from Credit Institutions established in Member States participating in the Banking Union. The budget for the year 2015 consisted of only Part I (administrative budget). The budget for the year 2016 consisted of Part I amounting to 65 million euro and Part II (Credit Institutions’ contributions to the Fund), amounting to 11 800 million euro.
4. **Table 1** presents key figures for the Board².

¹ OJ L 225, 30.7.2014, p. 1.

² More information on the Board’s competences and activities is available on its website: www.srb.europa.eu .

TABLE 1: KEY FIGURES FOR THE BOARD

	2015	2016
Budget (million euro)		
Part I (Board's administrative budget)	22	65
Part II (Budget of the Fund)	0	11 800
Total staff as at 31 December ³	108	180

Source: data provided by the Board

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

5. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Board's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

OPINION

6. We have audited:

- (a) the accounts of the Board which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ for the financial year ended 31 December 2016, and
- (b) the legality and regularity of the transactions underlying those accounts,

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

³ Staff includes officials, temporary and contract staff and seconded national experts.

⁴ The financial statements comprise the statement of financial position, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

⁵ The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Reliability of the accounts

Opinion on the reliability of the accounts

7. In our opinion, the accounts of the Board for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Board at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue underlying the accounts

8. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

9. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

Responsibilities of management and those charged with governance

10. In accordance with Articles 310 to 325 of the TFEU and the Board's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Board's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

11. In preparing the accounts, management is responsible for assessing the Board's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

12. Those charged with governance are responsible for overseeing the entity's financial reporting process.

Auditor's responsibilities for the audit of the accounts and underlying transactions

13. Our objectives are to obtain reasonable assurance about whether the accounts of the Board are free from material misstatement and the transactions underlying them are legal and regular and to provide, on the basis of our audit, the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

14. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal control relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions, are considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the accounts.

15. For revenue, we verify the Board's procedures for calculating and raising Fund contributions and other income, if any⁶. Our verification of Fund contributions was based on information

⁶ Fund contributions for the year 2015 transferred to the Board in 2016 were calculated by national resolution authorities and therefore not subject to the Court's audit.

communicated by the Credit Institutions through national resolution authorities and did not cover the reliability of this information. Furthermore, Fund contributions which are the subject of administrative appeals or judicial proceedings between some Credit Institutions and national resolution authorities and of judicial proceedings between some Credit Institutions and the Board before the General Court of the European Union respectively were not subject to our audit in order not to affect in any way the position of the parties in such proceedings. Detailed information on administrative appeals or judicial proceedings is presented in paragraph 7(i) of the Board's annual accounts."

16. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Board accepts the justification by clearing the advance payment, whether in the same year or later.

17. In preparing this report and Statement of Assurance, we considered the audit work of the independent external auditor performed on the Board's accounts as stipulated in Article 102 (1) of the Board's Financial Regulation.

Emphasis of matter

18. Without calling into question its opinions expressed in paragraphs 6 to 17, the Court would like to emphasise that Fund contributions are calculated on the basis of information provided by Credit Institutions to the Board through the national resolution authorities. However, the SRM Regulation does not provide for a comprehensive and consistent control framework to ensure the reliability of the information. Furthermore, the Court notes that the methodology to calculate contributions laid down in the legal framework is very complex, resulting in a risk to accuracy. Moreover, the Board cannot release details on the risk-assessed contribution calculations per Credit Institution as they are interlinked and include confidential information about other Credit Institutions. This affects the transparency of these calculations.

19. The comments which follow do not call the Court's opinion into question.

COMMENTS ON THE RELIABILITY OF THE ACCOUNTS

20. The Board's accounting system was not yet validated by the Accounting Officer.

21. Article 92(4) of the SRM Regulation requires the Court to report in particular on the contingent liabilities of the Board, the Council and the Commission as a result of the performance of their tasks under the SRM Regulation. The Court will publish a separate report on this matter.

COMMENTS ON BUDGETARY MANAGEMENT

Part I (the Board's administrative budget)

22. The implementation rate was low at 62 % (2015: 67 %), or 35 million euro (2015: 15 million euro) of available appropriations. This is mainly caused by the nature of the Board's activities and the legal budgetary framework in place. While the budget provides appropriations for the Board's daily operations and the administration of resolution cases, no resolution occurred in 2016. The unused appropriations will reduce future contributions from Credit Institutions.

23. The committed appropriations carried over under budget title II (administrative expenditure) amount to 3,1 million euro, i.e. 35 % (2015: 3,3 million euro, i.e. 70 %) of total committed appropriations. They mainly concern IT contracts signed in 2016 (1,9 million euro) and security services provided in 2016 that were not yet invoiced and paid (0,6 million euro).

24. The committed appropriations carried over under budget title III (operational expenditure) amount to 5,3 million euro, i.e. 66 % (2015: 1,6 million euro, i.e. 40 %) of committed appropriations. They mainly concern services provided by the European Central Bank (1,9 million euro), legal services (1,5 million euro) and IT contracts (1,3 million euro) for which will payments are due in 2017. Such high level of carry overs is in contradiction with the principle of annuality.

25. In the period July to October 2016 the Board committed 2 million euro for the procurement of legal services which were not preceded by a financing decision nor was it planned in the Annual Work Programme and budget.

Part II (Budget of the Fund)

26. In application of the negative deposit facility rate in 2016 by the European Central Bank, the Fund paid negative interest amounting to 24 million euro to national central banks. This reduced the amount of accumulated contributions available for future resolutions.

OTHER COMMENTS

27. The Board needs to improve the speed of its recruitment procedures, set clear minimum thresholds to be met by candidates and better define roles and responsibilities of selection committee members.

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

An overview of the corrective action taken in response to the Court's comments from previous years is provided in the ***Annex***.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President

Follow-up of previous years' comments

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	In 2015 the Board became operational and gradually set up its internal control environment. However a number of essential procedures and controls remain to be drafted, adopted or implemented, including the risk management and control strategy, the internal control standards, the periodic assessment of the sound functioning of the internal control system and the anti-fraud strategy.	Ongoing
2015	The budget of the SRB is funded through contributions from credit institutions and amounted to 22 million euro in 2015. The SRB committed 67 % of the called budget and used 45 % of it. The low implementation rate resulted in a significant budget surplus of 7,7 million euro.	N/A
2015	Carry-overs of committed appropriations are high for Title II (administrative expenditure) at 3,6 million euro, i.e. 70,4 %. These carry overs mainly concern contracts which have been concluded in 2015 for the new premises of the SRB (e.g. IT infrastructure, security infrastructure and office equipment) whereby the services and goods had not yet been fully delivered or invoiced by the end of 2015.	N/A
2015	Carry-overs of committed appropriations are high for Title III (operational expenditure) at 0,6 million euro, i.e. 40,3 %. These carry overs mainly concern consultancy services for the "Collection of contributions project" which have not yet been fully delivered or invoiced by the end of 2015	N/A

Year	Court's comments	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2015	In 2015, the SRB signed a contract for its new headquarters in Brussels with a minimum duration of 15 years and a total value of at least 42,4 million euro. The procurement procedure was poorly documented and the location in the contract notice restricted it to one of the most expensive areas in Brussels excluding possible cheaper options.	N/A

THE BOARD'S REPLY

18. The Board notes that the BRRD and SRMR include an obligation for Member States to set up an appropriate regulatory, accounting and reporting framework to ensure, amongst other, the accuracy of contributions. Furthermore, a large majority of the information required for the calculation stems from applicable supervisory reporting requirements. In addition, the Board has put in place a number of safeguards within its mandate to check the accuracy of the data provided by the credit institutions. Furthermore, although confidentiality concerns affect the transparency of the calculation, the calculation methodology is fully disclosed and the Board provided the NRAs with all details that could be shared in accordance with the regulation.

20. The Board accepts the comment. While the Board uses the accounting system of the European Commission, a first validation of the Board-specific features was planned by the end of 2017. However, since the Board will launch a new system for the calculation and invoicing of administrative contributions in Q4 2017-Q1 2018, it will for efficiency reasons carry out one single validation in the first half of 2018 covering all accounting systems.

22. The Board agrees with the challenges that come along with its crisis management mission, and it is taking measures to increase transparency in the reporting of the budget implementation. In 2017, the Board has reformed its budget structure to introduce a clear distinction between planned expenditure and contingencies. This will better reflect the budget execution related to "normal" operations and the execution related to budget foreseen in case of crisis (contingent budget). The new structure has already been used for the draft budget of 2018.

23. The Board accepts the comment. Whereas part of the payments under Title II depend on the invoicing by several Commission services (OIB including security services, DG HR etc.), several procurement procedures for ICT projects were launched only later in the year. Due to the start-up phase of the Board, it was not possible to accomplish a full alignment of the ICT projects with the budget cycle.

24. Due to its strict "cost-recovery" principle, the ECB can invoice the Board only after 31 December each year. This fact makes the carry-forward of appropriations related to services from the ECB inevitable.

The amount carried forward for legal services corresponds to exceptional and non-predictable expenditure related to resolution and court cases. The carry-forward of this type of expenditure is to be expected, and it should be considered as directly linked to the specific nature of the services provided and the Board's crisis management role.

The Board accepts the comment regarding the IT contracts in line with the reply given under comment 24.

25. The Board notes that all operational expenditure was covered by a financing decision in the form of Annex I to the Annual Work Programme, in line with the Board's Financial Regulation. However, the Board recognises that the allocation to activities within the financing decision did not correspond to the scope of the procured services. The services in question were procured for legal defence in relation to the Fund, while the financing decision allocated the budget to consultancy in resolution readiness.

26. The Board acknowledges the comment. Despite requests to the Euro System not to apply negative rates to the Board, the Fund incurred negative rates on its central bank accounts. The Board has periodically evaluated alternatives to the cash accounts in the form of term deposits, but these did not offer a financially attractive alternative. In September 2016, the Board adopted an Investment Strategy that will be implemented gradually. However, under the current market circumstances it is not possible to construct a portfolio that offers a positive expected return at an acceptable risk level and meets the liquidity needs.

27. The Board accepts the comment and has already taken action to remedy its shortcomings in the course of 2017. The Board has drafted and implemented a Recruitment Manual, which defines the roles and responsibilities of the selection panel members and includes a guideline on minimum thresholds