



2018

Annual Activity Report

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



Table of Contents

THE DG IN BRIEF	3
EXECUTIVE SUMMARY [MAX. SIX PAGES]	4
A) KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG (EXECUTIVE SUMMARY OF SECTION 1)	5
B) KEY PERFORMANCE INDICATORS (KPIs)	8
C) KEY CONCLUSIONS ON FINANCIAL MANAGEMENT AND INTERNAL CONTROL (EXECUTIVE SUMMARY OF SECTION 2.1)	11
D) PROVISION OF INFORMATION TO THE COMMISSIONER(S)	12
1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG	13
2. ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL	30
2.1 FINANCIAL MANAGEMENT AND INTERNAL CONTROL	30
2.1.1 CONTROL RESULTS	31
2.1.2 AUDIT OBSERVATIONS AND RECOMMENDATIONS	47
2.1.3 ASSESSMENT OF THE EFFECTIVENESS OF THE INTERNAL CONTROL SYSTEMS	50
2.1.4 CONCLUSIONS ON THE IMPACT AS REGARDS ASSURANCE	54
2.1.5 DECLARATION OF ASSURANCE [AND RESERVATIONS]	56
DECLARATION OF ASSURANCE	57
2.2 OTHER ORGANISATIONAL MANAGEMENT DIMENSIONS	58
2.2.1 HUMAN RESOURCE MANAGEMENT	58
2.2.2 BETTER REGULATION (ONLY FOR DGs MANAGING REGULATORY ACQUIS)	58
2.2.3 INFORMATION MANAGEMENT ASPECTS	59
2.2.4 EXTERNAL COMMUNICATION ACTIVITIES	60

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. The DG is composed of 5 directorates and 23 units.

DG FISMA is managed by Director-General Olivier Guersent under the political authority of Vice-President Valdis Dombrovskis in charge of the Euro and Social Dialogue and responsible for Financial Stability, Financial Services and Capital Markets Union. DG FISMA also contributes to projects steered by Vice-President Jyrki Katainen in charge of Jobs, Growth, Investment and Competitiveness.

DG FISMA's mission is to develop stable, well-regulated and globally competitive EU financial markets in the interest of all stakeholders, including businesses, investors and consumers. To this end, the DG presents and monitors the effectiveness of financial sector reforms promoting market integration, responds to emerging financial-stability risks and ensures that relevant EU legislation is fully implemented and enforced. In this context and to improve access to funding for businesses, especially SMEs, and thereby promote growth and job creation, the DG is bringing forward initiatives to create an EU-wide Capital Markets Union. DG FISMA is working closely with the three European supervisory authorities for banking, insurance and securities as well as other relevant bodies such as the Single Supervisory Board, the Single Resolution Board and the European Systemic Risk Board.

More specifically, the DG's work involves:

- presenting new policy initiatives to ensure that financial markets are well regulated and supervised;
- consolidating financial-sector reforms while adapting them to changed circumstances where necessary, and ensuring that EU legislation is presented, adopted and properly enforced;
- formulating policies that contribute to investment, growth and jobs in the EU by improving the long-term financing of the economy while safeguarding financial stability. In particular, this requires further progress towards a well-regulated Capital Market Union encompassing all Member States and facilitating private-sector financing of the transition to sustainable economic development;
- formulating policies that contribute to the deepening of EMU via the proper functioning of the Banking Union;
- making financial services work better for consumers and retail investors;
- monitoring financial-sector developments and structures in the Member States and ensuring satisfactory implementation of EU legislation at national level; and
- working closely with international partners to promote consistent regulation and the implementation of agreed standards and principles around the world.

EXECUTIVE SUMMARY

The Annual Activity Report is a management report of the Director-General of DG FISMA to the College of Commissioners. Annual Activity Reports are the main instrument of management accountability within the Commission and constitutes the basis on which the College takes political responsibility for the decisions it takes as well as for the coordinating, executive and management functions it exercises, as laid down in the Treaties¹.

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

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

A stable financial system is a prerequisite for sustainable economic growth, employment, returns available to savers and access to credit for borrowers. The Directorate-General for Financial Stability, Financial Services and Capital Markets' main mission is to ensure financial stability by consolidating financial reforms while adapting them to changed circumstances, to develop well-regulated and globally competitive financial markets in the interest of business and consumers and to improve access to capital for businesses and thereby promote growth and job creation.

In line with the above mission and as set out in its Strategic Plan, DG FISMA will, over the period of 2016-2020, contribute to the following three general objectives:

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

The DG contributes to these general objectives through various specific objectives, as well as yearly outputs, which are set each year in the annual Management Plan. In this executive summary, the key achievements over 2018 are described per general objective. A full narrative on the results over 2018 can be found in Part 1 of this Annual Activity Report as well as in more detail in the performance tables in Annex 12.

A New Boost for Jobs, Growth and Investment

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

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

In 2018 further progress has been made towards the implementation of the CMU Action Plan and the CMU Mid-term review. Among other successes, the following milestones were reached:

- Political agreement by the co-legislators of the legislative proposal on the Pan-European Personal Pension Product (PEPP) in December 2018.
- Adoption by the Commission of legislative proposals in key areas of the Capital Markets Union, including proposals on covered bonds, crowdfunding and the cross-border distribution of investment funds.
- Adoption by the Commission of an Action Plan on Sustainable Finance in March 2018, followed by the adoption of a legislative package containing three proposals on Sustainable Finance in May 2018.

In November 2018, the Commission presented an overview of the progress made on all CMU files in the Communication 'Time for renewed efforts to deliver for investment, growth and a stronger role of the euro'.² The Communication recalls that by the end of 2018 the Commission completed the delivery of the 13 legislative proposals it set out in the Action Plan on the CMU. Moreover, the Commission has also set in motion and delivered the vast majority of the non-legislative action announced in the CMU Mid-term review.

A Deeper and Fairer Internal Market with a Strengthened Industrial Base

In 2018 the Commission was actively involved and extensively contributed to the successful conclusion of the inter-institutional negotiations on the Banking Package. The political agreement on the Banking Package marks an important milestone in reducing risk in the Union banking sector.

Throughout 2018 the Commission has also initiated actions in several new policy areas. In March 2018, the Commission adopted the Fintech Action Plan, which sets out several legislative and non-legislative actions to ensure that the European financial sector remains innovative and competitive in the future. In several other key areas, such as the on-going work on the Investment Firms review, retail financial services and payments, and financial markets infrastructure, progress was made on several legislative proposals and actions some of them featured in the Consumer Financial Services Action Plan, as well as on the implementation of several pieces of secondary legislation.

A Deeper and Fairer Economic and Monetary Union

Following the adoption of the Council roadmap to complete the Banking Union in June 2016, and in addition to the successful negotiation of the Banking Package, the latest key developments in 2018 are the following:

- The European Council designated the European Stability Mechanism as the provider of the common backstop at the inclusive Euro Summit of June 2018.
- At the inclusive Euro Summit of 14 December 2018, the European Council endorsed all the elements of the Euro Group report on EMU deepening, which includes the main features of the common backstop and the establishment of a High-Level Working Group on the European Deposit Insurance Scheme (EDIS).
- Throughout 2018, the Commission was actively involved in implementing the EU Action Plan for the reduction of non-performing loans across the banking sector.
- In September 2018, the Commission adopted a communication and a legislative proposal on Anti-Money Laundering with the aim to better protect our financial system from money laundering and terrorist financing.

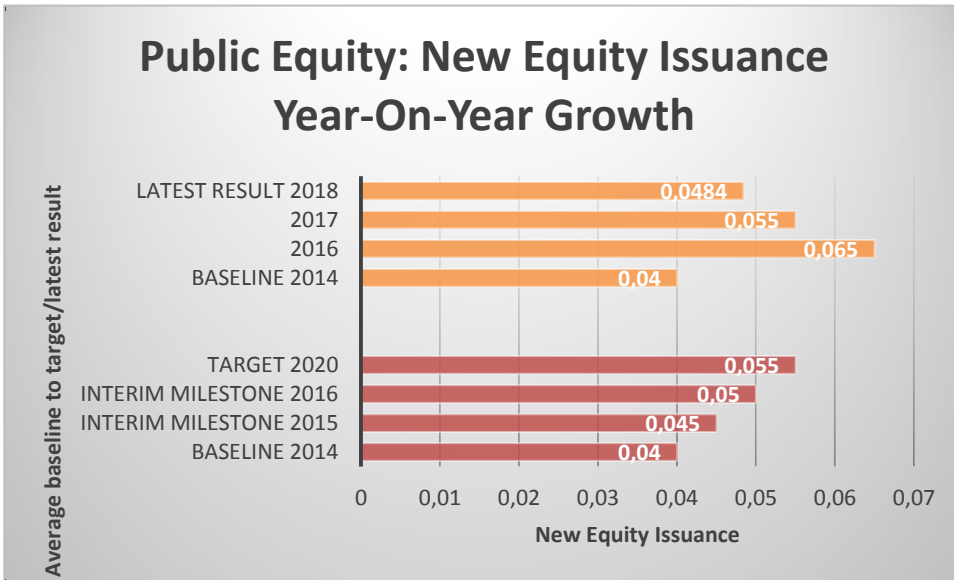
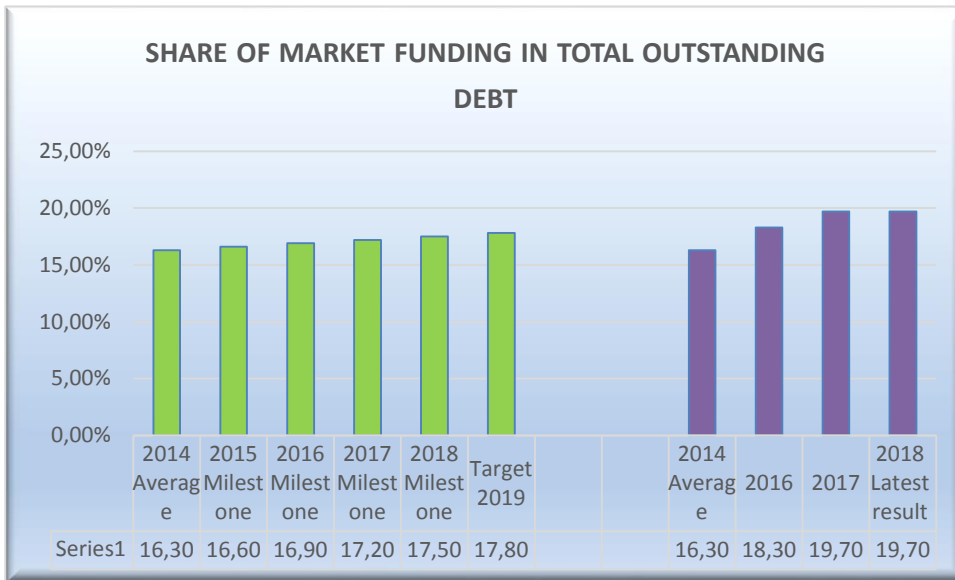
Other work

In 2018 the DG was also involved in many other work streams. For instance, the DG participated in discussions that led to an agreement on the completion of the post-crisis framework at the Basel Committee. In the context of Brexit, the DG has played a very

² COM(2018) 767 final

active role in the contingency planning efforts of the Commission in the area of financial services. Implementation of financial services legislation in Member States continued to be a key issue for the DG, which monitored Member State progress closely and contributed regular reports for the ECOFIN Council. In addition to this, the DG provided very substantial input to the December Communication on the International role of the euro and continued to assess and monitor financial markets, also at country level in the context of the European Semester.

b) Key Performance Indicators (KPIs)

	Target (or milestones) as per Strategic Plan 2016-2020	Latest known results as per Annual Activity Report
PUBLIC EQUITY: NEW EQUITY ISSUANCE YEAR-ON-YEAR GROWTH	Source of data: European Central Bank, Data Warehouse. FMP (ECB data)  <i>Own DG FISMA chart</i>	
SHARE OF MARKET FUNDING IN TOTAL OUTSTANDING DEBT	Source of data: European Central Bank, Data Warehouse. FMP (ECB data file)  <i>Own DG FISMA chart</i>	
INSURANCE COMPANIES'	Source of data: European Insurance and Occupational Pensions Authority (EIOPA) as of mid-2016.	2017 information

INVESTMENTS IN INFRASTRUC- TURE	Baseline	Target		based on partial data*: Total investments in infrastructure by insurers are above EUR 171bn (ca. 2.3% of total investment assets of insurers). A quarter of this is infrastructure investment qualifying for the new advantageous treatment in Solvency II. Note: highly concentrated in the UK. (EIOPA financial stability report, June 2018, page 62).
	mid-2015	2019		
	Before the adoption of a Solvency II amendment on infrastructure. No quantitative data available at this point.	A general increase in insurance companies' investment in infrastructure by 2019.		

* Reliable comparable statistics on qualifying infrastructure investment will only be collected by EIOPA annually, starting May 2019.

AVERAGE OF INWARD AND OUTWARD INTRA-EU FOREIGN DIRECT INVESTMENT (FDI)	Source of data: Eurostat: Balance of Payments, European Union direct investments [bop_fdi6] and GDP and main components (output, expenditure and income) [nama_10_gdp].			2017: 2%
	Baseline	Interim Milestone	Target	
	2013	2016	2018 A higher index indicates higher new cross-border direct investment during the period in relation to the size of the economy as measured by GDP. If this	

			index increases over time, intra-EU direct investment is becoming more integrated.		
	2%	Stable increase.	Stable increase.		
NUMBER OF INFRINGEMENTS FOR NON-CONFORMITY CLOSED WITHIN BENCHMARK	Source of data: NIF Database.			2018: No non-conformity infringement outside of benchmark	
	Baseline	Interim Milestones			Target
	2015	2017	2018		2020
	No specific benchmark is set for the non-conformity assessment. However, a three-year benchmark is set for all Article 258 TFEU infringements. There are currently 14 cases still open >3 years since their registration.	10	5		No cases open three years after their registration by 2020.

c) Key conclusions on financial management and internal control (executive summary of section 2.1)

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

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

In addition, DG FISMA has systematically examined the available control results and indicators, including those aimed to supervise entities to which it has entrusted budget implementation tasks³, as well as the observations and recommendations issued by internal auditors and the European Court of Auditors. These elements have been assessed to determine their impact on the management's assurance as regards the achievement of control objectives. Please refer to Section 2.1 for further details.

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

³ DG FISMA has not entrusted budget implementation tasks to the decentralised agencies under its remit listed in Annex 8.

d) Provision of information to the Commissioner

In the context of the regular meetings during the year between the DG and the Commissioner on management matters, also the main elements of this report and assurance declaration, have been brought to the attention of Vice-President Valdis DOMBROVSKIS, responsible for the Euro and Social Dialogue, Financial Stability, Financial Services and Capital Markets Union.

1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG⁴

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

In its Strategic Plan, DG FISMA selected three general objectives that closely correspond to these priorities:

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

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

In addition to this, the DG is expected to annually plan the main outputs for the next year. For 2018 this was done in the Management Plan 2018. This Annual Activity Report reports on the progress made in 2018, on the basis of the outputs and targets as set out in the 2018 Management Plan.

The performance tables in Annex 12 provide a full overview of the extent to which the DG reached the 2018 Management Plan targets. In this section, the focus is on key policy achievements in 2018. Overall, most targets and milestones have been reached. The Commission adopted 16 legislative proposals that fall within the remit of DG FISMA. Moreover, the co-legislators reached political agreement on seven files. The DG also contributed to the adoption of over 25 different Regulatory or Implementing Technical standards, many of which relating to the Securities Financing Transactions Regulation. Similarly, more than 10 implementing and delegated acts or regulations were finalized last year. The DG also adopted Action Plans on Fintech and Sustainable Finance and Communications on, inter alia, Intra-EU investments and national asset management companies.

In a limited number of cases in 2018, targets were either achieved later in the year than expected, or the target is expected to be achieved in 2019. These delays are due to various reasons: internal, external or a combination of both. A longer preparatory process can for instance, cause internal delays, while external delays are often a result of changing priorities or longer negotiations among the co-legislators.

⁴ An Executive Agency uses as heading: "Implementation of the Agency's Annual Work programme - Highlights of the year".

General objective 1: A New Boost for Jobs, Growth and Investment

The Capital Markets Union (CMU) is a key pillar of the Commission's Investment Plan for Europe: the so-called "*Juncker Plan*". Through a mix of regulatory and non-regulatory reforms, the CMU aims to better connect savings to investments. It aims to strengthen Europe's financial system by providing alternative sources of financing and more opportunities for consumers and institutional investors. For companies, especially small and medium-sized enterprises and start-ups, the CMU means more funding opportunities, such as venture capital and crowdfunding. Removing obstacles to the free flow of capital across borders will also strengthen the Economic and Monetary Union by supporting economic convergence and helping to cushion economic shocks in the euro area and beyond, making the EU economy more resilient.

On the basis of the 2017 Mid-term Review of the Capital Markets Union Action Plan, important progress has been made towards the implementation of the CMU in 2018. An overview of the progress made on all CMU files was presented on 28 November 2018 in the Communication 'Time for renewed efforts to deliver for investment, growth and a stronger role of the euro'.⁵ During 2018 DG FISMA has completed the delivery of the 13 legislative proposals set out in the Action Plan. Following the political agreement on three of these proposals in 2017, progress has been made on the negotiation of the outstanding proposals.

In 2018, co-legislators reached political agreement on the proposal on the Pan-European Personal Pension Product (PEPP).

In the first half of 2018, the Commission presented further legislative proposals in key areas of capital markets, such as covered bonds, crowdfunding and the cross-border distribution of collective investment funds. Throughout 2018, DG FISMA has worked hard with both co-legislators to reach political agreement on these files.

As announced in June 2017 in the CMU Mid Term Review, the Commission has taken action to ease high growth SMEs' access to public securities markets. In May 2018, the Commission published a proposal for a regulation introducing targeted changes to MAR and Prospectus, as well as a draft delegated regulation amending MiFID II level 2. Both aim at alleviating the administrative burden placed on small issuers and increasing the liquidity and attractiveness of SME Growth Markets.

Towards the end of 2018, the two co-legislators each obtained a mandate to enter into trilogues on the covered bonds regulation and directive. The Commission aims to enhance covered bonds as a stable and cost-effective source of funding for banks, especially where markets are less developed. The proposal for a covered bonds Directive sets out the main structural features that a covered bond needs to respect and strengthens the conditions for granting preferential capital treatment under the Capital Requirement Regulation (CRR).

Throughout 2018, the Commission has been working in close cooperation with the ESAs to develop and adopt technical standards specifying key aspects of the Securitisation regulation, which applies as of 1 January 2019. Reviving the securitisation market on a sound and sustainable footing is an important building block of the CMU, providing additional funding sources for companies, strengthening banks' ability to support the economy and enhancing private risk sharing by diversifying risk exposure across the EU. The Commission also introduced targeted amendments to capital charges for simple, transparent and standardised (STS) securitisations under the "Solvency II" legal framework for insurance in the EU. This has the aim to facilitate insurers investing in high-quality securitisations.

The September 2017 proposal to strengthen the supervisory convergence powers,

⁵ COM (2018) 767 final.

governance and funding of the three European Supervisory Authorities (ESAs) is another key building block of the CMU. Throughout 2018 DG FISMA closely followed and contributed to discussions in the Council and the European Parliament on this legislative project.

In 2018, DG FISMA has also delivered and set in motion the vast majority of the non-legislative actions announced in the CMU Mid-term review, notably in the areas of retail investment and corporate finance:

- DG FISMA has assessed the functioning of the distribution of retail investment products and discussed the outcome in the Public Hearing of June 2018. As a follow-up, DG FISMA has contracted a study to obtain an in-depth overview of the situation of technology-driven digital interfaces that could help individuals to find suitable and cost effective retail investment products in a reliable, transparent and trustworthy way.
- Together with the three ESAs, substantive progress has been made on the development of the first set of indicators on costs and performance of different categories of retail investment products.
- In cooperation with Member States and other key stakeholders, the DG has also made progress on surveying the use of instruments such as investment saving accounts (ISAs) and Employee Share Ownership schemes (ESOs) across the EU. Such instruments encourage and enable investors to get a first insight in building wealth with shares as well as simplifying administrative burden linked to investment in shares.
- As regards improving access to finance for business, the DG has assessed the possibility to develop European secured notes for SME loans and infrastructure loans. The DG has also reviewed the functioning of corporate bond markets in the Union and the different national regimes for private placements of corporate debt. Markets for private placement of debt can broaden the availability of finance for unlisted medium-sized companies. The DG has also launched an external study on supply chain finance.
- As announced in the CMU Mid-term review, the Commission has taken action to ease high growth SMEs' access to public securities markets. In 2018, the Commission has published a draft delegated regulation amending the revised Directive on Markets in Financial Instruments (MiFID II). The delegated regulation aims at alleviating the administrative burden placed on small issuers and increasing the liquidity and attractiveness of SME Growth Markets. In addition, the DG has launched an external study to assess the situation of SME research coverage and the impact of the new MiFID II rules on payment unbundling.
- The DG has continued in 2018 its work in the context of the 'Vienna Initiative', a platform where international institutions, cross-border banks and home and host supervisors discuss macro-financial stability issues focusing on Central and Eastern Europe. A dedicated Working Group on CMU, chaired by the Commission, published a report in March 2018 with the aim to feed into the EU strategy for capital market development in the region.
- The Commission has adopted a Communication on the Protection of intra-EU investments, which clarifies investors' rights in the EU to help increase investors' confidence and boost investments in the EU.⁶ The Communication illustrates the key rights of investors, when making cross-border investments, and their ability to enforce those rights before national administrations and courts.

⁶ COM/2018/547 final.

The Communication also explains the implications of the judgment of the Court of Justice of the European Union in the Achmea case of 6 March 2018 [case C-284/16]. In this judgement the Court of Justice confirmed the Commission's view that investor-State arbitration contained in bilateral investment treaties (BITs) between Member States is not compatible with EU law. The Commission has worked intensively with Member States in order to ensure that the judgment is fully implemented. In particular, the Commission has been coordinating Member States' action towards the termination of the BITs.

The DG also explored the merits of a possible initiative to put in place a framework for the prevention and effective amicable resolution of disputes between EU investors and Member States. The result of the stakeholders' consultation did not bring sufficient evidence to support an EU legislative initiative in that area at this point in time. The Commission has pursued the dialogue with investors on how to improve the investment environment, for example by organising a workshop in December 2018.

- The DG has monitored the implementation of the joint Commission-Member States Roadmap on removing national barriers to capital flows and discussed the results with Member States in March 2018. On 11 April 2018, the Commission published its annual staff working document on the free movement of capital and freedom of payments, which reviewed recent developments in EU capital flows and described the main policy initiatives taken in support of the free movement of capital and the freedom of payments.

In 2018, the Commission's Sustainable Finance agenda, another important building block of the CMU, gained much political momentum. Based on the recommendations of the High-Level Expert Group on Sustainable Finance (HLEG) for a comprehensive programme of reforms to the EU financial policy framework,⁷ the Commission published an Action Plan on Sustainable Finance in March of 2018.⁸ The Action Plan aims to equip investors with the right tools and the right framework to integrate sustainability in their investment decisions and identify sustainable investment opportunities.

In May 2018, the Commission presented a package of measures as a follow-up to its action plan. The package consisted of the following three proposals for regulations:

- (1) A Framework to facilitate sustainable investment Regulation (taxonomy), aiming to establish a unified EU classification system of sustainable economic activities;
- (2) Disclosures relating to sustainable investments and sustainability risks involving amendment of Directive (EU) 2016/2341 to introduce new disclosure requirements on how institutional investors integrate environmental, social and governance (ESG) factors in their risk processes;
- (3) Low carbon benchmarks and positive carbon impact benchmarks amending Regulation (EU) 2016/1011, creating a new category of benchmarks to help investors compare the carbon footprint of their investments.

Over the course of 2018, the Commission has been working with the co-legislators to ensure the swift adoption of these three legislative proposals. This has resulted in political agreements on the benchmark regulation in February 2019 and the disclosure regulation in March 2019. The Commission has also encouraged the co-legislators to make tangible progress on the taxonomy proposal. The European Parliament is expected to agree on a position by March 2019 and the Council is expected to achieve a general

⁷ High-Level Expert Group on Sustainable Finance, Final Report 2018: Financing a Sustainable European Economy, accessible via: https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf.

⁸ COM(2018) 97 final.

approach in late spring.

In parallel to the adoption of the sustainable finance package, the Commission has also created a Technical Expert Group on Sustainable Finance (TEG). This group was set up in June 2018 and is tasked with assisting the Commission in implementing several actions under its action plan. In January 2019, the TEG issued its first report on companies' disclosure of climate-related information. The group continues to work to deliver a first list of economic activities contributing substantially to climate change mitigation and adaptation objectives by June 2019. This list will form the basis of the delegated acts that the Commission will develop as part of the proposed taxonomy regulation. The TEG will also deliver a report on the Green Bond Standard and is working on advice regarding the minimum requirements for the two types of low-carbon benchmarks as defined in the benchmarks regulation.

In January 2019, the Commission published its draft delegated act on how investment firms and insurance distributors should take sustainability issues into account when providing advice to their clients.

Furthermore, in July 2018 the DG has sent a request to EIOPA and ESMA to prepare draft delegated acts regarding fiduciary duties. During 2018, the Commission also initiated preparatory work on a green label together with the Joint Research Centre (JRC).

Other activities falling under the objective to create a New Boost for Jobs, Growth and Investment include the following:

- In February 2018, the Commission, together with the European Central Bank (ECB), the European Securities and Markets Authority (ESMA) and the Belgian Financial Services and Markets Authority (FSMA) convened a "Risk-free rate" (RFR) working group. The group was tasked with recommending alternative rates that could be used to replace the Euro Overnight Index Average (EONIA) and potentially also the Euro Interbank Offered Rate (EURIBOR), as well as with ensuring a seamless transition from EONIA to a replacement rate. In September 2018, the RFR working group recommended the Euro Short Term Rate (ESTER), the new rate which will be produced by the ECB in the last quarter of 2019, should replace EONIA and become the euro RFR.
- After closely monitoring the implementation of the first year of MiFID II, the DG adopted a regulatory technical standard⁹, which delivers on the key objectives of the MiFID II framework, such as more transparent and orderly trading on venues.
- Following the application of the Benchmark regulation on 1 January 2018, the Commission published two implementing technical standards in August 2018. In November the Commission also adopted the full set of regulatory technical standards belonging to this regulation. Finally, the Commission added the Stockholm Interbank Offered Rate (STIBOR) to the list of critical benchmarks in a decision published in October 2018.
- The DG monitored Member States progress in the transposition of EU Directives closely and engaged with them where needed, including via infringement proceedings. The DG contributed to ECOFIN Council discussions by providing updates on the latest state of play.

⁹ Commission Delegated Regulation (EU) 2019/442 of 12 December 2018 amending and correcting Delegated Regulation (EU) 2017/587 to specify the requirement for prices to reflect prevailing market conditions and to update and correct certain provisions (OJ L 77, 20.3.2019, p. 56–58).

General objective 2: A Deeper and Fairer Internal Market with a Strengthened Industrial Base

The political agreement on the Banking Package reached in December 2018 marks an important milestone in reducing risk in the Union banking sector and reinforcing the resilience of banks and contributes significantly to DG FISMA's work on building a deeper and fair internal market with a strengthened industrial base. The package complements the European regulatory framework enshrined in the Capital Requirements Regulation and Directive (CRR/CRD), the Bank Recovery and Resolution Directive (BRRD) and the Single Resolution Mechanism Regulation (SRMR). The banking package is also an important milestone in the work on the DG's third general objective (a deeper and Fairer Economic and Monetary Union) and is discussed in more detail in the next section.

Fintech

On 8 March 2018, the Commission adopted the FinTech Action Plan, which sets out a number of legislative and non-legislative initiatives to ensure that the European financial sector remains innovative and competitive in the future¹⁰. The actions contained in the Action Plan will contribute to three key policy goals: (i) enable innovative business models to reach EU scale (ii) support the uptake of technological innovation in the financial sector and (iii) enhance security and integrity of the financial sector.

The Fintech Action Plan includes a proposal for a regulation for crowdfunding service providers, which was adopted by the Commission in March 2018 and is currently under negotiation. In 2018, the Commission also undertook several non-legislative actions, such as the creation of the EU FinTech lab, as well as the establishment of an expert-group which assesses whether the current financial services acquis contains regulatory obstacles to financial innovation (ROFIEG).

Anti-Money Laundering

The abuse of the financial system for money laundering and terrorist financing is a risk to the stability and integrity of our financial markets. Recent Anti-Money Laundering (AML) scandals have exposed certain vulnerabilities in the Union AML framework, notably in the interaction between prudential and AML supervision, such as inadequate exchange of information and coordination of actions between various authorities in the cross-border context. Commission has considered that immediate action is required to mitigate the weaknesses of Union framework. The first step was the quick adoption of a Communication and a legislative proposal on AML in September 2018¹¹. DG FISMA has lead the preparation on these files together with DG JUST.

This proposal is an amendment to the proposals of September 2017 to strengthen the ESAs. It entails a set of short-term measures to consolidate and strengthen the competences of the European Banking Authority to foster supervisory convergence and cooperation in this area. In particular, the proposal will improve the cooperation and information exchange between national authorities competent to enforce anti-money laundering legislation and prudential authorities. During the final months of 2018, DG FISMA worked with the co-legislators with a view to securing a swift adoption of the proposal. The co-legislators have determined their positions with regard to the proposal

¹⁰ COM(2018) 109/2.

¹¹ COM/2018/645 final. Communication on Strengthening the Union framework for prudential and anti-money laundering supervision for financial institutions.

and are seeking to agree on the final legal text before the end of the current legislature as an integral part of the ESFS review package.

The Communication sets out a wider agenda for preventing money laundering through the financial system. It envisages in particular specific short-term deliverables for national and European authorities and announces longer term legislative reflections. In December 2018, the ECOFIN Council essentially endorsed the agenda set out in the Communication, adopting conclusions on an action plan to better tackle money laundering and terrorist financing.

In parallel to the ESA review process, in the context of negotiations of the banking package, a number of AML-related amendments to the Capital Requirements Directive (CRD) have been agreed by the co-legislators. The amendments have two main objectives. Firstly, to enhance the cooperation and exchange of information between prudential supervisors, financial intelligence units and competent authorities for AML supervision. Secondly, to strengthen the AML dimension of core prudential tools such as authorisation, fit and proper checks, supervisory review and evaluation process. These CRD amendments are complementary to, and do not overlap with, the Commission's proposal from 12 September amending the ESA's review.

Investment Firm Review

Throughout 2018, the Commission has worked intensively with both co-legislators on the legislative proposal for a more proportionate prudential framework for investment firms. The new package is likely to enter into force by mid-2019 and to apply as of 2021 (with some transitional periods). It will allow for new and simpler prudential rules for a large majority of investment firms, whereas the most systemic investment firms (those carrying out bank-like activities) will remain under the banking prudential framework. Among these latter firms, the largest ones in size would be subject to direct ECB supervision if established in the banking union area.

The Commission has also tabled further targeted amendments to the rules according to which investment services can be provided to EU-clients by undertakings in third countries under the framework MiFID II.

Retail financial services and payments

In 2018, the Commission adopted a legislative proposal extending the benefit of the regulation on cross-border payments to all Member States. This will ensure that cross-border payments in euro cost the same as domestic payments in the local currency of the Member State from which the cross-border payment originates. The Commission's proposal also seeks to increase the transparency of currency conversion charges, ensuring that consumers receive sufficient information about conversion rates and related cost. Following negotiations between the co-legislators, a political agreement was reached in December 2018.

Throughout 2018, the Commission together with the EBA and the ECB prepared and monitored the implementation of delegated acts under revised Payment Services Directive (PSD2), and we will continue to do so also in 2019. The revised Directive became applicable on 13 January 2018. One of the main delegated acts under PSD2 is the Commission Delegated Regulation which sets regulatory technical standards for strong customer authentication and common and secure open standards of communication. The delegated regulation requires that payment services providers will put in place the necessary measures to apply strong customer authentication to

electronic payments at the point of sale or online.

In January 2018, the Commission published its report on the implementation and impact of the Electronic Money Directive (EMD2). The assessment of its overall impact was positive. Since the Directive became applicable in 2010, there has been an increased interest in electronic money licenses and cross-border activity. The report proposes several short term improvements and recommends a possible merger with the PSD2. The report recommends analysing such an option once further experiences have been gathered with PSD2.

Financial markets infrastructure

Building on the work relating to the European Market Infrastructure Regulation (EMIR) undertaken in previous years, the DG aimed to facilitate the adoption by the co-legislators of two legislative proposals to improve the efficiency and stability of EU derivatives markets throughout 2018.

The first proposal is the EMIR REFIT, which aims to simplify rules and reduce regulatory burdens for market participants (notably for non-financial counterparties, pension funds and small financial counterparties) without compromising financial stability. Co-legislators commenced negotiations on this file in July 2018 and political agreement was reached early 2019. The second proposal is the EMIR proposal on the supervision of Central Counterparties (CCPs). The proposal strengthens the EU's CCP supervisory framework to better anticipate and mitigate risk coming from EU CCPs and from systemic third-country CCPs servicing EU clients. Both co-legislators secured a negotiating mandate in 2018 and trilogues commenced in January 2019.

Furthermore, the Commission adopted on 13 December 2018 a delegated regulation under EMIR prolonging the deferred application of the clearing obligation for transactions between third-country counterparties and counterparties established in the Union belonging to the same group in the absence of the relevant equivalence decision by the European Commission until 21 December 2020. Additionally, DG FISMA received the ESA's proposed amendments to the delegated act on risk-mitigation techniques for over-the-counter (OTC) derivatives not cleared by a CCP in order to align the treatment of variation margin for physically settled foreign exchange contracts with international supervisory practice.

DG FISMA also finalised a number of implementing and delegated acts related to other financial markets infrastructure legislation. A delegated regulation was adopted under the Central Securities Depositories Regulation (CSDR) in May 2018 with regard to measures on securities settlement discipline. The delegated regulation specifies details for settlement fails reporting as well as cash penalties and mandatory buy-in procedures for failed settlements. This has the aim to improve the efficiency of security settlement throughout the EU. In December 2018, the Commission adopted a package of eight delegated and implementing regulations under the Securities Financing Transactions Regulation (SFTR) in order to increase the transparency of shadow-banking transactions in the large securities financing market. This package also implied the adoption of amendments to three delegated regulations under EMIR as regards the reporting of derivative transactions to trade repositories.

Finally, the DG prepared a number of measures that were adopted by the Commission in December 2018 as part of a contingency package addressing a no-deal Brexit scenario. To avoid market disruption, two temporary and conditional equivalence decisions were adopted allowing CCPs and CSDs situated in the United Kingdom to provide services to

EU-27 market participants for a period of one year after Brexit date in the case of CCPs and for two years in the case of CSDs. Additionally, the Commission adopted two delegated regulations facilitating novation, for a fixed period, of certain OTC derivatives contracts with a counterparty established in the United Kingdom. This allows that counterparty to be replaced with a counterparty established in the Union while maintaining their exempted status and thus not becoming subject to clearing and margining obligations under EMIR.

Asset management

2018 was another active year in the asset management field. The initiative to reduce barriers to cross-border distribution of investment funds was presented in March 2018, and subsequently discussed in Council and Parliament. Trilogues began in January 2019 and was concluded in February 2019.

Delegated Acts on Money Market Funds Regulation were adopted in April 2018. These specify quantitative and qualitative liquidity requirements applicable to assets received as part of a reverse repurchase agreement and on credit quality assessment. New level two rules on asset segregation were adopted in July 2018 following input from ESMA. The foreseen Delegated Act on social and environmental governance procedures have been subsumed in the Sustainable Finance Disclosure work. There have unfortunately been delays on the delivery of delegated acts relating to the Regulation on European long-term investment funds (ELTIF) and the regulations on European venture capital funds and European social entrepreneurship funds (EuVECA/EuSEF).

At the Commission's request, the ESAs are working on a targeted review of level 2 measures relating to the packaged retail investment and insurance products (PRIIPs) Regulation. The ESAs started a consultation in 2018, consumer testing will be done during 2019, and the ESAs will deliver their draft RTS in the beginning of 2020. Final adoption by the Commission is foreseen before the summer 2020.

Macro-prudential oversight and policy

Over the course of 2018, the Commission adopted three decisions under Article 458 of the CRR allowing stricter national measures to be applied in Belgium, Sweden and France. The Belgian and Swedish measures relate to vulnerabilities in the real estate sector, whereas the French measure consisted of stricter limits on banks' large exposures to highly indebted non-financial corporations. In addition, the Commission adopted its biennial report to the EP and the Council on the effects of the CRD and CRR on the economic and financial cycle.

The review of the macro-prudential provisions in the Capital Requirement Directive and Capital Requirement Regulation (CRD/CRR) has been finalised in the course of 2018. A political agreement in trilogues on the Banking Package confirmed Pillar 2 as a solely micro-prudential instrument. It also contains a number of targeted improvements to the macro-prudential toolbox to compensate for the reduced flexibility in Pillar 2 and to ensure that the macro-prudential toolbox remains flexible and comprehensive.

Good progress was also made on the European Systemic Risk Board (ESRB) Review, as part of the broader review of the European System of Financial Supervision.

Monitoring implementation of resolution framework

In view of ensuring a deeper and fairer internal market and the compliance with the single rulebook, DG FISMA also carried out extensive work covering a number of complex topics around recovery and resolution. In cooperation with the Single Resolution Board (SRB), the DG monitored the implementation of the existing rules of the Bank Recovery and Resolution Directive (BRRD) and the Single Resolution Mechanism Regulation (SRMR). The DG also followed the implementation work related to the Deposit Guarantee Scheme Directive (DGSD).

Relationship with the Single Resolution Board (SRB) and involvement in State aid decisions

In 2018, the DG has continued to cooperate with the Single Resolution Board (SRB), the EU agency tasked with the application of the bank resolution framework in the Banking Union. The DG has participated as observer in meetings of the SRB Executive and Plenary Boards and has given input on the interpretation and application of the Single Resolution Mechanism Regulation and of Union law in general. Together with the SRB, the DG has also participated in crisis simulation exercises with the ECB and other EU and third countries authorities. The DG has also cooperated with DG COMP in the analysis of State aid cases to banks and given input concerning the compliance of these decisions with the bank resolution framework.

Fitness Check on Supervisory Reporting Requirements

As a follow-up to the Call for Evidence, a Fitness Check of supervisory reporting requirements has been launched at the end of 2017. The primary objective is to assess the efficiency and effectiveness of supervisory reporting obligations in the EU financial services acquis, while the longer-term objective is to simplify and streamline supervisory reporting (while still ensuring that supervisors continue to receive the data they need to fulfil their mandates). The conclusions of this backward-looking exercise, based on a series of workstreams undertaken in the course of 2018, will be presented in a Staff Working Document at the end of Q3 2019. These workstreams included, among others, a public consultation, a conference on 'Preparing supervisory reporting for the digital age' that took place in June 2018 and brought together the best institutional knowledge, industry expertise and academic analytical research to look at the present challenges and future opportunities related to supervisory reporting, workshops and targeted consultations with NCAs and industry.

General objective 3: A deeper and Fairer Economic and Monetary Union

In 2018, the Commission continued to contribute to the work on the deepening of the European Monetary Union (EMU) by means of completing the Banking Union. Following the Council roadmap to complete the Banking Union of June 2016 and the Commission's Communication on completing the Banking Union of October 2017, there have been several further developments in 2018.

Banking Union

In 2018, the DG was actively involved in and extensively contributed to the successful conclusion of inter-institutional negotiations on the Banking Package. The legislative banking reform package proposed by the Commission in November 2016 aims to complete Europe's post crisis regulatory reforms and make the financial system more stable and resilient. DG FISMA worked with both co-legislators to secure negotiating mandates. A political compromise between the co-legislators was endorsed by ECOFIN in December 2018.

The political agreement on the Banking Package marks an important milestone in reducing risks in the Union banking sector and reinforcing the resilience of banks. This is an essential element for the completion of Banking Union. The package builds on existing banking rules, implements international standards and aims to complete the post-crisis regulatory agenda, making sure that outstanding challenges to financial stability are addressed. At the same time, it increases the ability of banks to finance the real economy.

In the context of the Basel Committee for banking supervision, the Commission continued to defend its proposal to consider the Banking Union as a single geographical area for the purpose of the cross-jurisdictional indicator in the methodology for Global-Systemically Important. The proposal builds on the observation that the nature of cross-border exposures in the Banking Union has changed significantly relative to domestic exposures due to the Banking Union related advances in cross-border bank resolution.

Non-performing Loans

In December 2018, co-legislators also reached political agreement on prudential measures to prevent the accumulation of non-performing loans. This further contributes to the reduction of risks in the EU banking sector. The agreed measures will ensure that banks set aside funds to cover the risks associated with loans issued in the future that may become non-performing. The prudential measures will prevent the accumulation of non-performing exposures on banks' balance sheets and will ultimately enable banks to perform their indispensable role in financing the economy and supporting growth.

In addition to the work on the prudential backstop, the DG continued to work on measures foreseen in the ECOFIN Action Plan of July 2017. The Commission furthered the work in three ways:

- (a) The Commission adopted a legislative proposal on the development of secondary markets for non-performing loans, and supporting the discussions of this proposal by the co-legislators;
- (b) The Commission proposed a blueprint for the creation of asset management companies;

- (c) DG FISMA carried out preparatory work on a data and transaction platform for Non-Performing Loans (NPLs), together with the European Central Bank and the European Banking Authority.

In parallel with this good progress made in the implementation of the agreed policy measures, NPLs in the EU banking sector continued to drop in the EU.

European Deposit Guarantee Scheme

After the Commission's adoption of the European Deposit Insurance Scheme (EDIS) proposal on 24 November 2015, a key deliverable for a deeper and fairer Economic and Monetary Union, the negotiations in the Council and European Parliament are still ongoing with the aim to report on technical discussions only. At the Euro Summit of 14 December 2018, the European Council endorsed all the elements of the Eurogroup report on EMU deepening, which includes the establishment of a High-Level Working Group on EDIS.

Common Backstop and Liquidity in Resolution

The European Council designated the European Stability Mechanism (ESM) as the provider of the common backstop at the inclusive Euro Summit of June 2018. At the Euro Summit of 14 December 2018, the European Council endorsed the terms of reference of the common backstop, which cover how the backstop will be operationalised, as well as how it will be introduced conditional on sufficient risk reduction.

Throughout 2018, the DG continued work on liquidity in resolution, contributing actively to the technical work on the report on liquidity gaps in the Task Force on Coordinated Action (TCA) and in the discussion on possible solutions. This discussion will continue in 2019. DG FISMA also steered the discussions on risk reduction by leading the coordination and preparation of semi-annual reports on reduction of risks in the EU banking sector. These reports were produced together with the ECB, the Single Supervisory Mechanism (SSM) and the Single Resolution Board and have the aim to feed into the discussions being held in the Eurogroup Working Group (EWG), Eurogroup and Euro Summit.

Monitoring and assessment of EU and Euro Area financial markets

As an ongoing activity, the DG carried out the monitoring and assessment of EU, Euro Area (EA) and global financial markets. The DG also provided an ongoing assessment of the EU/EA financial system and subsectors, including its structure, performance, efficiency and stability. In case of trends with a significant systemic impact, DG FISMA provided input to policy analysis and policy development. In particular, the DG provided succinct daily market reporting (Financial Market Monitor), more analytical weekly reporting and analysis (Financial Market Pulse) and a monthly review of bond markets (Bond Market Monthly). Beyond that, the DG provided many ad-hoc analyses and briefings on developments in, and risks to, EU euro area and global financial markets

The DG also presented the annual European Financial Stability and Integration Review (EFSIR), which provides an analysis of recent developments in financial markets and their impact on financial stability and integration. The DG regularly monitors these developments and analyses the underlying structural drivers in order to assess the effectiveness of existing policy actions and to gain insight into the need for future actions in view of emerging risks and opportunities. The report was presented on the occasion of the annual high-level conference on "European Financial Integration and Stability"

organized jointly with the European Central Bank (ECB). Besides the presentation of EFSIR, the conference focused on the achievements and further completion of the Banking Union and the development of deeper capital markets.

Monitoring of financial markets, institutions and policies at country level

Surveillance of national financial systems remained an important activity for the DG. With respect to Greece, the format of the monitoring changed after the successful conclusion of the ESM assistance programme on 20 August 2018 and the country became the first for which the enhanced surveillance framework was activated by decision from the Commission under Regulation (EU) No 472/2013¹. Portugal, Spain, Cyprus and Ireland remained under the normal post-programme surveillance process. These other countries' financial sectors fall under the EU Semester framework, which includes where needed the formulation of Country-Specific Recommendations or intensified monitoring in the Macroeconomic Imbalance Procedure. The DG has provided financial analysis and policy advice, which have been outlined in the Country Reports and Mission Reviews.

International role of the euro

The DG was a key contributor to the preparation of the Commission Communication on "Towards a stronger International role of the euro", which was adopted on 5 December 2018¹². This notably included the preparation of a targeted consultation (as launched in January 2019) on the functioning of foreign exchange markets, with the view of gaining additional insight in the role of the euro in the foreign exchange markets, the liquidity of these markets, and potential obstacles in these markets for a wider use of the euro. Furthermore, DG FISMA, together with other stakeholders, in particular the ECB, analysed this issue more broadly, with the view of identifying more granular insight in the issue and potentially of identifying further policy measures.

Collective Action Clauses

The DG, in cooperation with other Commission services and the European Stability Mechanism (ESM) provided the analytical foundation for the discussion on the change of the model clause on "collective action clauses" in bond contracts of euro area Member States (from a "double-limb" to a "single-limb" aggregation approach).

¹² COM(2018) 796 final.

Other work carried out in 2018

Throughout the year, the DG has contributed to the work of international fora in the field of financial services and markets regulation as well as to the work at G7 and G20 level. Moreover, the DG has maintained a number of bilateral relations and participated to regulatory dialogues with third countries in its field of competence. Regulatory dialogues were notably held with China, the US and for the first time with Canada and Japan in the context CETA and of the EU-Japan Free Trade Agreement respectively. The DG also contributed to the negotiation of free trade agreements, accession and neighbourhood policies to the extent that financial services are concerned.

The DG carried out important work on certain international topics related to the recovery and resolution of banks, central counterparties and insurers in the context of multilateral cooperation frameworks such as the Financial Stability Board (FSB) and bilateral cooperation frameworks (e.g. EU-US, EU-Swiss fora, regulatory dialogues with Japan, China). It also provided input for the work regarding the assessment of the legislative state of play in candidate countries.

The DG pursued assessments of equivalence of third country jurisdictions with a view to preparing possible Commission decisions in a number of areas, including the MIFID share trade obligation. These exercises lead to closer regulatory cooperation and facilitated convergence in global regulatory standards. In December 2018 the Commission extended the equivalence for Swiss share trading venues for six months.

In the context of Brexit, DG FISMA has also played a very active role in the contingency planning efforts of the Commission in the area of financial services. The DG has produced a series of analyses about legal and economic implications of the possible absence of an agreement on exit modalities ('no deal'). Consequently, the DG published several notices to stakeholders in order to raise public awareness about the need to prepare contingent measures. The DG also played a key role in facilitating the coordination of EU authorities and institutions (ESAs, ECB/SSM, SRB) on an EU-27 basis and supported the technical working group formed by the European Central Bank and the Bank of England.

The DG provided strong preparatory support for the preparation of setting up INSTEX (*Instrument in Support of Trade Exchanges*) by Germany, France and the United Kingdom in January 2019.

The DG completed ten impact assessments and one evaluation in 2018. For the proper implementation of the Better Regulation principles, the DG relied on its internal economic analysis and evaluation capacity, complemented by external studies.

Following a thorough evaluation of the 2009 Motor Insurance Directive, the Commission adopted in May 2018 a proposal for targeted amendments to the Directive, focussing on compensation of victims of accidents in cases of insolvent motor insurers, and also including measures on claims history statements, minimum coverage of insurance, uninsured driving, and clarifying the scope of the Directive in light of recent judgements of the Court of Justice.

As the parent DG of the three ESAs, DG FISMA participated in their respective decision-making bodies and closely followed their substantive work, as well as planning and administration, including, where relevant, ensuring the necessary coordination with other services of the Commission.

Contribution of Union spending programmes to DG FISMA policy objectives

In 2018, DG FISMA implemented two grants programmes, both of which deliver direct and tangible positive effects in the achievement of DG policy objectives. It also participated to the preparation of post-2020 funding proposals.

Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union Policy making in the field of financial services for the period of 2017-2020¹³

The purpose of this programme is to increase the involvement of consumers and other financial services end-users in Union and relevant multilateral policy-making in the area of financial services as well as to inform them of key issues facing the financial sector.

The programme is implemented by awarding grants to two beneficiaries (Better Finance and Finance Watch) identified in the legal basis. In general terms, the activities carried out by the two beneficiaries in 2018 included:

- publication of a number of research and policy papers on topics relevant to the Union's political agenda and priorities;
- activities to engage existing members and stakeholders (workshops, conference calls, public events, etc.), including in Member States;
- activities to increase and diversify membership – in particular to increase the coverage among Member States;
- organisation of high-level conferences, participation in hearings, facilitating good press coverage and social media activities, and conduct of financial education and training;
- regular meetings with policymakers and participation in expert or stakeholder groups with EU institutions and European Supervisory Authorities (ESAs) with the ultimate objective of positively influencing Union policy-making.

The programme contributed to the objectives set by DG FISMA in its Management Plan 2018, in particular to the explicit aim of maximising the input of users and non-financial stakeholders. In fact, the activities performed by the two beneficiaries throughout 2018 helped strengthen the voice of consumers and other financial services end-users in policy making.

Better Finance continued to fulfil its remit as a specialised EU non-industry association with a primary focus on retail investments. Its annual report on the real returns of pension products is a respected source of information by industry, consumers and specialised media alike. Each year, Better Finance extended the geographical scope of the report, and in 2018, it covered 16 Member States and 87% of the EU population. In 2018, Better Finance continued its Closet index trackers project and published the report "Fund Benchmark Disclosure Compliance", which focused on qualitative analysis. In line with its priorities, Better Finance also kept stable its participation in expert groups run by the Commission or European Supervisory Authorities.

Finance Watch continued to develop a comprehensive expertise in financial services policy. It placed particular emphasis on sustainable finance in 2018. In this context, Finance Watch published two editions of the Global Green Finance Index, an index

¹³ Regulation (EU) 2017/826 of the European Parliament and of the Council of 17 May 2017. This programme succeeds to the preparatory action originating from the European Parliament called 'Capacity building of end-users and non-industry stakeholders in Union policy making in the area of financial services' that DG FISMA implemented in 2014 to 2016.

measuring the "greenness" of financial centres. In 2018, Finance Watch ran a year-long, global campaign called "Change Finance" with the main message that the financial sector should above all serve the needs of people and the planet. In addition, Finance Watch is coordinating the Change Finance coalition, a civil society movement campaigning for financial reform. In line with its priorities, Finance Watch continued to participate in expert groups run by the Commission or European Supervisory Authorities and increased influence on policy making.

Union programme to support specific activities in the field of financial reporting and auditing¹⁴

The programme involves co-financing of activities of three organisations operating in the field of financial reporting and auditing: the International Financial Reporting Standards Foundation (IFRS Foundation); the European Financial Reporting Advisory Group (EFRAG); the Public Interest Oversight Board (PIOB). It contributes to the achievement of the policy objectives of the Union in relation to financial reporting and auditing. The IFRS Foundation develops international financial reporting standards (IFRSs) via its International Accounting Standards Board (IASB), while EFRAG provides the European Commission with endorsement advice on new or modified standards and monitors the standard setting activities undertaken by the IASB to ensure that European interests are safeguarded. The PIOB conducts oversight of three Standard Setting Boards supported by the International Federation of Accountants (IFAC) in the areas of audit and assurance, education, and ethics with the aim of ensuring their public interest responsiveness.

Regular evaluations of the activities of the three beneficiaries (EFRAG, IFRS Foundation and the PIOB)¹⁵ confirm the relevance and the added value of the EU funding programme and strengthen the legitimacy of their position to serve the European public interest by developing and promoting European views in the field of financial reporting and auditing and ensuring these views are properly considered in the IASB and IFAC standard-setting processes.

The international use and acceptance of IFRS has progressed further, with 26 additional jurisdictions committing themselves to IFRS Standards as a single set of accounting standards. Meanwhile, 30 countries have decided to require the use of IFRSs. This increase especially stems from an announcement made in 2017 by 17 West and Central African jurisdictions that they would require the use of IFRSs by 2019.

In 2018, thanks to the taxonomy maintained by the IFRS Foundation, the European Commission adopted the Regulatory Technical Standard on the specification of a single electronic reporting format which, from 2020 onward, requires the issuers of securities listed on a regulated market to prepare their IFRS Financial Statements in iXBRL format. Over the period, EFRAG significantly strengthened its assessment about whether new standards are conducive to the European Public Good.

In particular, the Commission appreciated the EFRAG's fully-fledged impact analysis (economic and behavioural impact) for the endorsement advice on IFRS 16 *Leases* in 2017 and EFRAG's work on the endorsement advice on IFRS 17 *Insurance Contracts* underpinned by an in-depth impact analysis including a field testing of the standard. More recently, EFRAG also conducted an impact analysis (as a pilot) of the IASB

¹⁴ Regulation (EU) No 258/2014 of the European Parliament and of the Council of 3 April 2014 as amended by the Regulation (EU) 2017/827 of the European Parliament and the Council of 17 May 2017.

¹⁵ COM(2018)705 final.

Discussion Paper Financial Instruments with Characteristics of Equity (FICE) as part of its mandate to influence the standard setting agenda of the IASB.

Furthermore, in response to the European Commission's Action Plan on Financing Sustainable Growth, EFRAG also initiated a Research Project on the consequences of IFRS 9 on *long term investment* and delivered a first advice to the Commission about the accounting treatment of equity instruments.

In 2018, the PIOB continued to carry out its oversight function and outreach activities. The PIOB closely liaised with the standard setting boards under its oversight, their three Consultative Advisory Groups, the Compliance Advisory Panel and the Nominating Committee and IFAC leadership. The PIOB was also actively engaged in the discussions with the Monitoring Group – of which the European Commission is a member – to reform the current governance and oversight model of international audit-related standards in the public interest.

Additional information on the performance indicators related to such programme is provided in Annex 12 under specific objective 2.3.: Financial and non-financial reporting.

Contribution of DG FISMA to the preparation of the Single Market programme post-2020¹⁶

DG FISMA also directly participated as associated DG to the preparation of the new Single Market Programme in the context of the Union's multiannual financial framework (MFF) for 2021-2027 proposed by the Commission in 2018¹⁷.

The new Single Market Programme as proposed by the Commission integrates in fact several objectives directly related to DG FISMA's activities. It aims at continuing beyond 2020 the successful funding of the above two grant programmes as well as the financing of activities aimed at improving the functioning of the internal market in the area of financial services, financial stability and Capital Markets Union including sustainable finance.

¹⁶ COM/2018/441 final. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Programme for single market, competitiveness of enterprises, including small and medium-sized enterprises, and European statistics and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014, (EU) No 258/2014, (EU) No 652/2014 and (EU) 2017/826.

¹⁷ COM(2018) 322 final.

2. ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL

This section explains *how* DG FISMA delivered the achievements described in the previous section. It is divided into two subsections.

The first subsection reports the control results and all other relevant information that support management's assurance on the achievement of the financial management and internal control objectives¹⁸. It includes any additional information necessary to establish that the available evidence is reliable, complete and comprehensive; appropriately covering all activities, programmes and management modes relevant to the DG.

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

2.1 Financial management and internal control

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

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

- the reports by AOSDs on the legality and regularity of the transactions implemented under their responsibility;
- the reports from Authorising Officers in other DGs managing budget appropriations in cross-delegation;
- the contribution by the Director in charge of Risk Management and Internal Control, including the results of internal control monitoring at the DG level;
- the reports following *ex-post* checks by the financial unit on a sample of DG FISMA's financial transactions;
- the reports on recorded exceptions, non-compliance events and any cases of 'confirmation of instructions' (Art 92.3 FR);
- the limited conclusion of the internal auditor on the state of control and the observations and recommendations reported by the Internal Audit Service (IAS);
- the observations and the recommendations reported by the European Court of Auditors (ECA).

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

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

¹⁸ Art 36.2 FR: a) effectiveness, efficiency and economy of operations; b) reliability of reporting; c) safeguarding of assets and information; d) prevention, detection, correction and follow-up of fraud and irregularities; and e) adequate management of risks relating to the legality and regularity of underlying transactions

2.1.1 Control results

This section reports and assesses the elements identified by management that support the assurance on the achievement of the internal control objectives¹⁹. The DG's assurance building and materiality criteria are outlined in the AAR Annex 4. Annex 5 outlines the main risks together with the control processes aimed to mitigate them and the indicators used to measure the performance of the relevant control systems.

2.1.1.1 Coverage by relevant control system

DG FISMA total expenditure in 2018 was **€ 53 881 166** ²⁰ of which **€ 1 128 844** administrative expenditure and **€ 52 752 322** operational expenditure. The operational expenditure of DG FISMA covered:

- **Direct management – Grants (17,2%)**
 - ***Union programme to support specific activities in the field of financial reporting and auditing***²¹. The Union programme aims to provide financial support to three beneficiaries identified in the legal basis: the International Financial Reporting Standards (IFRS) Foundation, the European Financial Reporting Advisory Group (EFRAG) and the Public Interest Oversight Board (PIOB). The programme is implemented through operating grants.
 - ***Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union Policy making in the field of financial services for the period of 2017-2020***²². The Union programme aims to provide financial support to two beneficiaries identified in the legal base: Finance Watch and Better Finance. The programme is implemented through action grants.
- **Direct management - Procurement (9,6%)**
 - To procure studies and other services in view of implementing pilot projects financed by the European Parliament. They help DG FISMA to assess the needs and define the content of new policy initiatives and to monitor the functioning of existing legislation.
- **Indirect management – contributions to decentralised agencies (73,2%)**
 - DG FISMA contributes to the budget of three decentralised agencies. These are the three European Supervisory Authorities (the European Banking Authority - EBA-, the European Securities and Markets Authority -ESMA- and the European Insurance and Occupational Pensions Authority -EIOPA-)²³. They are part of the European system of financial supervision (ESFS), which was established in 2010.

¹⁹ 1) Effectiveness, efficiency and economy of operations; 2) *reliability of reporting*; 3) *safeguarding of assets and information*; 4) prevention, detection, correction and follow-up of fraud and irregularities; and 5) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments (FR Art 36.2). *The 2nd and/or 3rd Internal Control Objective(s) (ICO) only when applicable, given the DG's activities.*

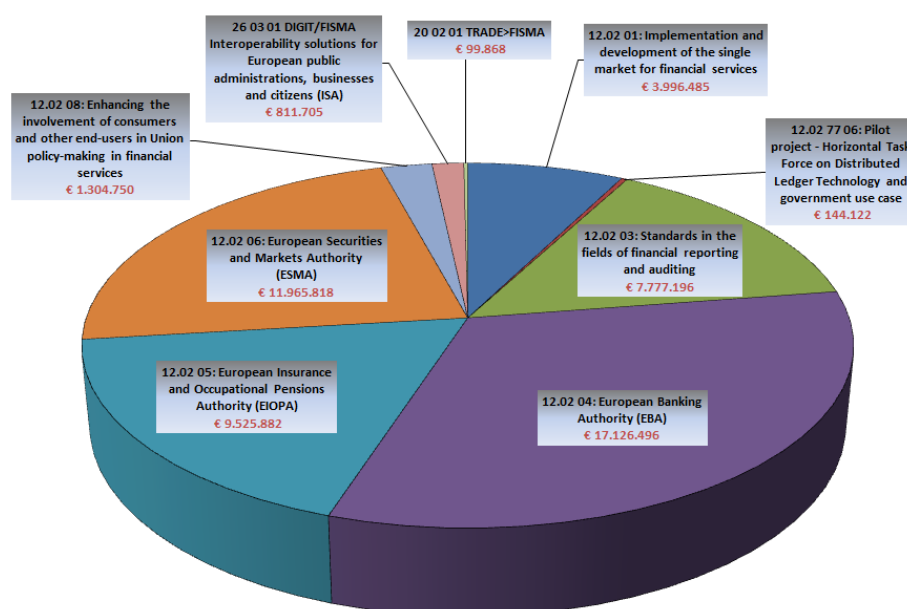
²⁰ For corporate reconciliation purposes the amounts indicated in table 2 of Annex 3 differ from such amount since: (1) they include all payments under FISMA credits appropriations even if executed by cross-subdelegated DGs and (2) they exclude payments actually executed by FISMA through cross-subdelegations received.

²¹ Regulation (EU) No 258/2014 of the European Parliament and of the Council of 3 April 2014 as amended by the Regulation (EU) 2017/827 of the European Parliament and the Council of 17 May 2017.

²² Regulation (EU) 2017/826 of the European Parliament and of the Council of 17 May 2017.

²³ See also Annex 8.

Table – overall operational expenditure overview²⁴



The table below provides a more detailed overview of the types of risks linked to DG FISMA's operational expenditure. It also lists the relevant control objectives being part of the assurance for each of the activities concerned.

ACTIVITIES/ RISK-TYPE	<u>Activity 1</u> Implementation and development of the single market for financial services + pilot projects and operational activities (sub)delegated by other services	<u>Activity 2</u> Standards in the fields of financial reporting and auditing	<u>Activity 3</u> Capacity building for end-users and other non- industry stakeholders in connection with Union policymaking in the area of financial services	<u>Activity 4</u> European Supervisory Authorities (EBA, ESMA, EIOPA)	Total
Grants	-	€ 7 777 196	€ 1 304 750	-	€ 52 752 322
Procurement	€ 5 052 180	-	-	-	
Subsidies	-	-	-	€ 38 618 195	
Internal Control Objectives-related indicators available at this level?	Legality & Regularity: AER <2% Sound Financial Management: YES Anti-fraud Strategy: YES				

²⁴ A more detailed list of operational and administrative budget lines is available in Annex 10.

Independent info from auditors (IAS, ECA) on assurance or on new/overdue critical recommendations available?	NO	NO	NO	NO	NO
Reservations	NO	NO	NO	NO	NO

For operations under **direct management**, DG FISMA established for both procurement and grants a system of differentiated *ex-ante controls* and *ex-post* controls based on the risks of operations described in the relevant control systems in Annex 5 and in paragraph 2.1. They include several indicators that are used to monitor the effectiveness, efficiency and economy of DG FISMA controls.

For operations under **indirect management**, DG FISMA controls over the ESAs' operations are conditioned by their governance structure. Since DG FISMA does not entrust the ESAs with budget implementation tasks its controls are limited to Strategic Planning and Programming, budgeting and effective transferring of the EU contribution to the ESAs (RCS on indirect management in Annex 5 – stage 4). The controls of DG FISMA on the payments and recoveries from/to the ESAs are similar to those performed during the execution of the DG's budget by direct management.

While DG FISMA is accountable for the legality and regularity of the payments of the subsidies to the agencies, the accountability for the regularity and the legality linked to the use of such expenditure resides ultimately with the agencies themselves. The extent of DG FISMA controls over agencies' operations does not therefore imply a financial review of the agencies' individual transactions and internal control framework. DG FISMA's supervision/monitoring arrangements were limited to the following:

- Unit 01 coordinated with the ESAs on horizontal operational, institutional and legal questions.
- Unit A2 provided support for budgetary procedures.
- DG FISMA represented the Commission on the ESAs' management boards, usually through the Director or Head of Unit in charge at operational level. It had a vote on budgetary issues only.
- DG FISMA also represented the Commission on the ESAs' boards of supervisors.

Since the three ESAs were established in 2011, their operating costs have been mainly funded by the national supervisory authorities (60 %) and the EU (40 %). ESMA is also funded by some of the supervised industries (i.e. credit-rating agencies and trade repositories). The level of funding in 2018 was based on the budget approved by the budgetary authority to cover administrative and operational expenditure relating to the ESAs' 2018 work programme (see Annex 8 for information on subsidies paid).

In order to ensure effective collaboration with the ESAs, based on the principles established in the Framework Financial Regulation of 30/09/2013²⁵, DG FISMA established working arrangements with the three Authorities: a working arrangement on the ESAs' proposal to issue Guidelines (2013), a working arrangement on the process of the development of Technical Standards (2015) and a working arrangement on the coordination of international matters (2016).

For transparency reasons and in the context of this report, DG FISMA decided to also cover the overall supervisory controls carried out on the ESAs during the year, including the ones related to the negotiation of the ESAs' review, even if not linked to budget implementation tasks. These controls are useful to understand the framework under which the ESAs operate and the involvement of DG FISMA in their activities. This implies an increase of the overall costs of controls reported in paragraph 2.1.1.4 and Annex 10

²⁵ Commission delegated regulation (EU) No 1271/2013 of 30 September 2013.

that should therefore be assessed in light of the above mitigating factors and the benefit of a more transparent reporting.

2.1.1.2 Effectiveness = the control results and benefits

- **Legality and regularity of the transactions**

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

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

To measure the effectiveness of its controls, DG FISMA analyses all relevant internal control template (RCS) and related indicators over time (see in Annex 5) by type of expenditure and control stages. The legality and regularity of transactions is measured against the assessment of the results of the ex-ante and ex-post controls made by DG FISMA on its operations.

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

To process operations, DG FISMA uses a fully centralised model. Based on this model all financial aspects of the operations are verified by a central team of financial agents specifically trained to ensure the overall legality and regularity of operations. This substantially enhances the capacity of DG FISMA to prevent, detect and correct errors and to ensure a coherent and systematic application of the rules established at corporate and DG levels.

Direct management

Results and benefits of internal ex-ante checks

The establishment of a differentiated system of ex-ante checks based on the amounts and typology of transactions led to qualitative benefits. They reinforced the **responsibility of each actor** and ensured that operations are controlled at appropriate level and by a proportionate number of actors. The ex-ante checks also constitute a valid ground to **discuss best practices** including the need to revise controls systems if needed.

The supportive role of DG FISMA financial unit preventively ensured the regularity and legality of operations by providing continuous advice to operational units. This supportive role, even if not measurable, constitutes therefore a qualitative advantage in all types of operations.

An important indicator of the effectiveness of DG FISMA controls is related to the number of transactions refused for correction. In 2018 **24 transactions** (20 commitments and 4 payments) were refused for correction by DG FISMA financial actors. Even if the cases of rejections are mainly due to administrative encoding errors not impacting the legality of the operations, these results demonstrate the effectiveness of DG FISMA ex-ante checks

and the continuous efforts of DG FISMA staff to maintain high quality standards.

The controls linked to the planning of the procurement procedures are made in the context of the preparation of N+1 budget. It allows the DG to effectively ensure that the expenditure under procurement is aligned to its tangible operational needs. It includes for example the prioritisation of planned studies which are validated at senior management level following an in depth analysis of policy needs and upcoming priorities. The initial **planning** of tenders to be launched was updated in 2018 due to new upcoming priorities and needs.

Ex-ante checks carried out during the procurement procedures contributed to the preparation of high quality tendering documents. The positive effects of this preparatory work are demonstrated by the **low number of requests for clarifications** (average of 2 requests for clarification per call for tender) as well as by the absence of **formal complaints**. The quality of the tender specifications is also proven by the fact that **more than one offer** were submitted to all call for tenders awarded in 2018 (average of 4). This allowed to award contracts to satisfactory offers and ensured competition among bids that can be reasonably compared and **avoided litigations with unsuccessful tenderers**.

The ex-ante preparation of the evaluation process allowed the identification of any potential **conflicts of interests** before the initiation of the evaluations. The controls embedded in the preparation of the evaluation process have therefore contributed to secure the regularity and legality of the operations and to prevent complaints, litigations or fraud cases which would have entailed substantially higher costs.

In 2018, **two tenders were not awarded**. This was justified by the low technical scores of the tenderers having submitted the offers. It shows the functioning of DG FISMA evaluation process and its attention in awarding tenders only to offers which comply with the minimum quality standards expected to deliver the services expected.

In the context of the assessment of grants' applications DG FISMA requested important clarifications in relation to the eligibility of some of the activities mentioned in the work programmes. This also led to a cumulative reduction of the requested EU contribution from applicants for a total amount of € 84 230 (corresponding to more than 5% of the total EU contribution of the grant's programme).

The in depth analysis of the costs claims submitted by the grants' beneficiaries resulted in the identification of **€ 51 245 of ineligible expenditure**, thereby avoiding **€ 30 747** of un-due co-financing being charged to the budget; the savings to the Union budget being greater than the costs of controls implemented. In addition, those controls also resulted in the **recovery of € 30 920** of incorrectly claimed past expenditure.

Ultimately and most importantly, ex-ante controls allowed DG FISMA to request additional clarifications and missing supporting documents before releasing the payments, contributing thereby to the regularity and legality of operations as well as to the overall quality of the reports and deliverables submitted.

Results and benefits of internal ex-post checks

Ex-post desk checks **on 72 operations (29 commitments and 43 payments)** have been carried out by the Financial Resources and Internal Control Unit of DG FISMA. Operations were sampled according to the criteria specified in the *Guidelines for ex-post checks* of DG FISMA. The sampling is not supposed to lead to a "representative" error but to provide a reliable overview of the level of compliance of the internal control processes in place.

The checks revealed only **minor procedural errors** (i.e. documentation, use of checklists, encoding practices) which did not require **any financial correction**. However, ex-post checks remain a **valuable tool for ensuring that corrective**

measures are taken to address errors made and/or mitigate their impact on the operations especially in terms of data quality. At the same time, it **encourages staff to maintain high standards** of quality while initiating and verifying an operation.

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

Analysis of exceptions and non-compliance events

DG FISMA recorded 10 exceptions and 9 non-compliance events in 2018. The events recorded were of low impact and significance and generated by specific circumstances or external factors beyond DG FISMA control (examples: reimbursement of travel expenses for additional experts, late validation of a mission orders and signature of commitments before the adoption of a financing decision). None of them led to the detection of a structural internal control weakness, but mitigating actions were taken when possible to reduce the likelihood that similar events occur in the future.

The most important exceptions are related to commitments of ESAs contributions before the adoption of a financing decision. With the new financial regulation, which entered into force in July 2018 there is no longer a requirement to adopt a financing decision before paying contributions to decentralised agencies. This exception will therefore not occur anymore. In relation to financing decisions covering the expenditure in procurement and grants DG FISMA has already taken mitigating actions in 2018.

The central register of exceptions and non-compliance events is systematically updated at central level and exceptions and non-compliance events are reported to the Commissioner twice a year in the context of the overall reporting on the state of internal control. The RMIC Director also submits regularly detailed reports to the Director-General assessing the nature of events recorded, the entailed risks as well as the recommended mitigating actions to be taken.

Results of on-the-spot checks

DG FISMA used to carry out on-the-spot checks every two years on the five beneficiaries identified in the basic act of the Union programmes managed. The bi-annual frequency of on-the-spot checks was necessary in the first years of implementation of the grants' programmes. However, as also mentioned in the AAR 2017, the grounds of maintaining this frequency is considered disproportionate compared to the typology of grants managed, the nature of the beneficiaries receiving funding and the amounts involved.

In fact, the results of 2017 on-the-spot checks on two grants' beneficiaries confirmed previous trends and highlighted beneficiaries' awareness of rules and procedures. The error rate detected during the two on-the-spot checks carried out in 2017 was not material (<0,1%) and lower than the previous error rate of 0,2% detected during the on-the-spot checks carried out in 2015. In addition, while marginally reducing the eligible costs declared by the beneficiaries, the above error rate had no impact on the EU contribution and did not lead to any recovery of undue amounts.

The two beneficiaries concerned also implemented all previous recommendations made by DG FISMA following the on-the-spot checks carried out in 2015.

For the above reasons and considering that the implementation of grants is monitored on a continuous basis by the DG, the on-the-spot checks to be carried out on the remaining beneficiaries will be carried out on the basis of a risk assessment.

Indirect management

Overall supervision (limited to DG governance remit)

In the context of the participation of DG's representatives in the Board of Supervisors and the Management Board of the ESAs and DG FISMA regular working relations with them, no events or weaknesses of substantial nature were reported/detected that could affect the reputation of the DG, put into question the legality and regularity of ESAs' operations or raise concerns about fraudulent activities linked to their transactions.

In addition, while assessing the programming documents submitted by the ESAs in the context of the annual budgetary process, their requests for contribution submitted in 2018 and their actual cash flow, DG FISMA did not detect any illegal or irregular activity.

Within the limits of DG FISMA governance remit on the ESAs mentioned in previous paragraph, we did not detect nor we were made aware of any fact that could prejudice the good working relations that have been established or the reliability of the key conclusions mentioned under point C) of the Executive summary.

Revision of the mandate

Concerning revision of the legal basis entrusting powers to the ESAs, DG FISMA continued to negotiate with the co-legislators the package of proposals submitted in 2017 to strengthen the European System of Financial Supervision (ESFS)²⁶. The proposals aimed to improve the mandates, governance and funding of the three ESAs and the functioning of the ESRB to ensure stronger and more integrated financial supervision across the EU. The package also included a proposed revision of the current funding modalities leading to a more stable and diversified source of financing for the ESAs by replacing the contributions paid by national competent authorities with contributions paid by the industry and market participants. The proposed change in funding modalities also addressed the recommendations of several Parliament resolutions adopted in the context of the budgetary discharge of 2015. At the time of this AAR, the proposal is still in negotiation with the co-legislators and the current funding modalities continue to apply.

Conclusion on legality and regularity

DG FISMA has put in place the above set of complementary controls and the results suggest that they are effective. It is therefore concluded that the control objective has been achieved. The controls in place are proportionate compared to the risks entailed by DG operations and adequate to ensure the legality and regularity of its transactions.

Estimated overall amount at risk at closure

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

For DG FISMA, the estimated overall amount at risk at payment for the 2018 expenditure is 0,2 M€. This is the AOD's best, conservative estimation of the amount of *relevant expenditure* (52,9 M€²⁷) 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 and a sizeable proportion of the underlying error will be detected and corrected in successive years. The conservatively estimated future corrections for the 2018 expenditure are 0,09 M€. This is the amount of errors that the DG conservatively estimates to identify and correct from controls that it will implement in successive years.

The difference between those two amounts leads to the estimated overall amount at risk at closure for the 2018 expenditure of 0,1 M€.

²⁶ (COM(2017)542final).

²⁷ See table 2 of Annex 3.

Table - Estimated overall amount at risk at closure

DG FISMA	Payments made (2018; €)	New prefinancing (2018; €)	Cleared prefinancing (2018; €)	Relevant expenditure (2018; €)	Average Error Rate (weighted AER; %)	Estimated overall amount at risk at payment (2018; €)	Average Recoveries and Corrections (%)	Estimated future corrections (and deductions) (2018; €)	Estimated overall amount at risk at closure (€)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Programme, Budget Line(s), or other relevant level	As per AAR annex 3, table 2 ²⁸	As per prefinancing report	As per prefinancing report	= (2) - (3) + (4)		= (5) x (6)	Based on 7 years average recoveries and corrections	= (5)x(8)	= (7) - (9)
Financial Stability, Financial Services and Capital Markets Union	€ 52 889 686,26	€ 43 318 755,89	€ 37 595 268,32	€ 47 166 198 ,69	0,5%	€ 235 830,9 9	0,2%	€ 94 332, 40	€ 141 498, 60

²⁸ This amount differs from the amount mentioned in paragraph 2.1.1.1. See footnote 17 and comments under table 2 of Annex 3.

- **Fraud prevention, detection and correction**

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

DG FISMA revised its anti-fraud strategy in July 2017 in line with the new "Methodology and guidance for DGs' anti-fraud strategies" adopted by OLAF in February 2016. The new anti-fraud strategy is focused on DG FISMA specific needs and aims at further reducing the major risks linked to its activities. The new strategy was prepared in strict collaboration with DG FISMA operational services with an active involvement of the management at all stages of the process.

DG FISMA's risks are mainly reputational and related to regulatory capture and possible leaks of sensitive information to external stakeholders or any other third party during the preparatory legislative process and/or international negotiations. DG FISMA has a 'zero tolerance' policy in relation to the protection of sensitive information and to a proper recording and monitoring of its relations with stakeholders.

In 2018, DG FISMA continued its efforts to implement its anti-fraud strategy to achieve the following main objectives:

- Ensure a proper recording and monitoring of relations with interest representatives (by monitoring all meetings held with interest representatives, record their outcome and detect any anomalies).
- Ensure adequate protection of sensitive information (by mapping sensitive information processed within the DG, regularly raising staff awareness on how to protect sensitive information).

In 2018 DG FISMA built upon the intensive effort carried out in 2017 to reorganise and reinforce the anti-fraud framework in the DG (organisation of an all-staff meeting on anti-fraud, revision of ethics guidelines, establishment of strict obligations governing the conflict of interest for staff involved in bank resolution). In particular, DG FISMA focused its attention on the implementation of the actions planned in its anti-fraud strategy and on targeted initiatives aimed at maintaining a high level of staff awareness in specific areas.

For that, DG FISMA distributed several bulletins to staff, revamped its intranet pages on ethics to make it more user friendly and continued to raise the attention of newcomers and financial actors on the specific environment of DG FISMA in relation to anti-fraud and ethical matters. This was done during the newcomers' trainings and the trainings on DG FISMA financial circuits. In this context, emphasis was also put on the obligation of staff to report illegal activities, fraud and serious irregularities.

DG FISMA also shared its anti-fraud strategy with entrusted entities to initiate and facilitate the sharing of best practices and information in this area.

In 2018, DG FISMA started to map the typology of sensitive information processed by each unit. All services of DG FISMA contributed actively to the exercise. This will be finalised in 2019 instead of 2018 to take into account changes linked to the internal reorganisation of DG FISMA.

The Event Management Tool (EMT)²⁹ was further developed in 2018 in line with the planning of the anti-fraud strategy. The IT tool now allows management to extract reports related to several aspects of DG FISMA relations with stakeholders (typology of entities met, delays in encoding events or minutes, recurrence of events by service and

²⁹ The Event Management Tool (EMT) is an information system of DG FISMA which ensures the transparent and integrated management of all meetings held by the services of a DG with the third parties, and in particular with the representatives of civil society interests.

entities, etc.). In 2019, this will be integrated in a system of regular reports distributed to senior management.

The results of the survey on the new anti-fraud strategy launched in December 2017 and finalised in the first trimester of 2018 demonstrated a high level of awareness among all staff having participated. This proves the effectiveness of the efforts made by DG FISMA and its management in 2017 to familiarise staff with the fight against fraud.

Considering the extent and nature of DG FISMA's expenditure, the exposure to fraud entailing financial risks is low. Nevertheless, DG FISMA consistently applies appropriate control measures to its transactions to detect any fraudulent activities. For example, procedures or transactions in procurement and grants entailing greater risks pass through two levels of verification before being approved by the authorising officer. This second verification is carried out by staff, who are familiar with fraud prevention and detection. In addition, a second *ex-ante* verification is automatically performed for transactions involving an amount higher than € 60 000. Special attention is also given to anti-fraud during the training on DG FISMA financial circuits to convey useful tips on the most important reflexes to have.

DG FISMA did not detect any fraudulent cases in 2018 as a result of the above verifications. OLAF did not open cases in respect of DG FISMA's activities, beneficiaries or contractors. The only cases reported by DG FISMA to OLAF and the security services of DG HR concerned the misappropriation of the Commission's logo and name in circumstances unrelated to DG activities or programmes. In that case, the DG reacted very promptly in reporting the case to the competent Commission services demonstrating the functioning and effectiveness of the internal flow of information at all hierarchical levels.

The anti-fraud action plan was implemented by DG FISMA in 2018. Some of the initiated actions will be fully finalised in 2019 instead of 2018 mainly due to the reorganisation of DG FISMA³⁰. The execution of the actions planned is monitored centrally in close collaboration with the services concerned.

2.1.1.3 Efficiency = the time-to...indicators and other efficiency indicators

Time-to-payment

The average time to make a payment in DG FISMA was **16,9 days** (gross time including suspensions while average net payment time was 14,3 days) and remains in line with 2017 (16,2), 2016 (16,5), 2015 (17,1 days) and 2014 (19,5 days) and within the maximum time-limit of 30 days. The above results are also supported by a more performing indicator such as the time to pay prefinancing in grants which was only 12,2 days on average.

Only **3 payments were processed late** corresponding to 1,1% of the total payments made. This equals the performance of 2017 and 2016 and confirms a substantial improvement compared to 2015 (10%) and 2014 (5%). No interest on the above late payments were paid in 2018

The efficiency of DG operations is therefore guaranteed by current procedural arrangements and internal organisation modalities. In addition, the execution of payments on time limits the risk of complaints from contractors and beneficiaries. They can perform their tasks without facing financing delays and deliver qualitative policy outputs to DG FISMA.

³⁰ See Annex 10 for more details.

Concerning indirect management the average time to pay the subsidies to ESAs was **19,9 days** which remains below maximum time limits and confirms the efficient handling of such process by DG FISMA.

Time-to-procure and time-to-grant

In relation to procurement, all tenders were awarded within an **average of 114 days**. This constitutes an efficient result considering the technical and operational complexities embedded in the preparation of high quality tender procedures which contribute to easing the delivery of the outputs necessary to help DG FISMA in attaining its policy objectives.

Since all beneficiaries of the grants' programmes managed by DG FISMA are now identified in a basic act, DG FISMA has no elements for reporting on time-to-inform or time-to-grant as required under Article 128.2 of the Financial Regulation (2016) in the cases of grants awarded through calls for proposals.

Execution of budget

DG FISMA implemented 96,3% of its budget in terms of commitments and 93,5% in terms of payments made. This corresponds to the positive results of previous years and therefore confirms the capacity of DG FISMA to deliver not only on time but also in line with the budgetary planning. This in a difficult and complex operational environment where priorities can change quickly and unexpectedly, e.g. with the new work stream on sustainable finance.

The 40% execution of administrative payment appropriations (see table 2 of Annex 3) is mainly due to the staggered allocation of the IT budget over the year and the fact that new IT contracts then extend into the following year with payments made accordingly. At the same time, DG FISMA achieved a very high execution of administrative commitment appropriations (99,8% - see table 1 of Annex 3).

Workload volume and complexity

The above time-to-indicators needs to be considered also in light of the overall context of resources available and namely in relation to (1) the high number of small transactions under administrative expenditure, (2) the complicated process for organising calls for tenders in a very specialised and evolving domain and (3) the centralised financial circuits used in DG FISMA that concentrate the management of all operations on a small number of staff.

2.1.1.4 Economy = the costs of controls

The corporate methodology for the estimation, assessment and reporting on the cost-effectiveness of controls was revisited in September 2018 and is now applied for the first time in the 2018 annual reporting. The difference of the estimated cost of controls for certain stages of the process as compared to previous years derives from this new methodology and does not reflect any substantial change in the DG's control strategy.

DG FISMA applied the new corporate methodology by calculating the costs of all staff members involved in functions/activities related to financial and programme management in general, budget and accounting as well as other horizontal tasks such as internal control, anti-fraud, negotiation of the new funding programmes in the context of the Multi Annual Framework 2021-2027, supervision of entrusted entities, assurance and quality management whenever linked to the implementation of the budget.

The overall costs of controls related to all DG FISMA expenditure correspond to 2,5% of

the payments made³¹ (this includes both administrative and operational expenditure).

Total ratio					
Description	Year 2015	Year 2016	Year 2017	Year 2018	
Total costs of controls / value of payments made	4%	3%	2%	Operational and administrative expenditure	2,5%
				Only operational expenditure	1,7%

Direct management

The costs of control related to direct management represent **4,3%** of the total expenditure made in direct management mode.

The indicator decreases significantly if only operational expenditure is considered for the calculation. Considering the very low amounts linked to the high number of transactions in administrative expenditure, the difference is justified and cannot be reduced by simplifying existing controls. This lower ratio is also an important result to consider since the operational transactions are more representative of DG activities.

Direct management Operational and administrative expenditure included	
Year 2017	Year 2018
Direct: 5%	4,3%

Direct management Operational expenditure only	
Year 2017	Year 2018
Direct: 3%	1,9%

The costs related to expenditure executed by DG FISMA in direct management are also calculated separately for procurement and grants. The ratios of the costs of controls are available in Annex 10 for each stage of the RCS on procurement and grants and namely from planning to contracting and from contracting to payment.

The costs related to the ex post supervisory measures are also indicated in Annex 10 but correspond to **0%** for both grants and procurement in line with trends from previous

³¹ For the cost calculation of its overall indicator DG FISMA did not use as denominator the amount of total payments mentioned in table 2 of Annex 3 but the amount of the actual operational expenditure implemented directly by the DG based on cross-sub delegations given and received. For more detailed information on the calculation method used refer to Annex 10.

years. They are in fact insignificant compared to the transactions checked and the overall amounts paid in grants and procurement. The costs of supervisory measures have been also further reduced due to the fact that DG FISMA did not carry out on-the-spot checks in 2018 as anticipated in its AAR 2017.

Procurement

Overall, the costs of control from planning to contracting correspond to **2,6%** of the value finally contracted. They are therefore adequately commensurate to the qualitative added value they produce. They ensure a targeted definition of needs, adequate formulation of tender specifications and a transparent selection and awarding process compliant with applicable rules and corporate guidance.

In addition, the ratio decreases substantially if only operational expenditure is considered in the calculation (**1,4%**).

The costs of controls related to the acceptance of deliverables and processing of all payments and recovery orders are estimated to be **4,9%** of the overall payments made on procurement. Also in that case and for the reasons mentioned above, the ratio decreases substantially if only operational expenditure is considered in the calculation (**1,7%**).

The overall costs of controls for procurement described in detail above correspond to **9%** of the payments made and it is aligned with the results of previous years. Due to the diseconomy of scale inherent to DG FISMA procurement transactions (low amounts still requiring minimum checks and controls) the costs of controls at the different stages of the procurement process could hardly be further reduced without weakening the quality of DG operations. Therefore, considering the important role of procurement in several policy areas, DG FISMA does not envisage to reduce the quality of its controls. This is particularly the case as the ratio decreases substantially to **3,4%** if only operational expenditure is considered.

Grants

As a global indicator, the ratio between the overall costs of controls and the total grant expenditure was **0,5%** which confirms the positive results of previous years. The costs of controls cover all stages of the grant's process: assessment of the applications submitted by the beneficiaries identified in the basic act, preparation of the work programme through a financing decision, commitment and implementation of financial operations such as payments, de-commitments and recovery orders.

Since no calls for proposals were launched in 2018 by DG FISMA, the control stages linked to the processing of call for proposals are not applicable. The costs of controls linked to stage 1 of the RCS on grants are therefore relatively low and estimated to be **0,25%** of the value of the action and operating grants finally signed.

The costs of controls for contracting and monitoring grants over the payments made remained stable at around **0,25%** and in line with previous years' trends.

Considering the low ratios described above and their correspondence to previous years' benchmarks, DG FISMA does not intend to reduce the controls already in place that are considered to be economic compared to the qualitative gains they produce.

Indirect management³²

³² DG FISMA does not entrust the ESAs with budget implementation tasks. Therefore, the costs of controls related to the ESAs review (corresponding to the stage 1 of the Relevant Control System on indirect management in Annex 5) and the supervision of the ESAs (corresponding to the stage 2 of the Relevant Control System on indirect management in Annex 5) are provided only for transparency reasons. This implies an increase of the overall costs of controls that should therefore be assessed in light of the above mitigating factors and the benefit of a more transparent reporting.

The costs of the supervision of the ESAs have been estimated at **0,5%** of the annual contributions paid to them. They include for example but not exclusively the costs related to the assessment of the annual programming and budget, the participation of DG FISMA's representatives in Management Boards, Boards of Supervisors and related preparatory work.

The costs of control strictly related to the processing of the payments made to the ESAs are calculated separately and based on a similar methodology used to calculate the costs related to other financial transactions. As in previous years, they represent a tiny and irrelevant fraction of the payments made.

DG FISMA has also estimated the costs related to the negotiation of the package of Commission proposals on the ESAs review. Such costs represented **0,9%** of the total contributions paid to the ESAs which constitutes an increase of **0,5** percentage points compared to last year. This increase is justified by the intensive negotiation process with the co-legislators that took place in 2018. The increase of costs is therefore temporary and linked to well identified policy needs.

Considering all of the above, the overall costs of control for indirect management represented **1,4%** of the contributions paid to the agencies in 2018. The increase compared to previous year is justified by the reasons mentioned above.

2.1.1.5 Conclusion on the cost-effectiveness of controls

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

The DG's control environment and control strategy remained stable during the reporting year (compared to previous years) and the conclusion on the cost-effectiveness of controls is therefore deemed unchanged.

There is insufficient data to quantify the preventive benefits of controls in monetary terms. However, DG FISMA has at its disposal several elements demonstrating the non-quantifiable benefits of its controls, as for example:

- Better value for money, deterrence, efficiency gains and regulatory compliance.
- The number of financial transactions 'refused for correction' (24) demonstrates the effectiveness of the checks performed by the verifying function and the corrective capabilities embedded in DG FISMA financial circuits.
- The lack of complaints or litigation cases filed in respect of procurement and grant procedures.
- The lack of fraud cases in both procurement and grants.
- The absence of ineligible costs detected during the on-the-spot checks carried out in 2017 on grants that had an impact on the EU contribution paid.
- The errors detected during the *ex-post* checks despite not having a budgetary impact allowed DG FISMA to detect administrative encoding errors and therefore improve the quality and consistency of data and related reporting.
- The very low number of requests for clarification in the context of procurement procedures (average of 2 clarification requested).
- The absence of procedures where only one offer was received and the absence of unjustified non-awarded procedures.
- The capacity of DG FISMA to adapt to new needs demonstrated by the revision of initial planned studies in certain domains.

- The clarifications obtained in the context of grants applications allowing a qualitative improvement of the work to be performed by the beneficiaries under the grants awarded (clarifications provided in four grants).
- The number of financing decision receiving a negative opinion during the inter-service consultation or a positive opinion with substantial comments (0 negative).

2.1.2 Audit observations and recommendations

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

DG FISMA monitors centrally the implementation of the action plans related to accepted audit recommendations by:

- notifying the units responsible in due time to ensure that agreed deadlines are met.
- recording the action taken in the relevant IT tools to report the status of implementation to the auditors and to management.

All DG FISMA services whose activities were concerned by the audits carried out by the ECA and the IAS in 2018 were involved during the entire audit process. Management was also systematically involved at appropriate level depending on the stages of the audit.

European Court of Auditors audits

During 2018, DG FISMA contributed to Commission's replies in the context of the following ECA's reports:

- Special Report 25/2018 of the European Court of Auditors: "Floods Directive: progress in assessing risks, while planning and implementation need to improve"
- Report pursuant to Article 92(4) of Regulation (EU) n° 806/2014 on any contingent liabilities for the financial year 2018

Recommendations linked to discharge of the European Parliament and the Council

In 2018, DG FISMA followed-up as leading or associated DG the replies to the implementation of all discharge requests from the European Parliament and the Council linked to discharge. For example in relation to the recommendations of the European Parliament linked to the supervision of the emissions' market or the need for a more diversified financing for the ESAs.

Internal Audit Service audits

The IAS performed an audit on DG FISMA performance management system in 2018 that did not lead to 'very important' or 'critical' recommendations. The IAS 'important' recommendations raised in the context of this audit propose that DG FISMA streamlines the current performance management tools and clarify certain aspects related to the process leading to the preparation of the Strategic Plan and Management Plan.

In 2018, DG FISMA finalised the implementation of the action plans related to the IAS audits carried out in 2017 on

- The financial management of procurement and grants.
- The production process and the quality of statistics not produced by Eurostat.

Based on the follow-up of the implementation of the recommendations from the audit on financial management of procurement and grants, the IAS closed the recommendations.

The actions taken by DG FISMA to implement the action plan of the audit on the production process and the quality of statistics not produced by Eurostat are currently under review by the IAS. They include for example the creation of a centre of expertise composed of several services of DG FISMA specialised in the use, acquisition and

production of statistics and data.

During the last quarter of 2018 DG FISMA also constructively discussed with the IAS the audit action plan for 2019-2020 in light of the actual risks of the DG.

Internal Audit Service limited conclusion

Based on all work undertaken by the IAS in the period 2016-2018, namely,

- Audit on financial management of procurement and grants in DG FISMA (2017)
- Audit on the production process and the quality of statistics “not produced by DG ESTAT” (2017)
- Audit on effectiveness and efficiency of DG FISMA’s performance management system (2018)

and taking into account that:

- Management has accepted all the recommendations issued in 2016-2018.
- Management has adopted action plans to implement all the accepted recommendations. The IAS considers that these action plans are adequate to address the residual risks identified by the auditors, except for the audit on effectiveness and efficiency of DG FISMA’s performance management system, where management has adopted an action plan, which has not yet been assessed by the IAS.
- The implementation of these action plans is monitored through reports by management and follow-up audits by the IAS.
- Management has assessed a number of action plans as implemented which have not yet been followed up by the IAS.

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

Conclusion

Overall, DG FISMA's audit record is positive. In the last five years, the audit bodies (IAS and ECA) issued no critical recommendations. Considering the absence of any overdue recommendation and the level of importance of the new recommendations resulting from the IAS audit performed in 2018, DG FISMA management believes that there are no audit findings or elements related to these findings that raise assurance implications.

2.1.3 Assessment of the effectiveness of the internal control systems

The Commission has adopted an Internal Control Framework based on international good practice, aimed at ensuring the achievement of policy and operational objectives. In addition, as regards financial management, compliance with the internal control framework is a compulsory requirement.

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

A. New internal control framework

A new internal control framework was adopted by the Commission mid-2017 and entered into force as from 2018³³. DG FISMA completed the implementation of the new internal control framework in 2018 by adapting its control strategy in light of the new internal control principles.

DG FISMA also revised its internal control monitoring criteria to measure the presence and functioning of each component and principle. The revision was overseen by the RMIC Director and focused on the establishment of a reduced list of indicators that will be completed by a broader analysis of the presence and functioning of each principle. As in 2017 DG FISMA maintained an appropriate balance between compliance and effectiveness indicators also in light of corporate instructions and examples across the services.

The final list of indicators was finalised and submitted for validation to senior management in the context of the preparation of DG FISMA Management Plan 2019.

The RMIC Director nominated in 2017 will be responsible for reporting on the Part 2 of the Annual Activity Report related to 'Organisational management and internal control'. In order to reflect the actual allocation of responsibilities within the DG, its organisational structure and reporting lines, the Deputy-Director General was nominated to be responsible for the reporting on the Part 1 'Key results and progress towards the general and specific objectives of the DG'.

Following the reorganisation DG FISMA a new member of the staff responsible for RMIC will be nominated as from 1/04/2019.

B. Assessment of ICS effectiveness

Annual assessment of the presence and functioning of the internal control framework

The annual assessment on the presence and functioning of the internal control framework was coordinated by Unit A2. It was carried out in line with corporate instructions and in direct collaboration with all DG FISMA services concerned at the level of each principle. The overall process was overseen by the RMIC Director.

The results of the assessment were included in a comprehensive report addressed by the RMIC Director to the Director-General. This report also contained a detailed description of all strengths and deficiencies identified under each principle including, when necessary, the recommendations made.

First, DG FISMA assessed the presence and functioning of its internal control framework

³³ C(2017) 2373 final
fisma_aar_2018_final

measuring its performance against the list of internal control monitoring indicators established in 2017. Following the result of this first analysis, no critical/major/moderate deficiencies were detected but only minor discrepancies linked to small or justified deviations from expected targets. For all these minor deviations, action plans have been established that will contribute to the fine-tuning of each principle to which they are related.

As a second step DG FISMA assessed the existence of other sources of information that may have an impact on the final assessment. To this end, DG FISMA considered the results and analyses embedded in the following processes:

- the exceptions and non-compliance events recorded in 2018,
- the recommendations of IAS or ECAs audits,
- the results of the risk management process,
- the implementation of the anti-fraud strategy,
- the reports to the Vice-President on the status of internal control,
- other relevant elements raised by staff or external actors.

Following this second stage of the assessment, three 'moderate' deficiencies were identified corresponding to the formal setting of objectives for DG FISMA staff in the relevant IT tool and a the 'important' recommendations raised in the context of two IAS audits:

- *Formal setting of objectives for DG FISMA staff in the relevant IT tool*

The deficiency is linked to the functioning of principle 5 and concerns the low number of DG FISMA staff having objectives formally completed in the relevant corporate IT tool (Sysper). The impact of this deficiency is mitigated by several other positive factors and indicators that show a high-level awareness of DG FISMA staff of what is expected from them at work. In addition, the low number of staff covered by objectives formally completed in the relevant corporate IT tool is also linked to the recent reorganisation of DG FISMA which entered into force in 2019.

- *The audit on 'DG FISMA performance management system' (2018)*

The deficiency is linked to the functioning of principle 6 and namely concerns some improvements to be made in the process governing the allocation of resources. In this respect, DG FISMA is already taking major steps to address this deficiency and submitted an action plan to the IAS. Therefore the actual impact of the deficiency on the principle is considered minor.

- *The audit on the 'The production process and the quality of statistics not produced by Eurostat' (2017)*

The deficiency is linked to the functioning of principle 10 and concerns the need to put in place additional controls at the different stages of the acquisition and production process linked to statistics. In this respect, DG FISMA has already implemented all actions foreseen in the action plan submitted to the IAS in 2018. Therefore the actual impact of the deficiency on the principle is considered minor.

Aggregated at component level the above deficiencies do not entail risks on the functioning of the components to which they are linked. All deficiencies are mitigated by other controls and by the positive results of other important internal control monitoring criteria under the same principle and component. Therefore, their actual impact on the DG FISMA control framework is minor.

Exceptions and non-compliance events

DG FISMA has a well-functioning system for reporting operations deviating from established procedures. The typology and extent of the exceptions and non-compliance

events have been systematically recorded in the DG register of exceptions and non-compliance events. Clear guidance is provided to staff on the procedure to use to report these events.

The events recorded are assessed centrally in order to verify their structural nature and recurrence and to determine the existence of gaps in the effectiveness of the internal control framework. None of the exceptions or non-compliance events reported led to the detection of an internal control deficiency which could negatively impact the achievement of DG FISMA objectives.

The RMIC Director reports twice a year to the Director-General providing a detailed assessment of the typology of events, the risks entailed and the corrective measures proposed.

Risk identification and assessment

In 2018, DG FISMA performed a comprehensive risk identification and assessment by requesting contributions from all DG FISMA services that actively participated in the exercise. Senior management was involved at all stages of the process.

The services were explicitly requested to focus on potential risks linked to future changes in the internal or external environment in which DG FISMA operates.

A separated fraud risk assessment was also performed, which led to the downgrading of several risks considered obsolete, because of their reduced level of likelihood following previous mitigating measures taken. New risks were identified namely linked to a new environment or new policy initiatives and regulations (for example, reputational and financial stability risks resulting from money laundering cases involving financial sector operators in the EU or risks linked to the relocation of the European Banking Authority in Paris). One risk was considered critical and was further discussed during the peer reviews organised by the Secretariat General. The risks identified and assessed in that context did not reveal internal weaknesses.

Reports to Commissioner

The DG reports twice a year to its Commissioner on the state of play of internal control. In this context the status of internal control is reviewed and major issues escalated to the Cabinet.

IAS/ECA's audit results and recommendation.

As mentioned above, two 'important' recommendations of the IAS led to the identification of 'moderate' deficiencies in the functioning of principle 6 and 10.

The status of IAS/ECA audits is part of the regular reporting made to the Commissioner.

Reporting from services and staff

Reporting of strengths and suggestions for improvements from both individual staff members and units were taken into account during the annual assessment. Meetings were also organised in specific cases and in relation to certain principles.

Overall assessment

DG FISMA has assessed its internal control system during the reporting year and has concluded that it is effective and that the components and principles are present and functioning as intended.

Principles 5, 6 and 10, even though they are present and functioning overall, require some improvements namely in order to address the 'important' recommendations of the

IAS as explained above and improve the formal setting of objectives for DG FISMA staff in the relevant corporate IT tool.

DG FISMA will also implement the desirable actions addressing the 'minor' deficiencies identified during the annual assessment. Even if not having an impact on the principles or components to which they refer, the fine-tuning of each principle constitute a priority for DG FISMA in these first years of implementation of the new internal control framework.

2.1.4 Conclusions on the impact as regards assurance

This section reviews the assessment of the elements reported above (in Sections 2.1.1, 2.1.2 and 3), the sub-conclusions above, and draws the overall conclusion supporting the declaration of assurance and whether it should be qualified with reservations.

The assessment of the elements above is corroborated by adequate evidence when needed and provides sufficient guarantees as to the completeness and reliability of the information reported.

- DG FISMA control strategy provides sufficient assurance to manage appropriately the risks related to the legality and regularity of the operations. Controls are sufficient and proportionate to the risks stemming from DG FISMA activities.
- DG FISMA has applied appropriate *ex-ante* controls on procurement, grants and contributions to the ESAs, 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 or following the on-the spot checks carried out in 2017.
- No cases were received by the Ombudsman and no legal proceedings were initiated by tenderers/contractors/beneficiaries.
- The audit of the IAS carried out in 2017 on the financial management of procurement and grants did not raise very important or critical recommendations related to the legality and regularity of DG FISMA operations.
- DG FISMA received no critical observations or recommendations from audit bodies (ECA and IAS) and the IAS's conclusion on the state of control for 2018 is positive. The result of the IAS audit carried out in DG FISMA in 2018 did not lead to any 'very important' or 'critical' recommendations.
- DG FISMA assessment of the presence and functioning of its internal control framework did not highlight any deficiency which could have an impact on assurance.
- DG FISMA used its resources for their intended purposes and the principle of sound financial management was applied in the implementation of its budget.
- DG FISMA has taken all necessary internal measures to ensure that no significant information is omitted from this report which has been prepared with the support and direct involvement of the management and all services involved.
- DG FISMA has put in place suitable control measures to limit risks of error and prevent, detect and correct fraud and irregularities.
- The controls on the ESAs are proportionate and limited to DG FISMA's governance remit. They are sufficient and appropriate to ensure the legality and regularity of the payment of the annual contribution to them and the efficiency of the annual budget programming.

Therefore, DG FISMA considers that it has met its control objectives and assesses the information reported as complete, reliable and effectively underpinning its AOD's declaration of assurance for 2018.

Overall Conclusion

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director

General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

2.1.5 Declaration of Assurance

DECLARATION OF ASSURANCE

I, the undersigned,

Director-General of Directorate-General of 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 work of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

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

Brussels, 28/03/2019

[Signed]

Olivier GUERSENT

³⁴ True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG.

2.2 Other organisational management dimensions

2.2.1 Human resource management

2018 was a year of consolidation of the new HR Service Delivery model, which enabled DG FISMA's HR Business Correspondent team to gradually downscale its involvement in daily procedures during the first half of the year.

The second half of the year was largely absorbed by the DG's internal reorganisation, which became effective as from 1 January 2019. In light of the reorganisation, the decision was taken to postpone the mini coaching sessions with Directors, which were originally scheduled to take place in December to 2019.

A further woman was appointed as Middle Manager, which brought the DG's rate of female managers to 38% in 2018, thus causing it to exceed its target. However, the rate since then went back to 33%, following the decision of one of the female Middle managers to opt out of management as from 1 January 2019.

The DG continued to deliver part of its deliverables through cross-sectorial project teams. A workload planning system was introduced to optimize the allocation of resources balance the involvement in project teams and in unit work.

2.2.2 Better regulation (only for DGs managing regulatory acquis)

In line with the general and specific objectives set out in its Management Plan 2018, DG FISMA has proposed several policy initiatives, leading to the completion of eight impact assessments and one evaluation in the past twelve months. In addition, ongoing work on two fitness checks will be completed in 2019. These activities directly contribute to the priorities of the Juncker Commission, in particular on achieving a deeper and fairer Internal Market with a strengthened industrial base and a deeper and fairer Economic and Monetary Union.

Compared to previous years, in 2017 DG FISMA had more intensive impact assessment activities and could not maintain the positive results of 2016 regarding the number of impact assessments that received a favourable opinion on first submission to the Regulatory Scrutiny Board. To counter the negative trend, in the course of 2017, DG FISMA strengthened its internal governance structure for better regulation. The positive results were already observable in Q4 2017 and, despite the significant impact assessment workload, this trend clearly continued in 2018 with a 75% success rate on first submission, turning back to the same results as in 2016.

As mentioned, one evaluation fully complying with the better regulation principles was also concluded in 2018, which, in parallel with the increase of primary legislation, maintained the percentage of DG FISMA's regulatory acquis covered by a retrospective evaluation at 22%.

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

2.2.3 Information management aspects

DG FISMA continued the implementation of the 2017 strategy for Knowledge Management (KM). Steps were taken in 2018 to roll out this strategy, in particular by progressively building a DG-wide taxonomy. That consisted of establishing a repository of terms, files and information stored in each unit on the basis of visits and discussions with all units and at various levels. A DG-wide KM network has been created and met four times in 2018. Knowledge gardeners have been appointed in each unit with defined role and responsibilities.

A platform to collect and share country knowledge related to the enforcement of EU legislation has been set up. Several cross-unit and cross-directorate project teams on a variety of files have been active to ensure the pooling of specialist knowledge for the DG's policy deliverables. The project teams generally used collaborative IT platforms in order to increase access to information to the various team members and to increase work efficiency.

Between October and November 2018, DG FISMA carried out an online survey to confirm whether user satisfaction with DG FISMA's main information channels is improving in line with the objective set in the Strategic Plan. The results of the survey showed that the very positive assessment of DG FISMA's information tools in 2017 has increased slightly further in 2018. For example, the results showed: (i) an increase in the number of new subscribers to the Finance Newsletter (+479 during October and November 2018, in comparison to +170 for the same 2 months in 2017), (ii) an easy access by stakeholders to the web pages "Banking and Finance" for which DG FISMA is in charge within a broader thematic class "Business, Economy, Euro" shared with other DGs.

As regards document management, DG FISMA reached its two quantitative objectives in the AMP 2018 to increase the quality of ARES files. The Document Management Officer (DMO) continued to implement the action plan developed in 2016, e.g. through regular monitoring and information on document management performance, tailor-made training and coaching of staff and the internal network of filing plan officers in units. Special emphasis was put on increasing the use of ARES (including AresLook) by AD staff.

Since July 2018 DG FISMA undertook a series of actions in order to prepare the implementation of the new Regulation (EU) 2018/1725. The awareness of staff in the DG was a key element. Guidance notes about the new regulation and its implications were addressed to Head of Units in July and December 2018 and a training session was also organised.

The Commission's data protection action plan of 7th November 2018³⁵ was taken into consideration by DG FISMA. In this context, DG FISMA has conducted and finalised an inventory of all data processing activities in the DG. DG FISMA has withdrawn obsolete notifications and added 3 new notifications in the register of notifications. A new record is under examination and requires still consultations. The assessment of all DG FISMA processing operations against the general principles established in the new regulation and the update of privacy statements and notifications are ongoing with DG FISMA controllers. DG FISMA did not identify risky processes and a need for restrictions to data subjects' rights.

2.2.4 External communication activities

DG FISMA regularly communicated the DG's policy deliverables to the media, stakeholders and the general public according to the annual management plan. The main information platforms included the EUROPA website, DG FISMA's Twitter account and the Finance Newsletter, as well as ad hoc stakeholder conferences on specific topics. Officials

³⁵ C(2018)7432.

explained FISMA policies and engaged with a broad variety of stakeholders at numerous conferences and other events, including a high-level conference on Sustainable finance.

Given their political importance and resonance for citizens, a particular effort has been made to communicate Commission initiatives in the following areas, i.e.

- Capital Markets Union (CMU), following the adoption by the Commission of several legislative and other initiatives in the follow-up to the original action plan and the mid-term review of the CMU action plan;
- Sustainable finance: this work stream which stemmed of the CMU mid-term review had led to the adoption of a dedicated action plan on Financing Sustainable Growth, followed by several legislative proposals and non-legislative work (expert group and others);
- Banking Union: This focused on the implementation of the October 2017 communication, through progress on the negotiation of the Banking package and a dedicated communication;
- Risk reduction in the EU banking system following a comprehensive package of measures (legislative and non-legislative) in March 2018 to further reduce non-performing loans (NPLs);
- Consumer finance, including financial technologies ("Fintech"), with the adoption of an action plan on Fintech, and a proposal to make cross-border payments in euro cheaper across the entire EU. The social media campaign to increase awareness of the FIN-NET dispute resolution network and its services for consumers which started in 2017 has continued through 2018.

Communication in these areas included for example special visual products (e.g. videos, GIFs, infographics and factsheets), an enhanced outreach to the media as well as social media campaigns (including a webinar). Infographics have been regularly developed to accompany the publication of Commission's legislative and non-legislative action. Online consultations of interest to a broader public have been promoted on social media. DG FISMA's initiatives have also been presented on a regular basis in FISMA Newsletter.

DG FISMA's policies have been regularly put into the broader context of the Juncker Commission priorities by indicating how they contribute to creating jobs, growth and investment, a deeper and fairer Internal Market, to the deepening Economic and Monetary Union, and to supporting efforts towards sustainable development, developing a low-carbon economy and mitigating climate change.

2.2.5 Examples of economy and efficiency

Event Management Tool

The Event Management Tool (EMT) is an information system of DG FISMA which ensures the transparent and integrated management of all meetings held by the services of a DG with the third parties, and in particular with the representatives of civil society interests.

EMT helps to reduce the administrative burden of logging and organizing meetings by taking care of their lifecycle, from the meeting requests, to the distribution of the preparation of the documents to the participant, until to the draft and automatic storage of the minutes of meeting into the corporate document management system. EMT also allows improved rationalisation (by avoiding too frequent meetings or duplication of meetings), control (by detecting third parties strategies to collect reserved information), transparency (by keeping track of any participants as well as document exchange and make them visible to the entire DG), efficiency and effectiveness (by automatic exchange of data with other Commission systems).

In 2018, DG FISMA has developed a more ergonomic and user friendly version of EMT using the Commission standards in term of interface (eUI) and continued to further strengthened the EMT functionalities, developing new indicators for reporting and

monitoring purposes, and developing new interfaces with Commission systems, especially with e-Pass to ease the requests for the visitor access to the Commission buildings. Also in 2018, the system was presented to several DGs to promote the reuse. As a result of this communication work, for 2019 we plan to deploy EMT in two new DGs.

E-submission

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

DG FISMA joined the process in the course of 2018. As a consequence, an electronic authentication and validation process replaced the manual initialisation of unbound voluminous tenders, storage was dematerialized with corresponding economies for tenderers and the contracting authority and the security of tenders was improved by the use of encryption protocols.