EUROPEAN
COURT
OF AUDITORS

Opinion No 6/2015

on a proposal for an amended Financial Regulation of the Single Resolution Board laying down the financial provisions applicable to the Board

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THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union (the Treaty), and in particular Article 287(4) thereof;

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (the SRM Regulation)[1], and in particular Article 64 first subparagraph thereof providing for the Court of Auditors ("the Court") to be consulted on the Single Resolution Board´s ("the Board") draft internal financial provisions prior to their adoption;

Having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[2] ("Framework Financial Regulation");

Having regard to the Financial Regulation of the Board;

Having regard to the request of the Chair of the Board for an opinion on a proposal for an amendment of the Financial Regulation of the SRB, submitted to the Court on 9 October 2015;

Whereas the Court has issued Opinion No 3/2015 on a proposal for the Financial Regulation of the Single Resolution Board laying down the financial provisions applicable to the Board,

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[1] OJ L 225, 30.7.2014, p. 1.

[2] OJ L 328, 7.12.2013, p. 42.

HAS ADOPTED THE FOLLOWING OPINION:

INTRODUCTION

1. The Board is the central decision-making body of the SRM. Its mission is to ensure that credit institutions and other entities under its remit, which face serious difficulties, are resolved effectively with minimal cost to taxpayers and the real economy. The Board is a self-financed agency of the European Union which became operational on 1 January 2015.

2. The Board is also responsible for managing the Single Resolution Fund (SRF) which will support the SRM. Recital 4 of the Board's Financial Regulation provides that it will be amended at a later stage in 2015 to include provisions for part II of the budget on the SRF. Following the draft of those complementing provisions, the Chair of the Board has requested the Court an opinion on the proposed amendments to the Board's Financial Regulation.

3. The Court notes that the proposed amendments to the Financial Regulation are largely based on the Framework Financial Regulation (EU) No 1271/2013. However it makes a few specific and one general observation.

SPECIFIC OBSERVATIONS

Accounting for revenue in the budget

4. The proposed amendment to Article 10(1) of the Board's Financial Regulation allows the authorising officer to establish recovery orders followed by debit notes to be sent to debtors, in accordance with Article 56, as from 15 October each year, and following the adoption of the budget of the following year. It aims to ensure that the Board, which is a self-financing agency, has the time to invoice a potentially large volume of entities in advance, to have sufficient cash available to pay it's expenses at the beginning of the next year.

5. The proposed amendment to this article further provides that such revenue shall be entered in the budgetary accounts of the following year. This amendment is linked to the proposed advanced invoicing and implies to account in year N+1 for revenue collected in

year N. The Financial Regulation does not provide for prepaid revenue. It is based on the principle of annuality. The Board should therefore consider whether the intention of this proposal could also be achieved by other means, such as setting appropriate payment dates in year N+1.

Cash and investment management

6. Article 17(5) of the Board's Financial Regulation requires that the Board implements rigorous cash management, whereby it permits that the Board entrusts part of its cash management to other Union bodies or institutions. The Board's proposed amendment extends the scope of the outsourcing beyond this power. It proposes that all of its cash management may be outsourced. It also extends outsourcing to investment management and entrusts this task also to international institutions and private entities.

7. The extension of the outsourced activities requires a careful selection of the entrusted entity, as well as consideration of potential conflicts of interest in a resolution case.

Management and selling of assets

8. The proposed amendments of the Board's Financial Regulation provide in Article 101(3) that the Management Board shall adopt rules on the management and selling of assets acquired under the constituent act, i.e. assets of institutions under resolution. Given the potential implications of such rules, the Court believes that it would be appropriate to seek it's opinion on such rules, in the same manner as foreseen in Article 64 when the Board adopts internal financial provisions.

GENERAL OBSERVATION

Completeness of the Board's annual accounts

9. The Board is a new EU agency and in 2016 will present its first annual accounts, including its financial statements and its budgetary implementation report. Article 90 of the Board's Financial Regulation requires that the Board's financial statements shall present relevant, reliable, comparable and understandable information. In this context, the Court

points out that the Board's financial statements (including the notes to it) should include sufficient separate information on both the Board's and the SRF's assets and liabilities, their financial situation and their economic results.

This Opinion was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg on 23 October 2015.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

in his absence

Igors LUDBORŽS
Member of the Court

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