

**Financial Regulation of the European Chemicals Agency
(MB/WP/03/2014)
and its implementing rules
(MB/55/2014)**

**TITLE I
GENERAL PROVISIONS**

***Article 1
Subject matter***

This Regulation lays down the essential financial rules of the European Chemicals Agency, hereinafter "the Agency". It is based on 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 Council Regulation (EU, Euratom) No 966/2012 (hereinafter "the general Financial Regulation") from which it does not depart.

***Article 1
Subject matter (Article 1 FR)***

These Rules lay down the implementing rules to the Financial Regulation of the European Chemicals Agency.

***Article 2
Definitions***

For the purposes of this Regulation, the following definitions shall apply:

- 'constituent act ' means the instrument of Union law governing the main aspects of the setting up and operation of the Agency ;
- 'budget of the Agency' means the instrument which, for each financial year, forecasts and authorises all revenue and expenditure considered necessary for the Agency;
- 'Union body' means any body referred to in Article 208 of Regulation (EU, Euratom) No 966/2012);
- 'Management Board' means the main internal body of the Agency that is responsible for taking decisions on financial and budgetary matters;
- 'Executive Director' means the person responsible for implementing the decisions of the Management Board and the budget of the Agency as Authorising Officer;
- "Executive Board" means the internal body of the Agency that assists the management board and whose responsibilities and rules of procedures are set out in the constituent act.

Article 2

Definitions (Article 2 FR)

For the purpose of these Rules:

1. "Financial Regulation" means Financial Regulation of the European Chemicals Agency adopted by the Management Board on 28 February 2014.
2. "General Financial Regulation" means Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.
3. "European Chemicals Agency" (hereinafter: the Agency) means body referred to in Article 208 of the general Financial Regulation.
4. "Rules of Application" means Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

Article 3

Periods, dates and time limits

Unless otherwise provided, Regulation (EEC, Euratom) No 1182/71 of the Council¹ shall apply to deadlines set by this Regulation.

Article 4

Protection of personal data

This Regulation is without prejudice to the requirements of Directive 95/46/EC of the European Parliament and of the Council² and of Regulation (EC) No 45/2001 of the European Parliament and of the Council³.

Article 5

Respect for budgetary principles

The budget of the Agency shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management which requires effective and efficient internal control, and transparency as set out in this Regulation.

¹ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

TITLE II

BUDGETARY PRINCIPLES

CHAPTER 1

PRINCIPLES OF UNITY AND OF BUDGET ACCURACY

Article 6

Scope of the budget of the Agency

1. The budget of the Agency shall comprise:
 - (a) own revenue consisting of all fees and charges which the Agency is authorised to collect by virtue of the tasks entrusted to it, and any other revenue;
 - (b) revenue made up of any financial contributions of the host Member States;
 - (c) a contribution granted by the Union;
 - (d) revenue assigned to specific items of expenditure in accordance with Article 23(1);
 - (e) the expenditure of the Agency, including administrative expenditure.
2. Revenue consisting of fees and charges shall only be assigned in exceptional and duly justified cases provided for in the constituent act.
3. When one or several constituent acts provide that clearly defined tasks are financed separately or when the Agency implements tasks entrusted to it by a delegation agreement, it shall hold separate accounts, on the revenue and expenditure operations. The Agency shall clearly identify each group of tasks in its human resource programming included in the annual and multiannual programming document referred to in Article 32.

Article 7

Ad hoc grants

1. The Agency may not receive ad-hoc grants from the budget unless authorised in the constituent act and expressly provided for by the basic act.
2. Where the Agency has been authorised to receive ad-hoc grants the tasks financed by these grants shall be included in the annual work programme referred to in Article 32(3).

Article 8

Delegation agreements

1. The Agency shall not be entrusted budget implementation tasks by the Commission except if it is duly justified by the special nature of the action and specific expertise of the Agency.
2. The choice of the Agency shall take due account of:
 - (a) the cost efficiency of entrusting those tasks;
 - (b) the impact on the body's governance structure and on its financial and human resources.
3. Where the Commission exceptionally entrusts tasks to the Agency:
 - (a) Article 60 of Regulation (EU, Euratom) No 966/2012 shall apply to the Agency in respect of funds allocated to those tasks and Articles 108 and 109 of this Regulation shall not apply;
 - (b) tasks entrusted should be referred to in the annual work programme of the Agency, referred to in Article 32(3), for information purposes only.

4. Without prejudice to paragraph 2, the Authorising Officer shall consult the Management Board before signing the delegation agreement.

Article 9

Specific rules on the principles of unity and budgetary accuracy

1. No revenue shall be collected and no expenditure effected unless booked to a line in the budget of the Agency.
2. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget of the Agency.
3. An appropriation may be entered in the budget of the Agency only if it is for an item of expenditure considered necessary.
4. Interests generated by pre-financing payment made from the budget of the Agency shall not be due to the Agency.

Article 3

Accounting for interest yielded on pre-financing (Article 9(4) FR)

Provisions of these Rules concerning interest on pre-financing shall be without prejudice to the entry of pre-financing on the assets side of financial statements, as laid down in the accounting rules referred to in Article 94 of the Financial Regulation.

CHAPTER 2

PRINCIPLE OF ANNUALITY

Article 10

Definition

The appropriations entered in the budget of the Agency shall be authorised for a financial year which shall run from 1 January to 31 December.

Article 11

Type of appropriations

1. The budget of the Agency shall contain non-differentiated appropriations and, where justified by operational needs, differentiated appropriations. Differentiated appropriations shall consist of commitment appropriations and payment appropriations.
2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the financial year.
3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the financial year or preceding financial years.

Article 12

Accounting for revenue and appropriations

1. The revenue of the Agency referred to in Article 6 shall be entered in the accounts for the financial year on the basis of the amounts collected during that financial year.
2. The revenue of the Agency shall give rise to an equivalent amount of payment appropriations.
3. The appropriations authorised for a financial year shall be used solely to cover expenditure committed and paid in that financial year, and to cover amounts due against commitments from preceding financial years.

4. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December.
5. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the Accounting Officer by 31 December of that year.

Article 4

Appropriations for the financial year (Article 12(3) FR)

The commitment appropriations and payment appropriations authorised for the financial year shall consist of:

- (a) appropriations provided in the budget, including amending budgets;
- (b) appropriations carried over;
- (c) appropriations provided following the receipt of revenue assigned during the financial year or during previous financial years and not used.

Article 13

Commitment of appropriations

The appropriations entered in the budget of the Agency may be committed with effect from 1 January, once the budget of the Agency has been definitively adopted.

Article 14

Cancellation and carry-over of appropriations

1. Appropriations which have not been used by the end of the financial year for which they were entered shall be cancelled. However, they may be carried over, but only to the following financial year, by a decision taken by 15 February by the Management Board or, where the constituent act allows it, by the Executive Board in accordance with paragraphs 3 and 4 or they may be carried over automatically in accordance with paragraph 5.
2. Appropriations relating to staff expenditure may not be carried over.
3. Differentiated commitment appropriations and non-differentiated appropriations not yet committed at the end of the financial year may be carried over in respect of:
 - (a) amounts corresponding to commitment appropriations;
 - (b) amounts corresponding to non-differentiated appropriations relating to building or other infrastructure projects, for which most of the preparatory stages of the commitment procedure have been completed by 31 December. The preparatory stage of the commitment procedure shall be specified in the rules implementing the financial regulation of the Agency.

Such amounts may be committed up to 31 March of the following year, or up to 31 December of the following year for amounts relating to building projects.

4. Payment appropriations may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, where the payment appropriations provided for in the relevant budget lines for the following financial year are not sufficient to cover requirements.

The Agency concerned shall first use the appropriations authorised for the current financial year and shall not use the appropriations carried over until the former are exhausted.

5. Non-differentiated appropriations corresponding to obligations duly contracted at the end of the financial year shall be carried over automatically to the following financial year only.
6. Appropriations carried over which have not been committed by 31 March of year N+1 shall be automatically cancelled and shall be identified in the accounts.

Article 5

Cancellation and carryover of appropriations (Article 14(3) FR)

1. The commitment appropriations and the non-differentiated appropriations relating to building projects referred to in Article 14(3)(b) of the Financial Regulation may be carried over only if the commitments could not be made before 31 December of the financial year for reasons not attributable to the authorising officer and if the preparatory stages are sufficiently advanced to make it reasonable to surmise that the commitment will be made by no later than 31 March of the following year, or 31 December for building projects.
2. The preparatory stages referred to in Article 14(3) of the Financial Regulation, which should be completed by 31 December of the financial year in order to allow a carryover to the following year, are in particular:
 - (a) for global commitments within the meaning of Article 69 of the Financial Regulation, the adoption of a financing decision or the closing by that date of the consultation of the departments concerned within each institution for the adoption of the decision;
 - (b) for individual commitments within the meaning of Article 69 of the Financial Regulation, the completion of the selection of potential contractors, beneficiaries, prize winners or delegates.
3. Appropriations carried over in accordance with Article 14(3) of the Financial Regulation, which have not been committed by 31 March of the following financial year or up to 31 December of the following year for amounts relating to building projects shall be automatically cancelled.

The Agency shall inform the Commission of the appropriations cancelled in this way within one month following the cancellation in accordance with the first subparagraph.
4. Appropriations carried over in accordance with Article 14(3) of the Financial Regulation may be used until 31 December of the following financial year.
5. The accounts shall identify appropriations carried over in accordance with paragraphs 1 to 4.

Article 15

Carry-over rules for assigned revenue

Carry-over of assigned revenue referred to in Article 23, and of appropriations not used and available at 31 December arising from such revenue, shall comply with the following rules:

- (a) external assigned revenue shall be carried over automatically and shall be fully used by the time all the operations relating to the programme or action to which it is assigned have been carried out; external assigned revenue received during the last year of the programme or action may be used in the first year of the succeeding programme or action;
- (b) internal assigned revenue shall be carried over for one year only, with the exception of internal assigned revenue defined in point (f) of Article 23(3), which shall be carried over automatically.

By 1 June of the year N+1 at the latest, the Agency shall inform the Commission about the implementation of the assigned revenue carried over.

Article 16

Decommitment of appropriations

Where appropriations are decommitted in any financial year after that in which the appropriations were entered in the budget of the Agency as a result of total or partial non-implementation of the actions for which they were earmarked, the appropriations concerned shall be cancelled.

Article 17
Commitments

1. As from 15 October of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments shall not, however, exceed one quarter of the appropriations decided by the Management Board on the corresponding budget line for the current financial year. They shall not apply to new expenditure of a kind not yet approved in principle in the last budget of the Agency duly adopted.
2. Expenditure which shall be paid in advance, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in paragraph 1 shall not apply.

Article 18
Rules applicable in the event of late adoption of the budget of the Agency

1. If the budget of the Agency has not been definitively adopted at the beginning of the financial year, the rules set out in paragraphs 2 to 6 shall apply.
2. Commitments and payments may be made within the limits laid down in paragraph 3.
3. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the relevant chapter of the previous financial year plus one twelfth for each month which has elapsed.

The limit of the appropriations provided for in the statement of estimates of revenue and expenditure shall not be exceeded.

Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the relevant chapter of the preceding financial year. That sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter in the statement of estimates of revenue and expenditure.

4. The appropriations authorised in the relevant chapter of the preceding financial year, as specified in paragraphs 2 and 3, shall be understood as referring to the appropriations voted in the budget of the Agency, including by amending budgets, and after adjustment for the transfers made during that financial year.
5. At the request of the Executive Director, if the continuity of action by the Agency and management needs so require, the Management Board, may authorise expenditure in excess of one provisional twelfth but not exceeding the total of four provisional twelfths, except in duly justified cases, both for commitments and for payments over and above those automatically made available in accordance with paragraphs 2 and 3.

The additional twelfths shall be authorised in full and shall not be divisible.

6. If, for a given chapter, the authorisation of four provisional twelfths granted in accordance with paragraph 5 is not sufficient to cover the expenditure necessary to avoid a break in continuity of action by the Agency in the area covered by the chapter in question, authorisation may exceptionally be given to exceed the amount of the appropriations entered in the corresponding chapter of the budget of the Agency of the preceding financial year. The Management Board shall act in accordance with the procedures provided for in paragraph 5. However, the overall total of the appropriations available in the budget of the Agency of the preceding financial year or in the draft budget of the Agency, as proposed, may in no circumstances be exceeded.

CHAPTER 3

PRINCIPLE OF EQUILIBRIUM

Article 19 **Definition and scope**

1. Revenue and payment appropriations shall be in balance.
2. Commitment appropriations may not exceed the amount of the Union contribution, plus own revenue and any other revenue referred to in Article 6.
3. For bodies for which the revenue is constituted by fees and charges in addition to Union contribution, fees should be set at a level such as to avoid a significant accumulation of surplus. Where a significant positive or negative budget result, within the meaning of Article 97, becomes recurrent, the level of the fees and charges shall be revised.
4. The Agency may not raise loans within the framework of the budget of the Agency, save for building acquisition and under the conditions of Article 88.
5. The Union contribution to the Agency shall constitute for the budget of the Agency a balancing contribution and may be divided into a number of payments.
6. The Agency shall implement rigorous cash management, taking due account of assigned revenue, in order to ensure that its cash balances are limited to duly justified requirements. With its payment requests it shall submit detailed and updated forecasts on its real cash requirements throughout the year, including information on assigned revenue.

Article 20 **Budget result from financial year**

1. If the budget result within the meaning of Article 97 is positive, it shall be repaid to the Commission up to the amount of the contribution paid during the year. The part of the budget result exceeding the amount of the Union contribution paid during the year shall be entered in the budget of the Agency for the following financial year as revenue.

The first subparagraph shall also apply when the revenue of the Agency is constituted by fees and charges in addition to the Union contribution.

The difference between the contribution entered in the budget and that actually paid to the Agency shall be cancelled.

The Agency shall provide, no later than 31 January of the year n at the latest, an estimate of the budget result from the year $n-1$, which is to be returned to the budget later in year n , in order to complete the information already available concerning the budget result of the year $n-2$. This information shall be duly taken into account by the Commission when assessing the financial needs of Agency for the year $n+1$.
2. In exceptional cases, where the constituent act provides that the revenues arising from fees and charges are assigned to particular items of expenditure, the Agency may carry-over the balance of fees and charges as assigned revenue for the activities related to the provision of the services for which the fees are due.
3. If the budget result within the meaning of Article 97 is negative, it shall be entered in the budget of the Agency for the following financial year as payment appropriations or, where appropriate, offset against positive budget result of the Agency in the following financial years.
4. The revenue or payment appropriations shall be entered in the budget of the Agency during the budgetary procedure using the letter of amendment procedure set out in Article 39 of Regulation (EU, Euratom) No 966/2012 or, while implementation of the budget of the Agency is under way, by means of an amending budget.

CHAPTER 4

PRINCIPLE OF UNIT OF ACCOUNT

Article 21 *Use of euro*

The budget of the Agency shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the Accounting Officer and, in the case of imprest accounts, the imprest administrators shall be authorised to carry out operations in other currencies as laid down in the financial rules of the Agency.

Article 6

Rate of conversion between the euro and other currencies (Article 21 FR)

1. Without prejudice to specific provisions arising from the application of sector-specific regulations, conversion by the responsible authorising officer shall be made using the daily euro exchange rate published in the C series of the Official Journal of the European Union.

Where conversion between the euro and another currency is to be made by the contractors or beneficiaries, the specific arrangements for conversion contained in procurement contracts, grant agreements or financing agreements shall apply.

2. In order to avoid that currency conversion operations have a significant impact on the level of the Agency co-financing or a detrimental impact on the Agency budget, the specific arrangements for conversion referred to in paragraph 1 shall provide, if appropriate, for a rate of conversion between the euro and other currencies to be calculated using the average of the daily exchange rate in a given period.
3. If no daily euro exchange rate is published in the Official Journal of the European Union for the currency in question, the responsible authorising officer shall use the accounting rate referred to in paragraph 4.
4. For the purposes of the accounts provided for in Articles 100 to 105 of the Financial Regulation and subject to Article 93 of these Rules, conversion between the euro and another currency shall be made using the monthly accounting rate of the euro. That accounting exchange rate shall be established by the Commission's accounting officer by means of any source of information he regards as reliable, on the basis of the exchange rate on the penultimate working day of the month preceding that for which the rate is established.
5. The results of the currency operations referred to in paragraph 4 of this Article shall be shown under a separate heading in the Agency's accounts.

Article 7

Rate to be used for conversion between the euro and other currencies (Article 21 FR)

1. Without prejudice to specific provisions deriving from the application of sector-specific regulations, or from specific procurement contracts, grant agreements or grant decisions and financing agreements, the rate to be used for conversion between the euro and other currencies shall, in cases where the conversion is carried out by the responsible authorising officer, be that of the day on which the payment order or recovery order is drawn up by the authorising department.
2. In case of euro imprest accounts, the rate to be used for the conversion between the euro and other currencies shall be determined by the date of the payment by the bank.
3. For the regularisation of imprest accounts in national currencies, as referred to in Article 21 of the Financial Regulation, the rate to be used for the conversion between the euro and other currencies shall be that of the month of the expenditure from the imprest account concerned.
4. For the reimbursement of flat-rate expenditure, or expenditure arising from the Staff

Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (hereinafter 'Staff Regulations') which is fixed at a ceiling, and which is paid in a currency other than the euro, the rate to be used shall be that which is in force when the entitlement arises.

CHAPTER 5

PRINCIPLE OF UNIVERSALITY

Article 22 **Definition and scope**

Without prejudice to Article 23, total revenue shall cover total payment appropriations. Without prejudice to Article 25, all revenue and expenditure shall be entered in full without any adjustment against each other.

Article 23 **Assigned revenue**

1. External assigned revenue and internal assigned revenue shall be used to finance specific items of expenditure.
2. The following shall constitute external assigned revenue:
 - (a) financial contributions from Member States and third countries, including in both cases their public agencies, entities or natural persons, to certain activities, of Union bodies insofar as this is provided for in the agreement concluded between the Agency and the Member States, third countries or the public agencies, entities or natural persons in question;
 - (b) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;
 - (c) financial contributions, not covered by point (a), to Union bodies' activities from third countries or various non-Union bodies;
 - revenue from ad-hoc grants referred to in Article 7;
 - revenue from delegation agreements referred to in Article 8;
 - (d) internal assigned revenue referred to in paragraph 3, to the extent that it is ancillary to the other revenue referred to in points (a) to (c) of this paragraph;
 - (e) revenue from fees and charges referred to in Article 6(2).
3. The following shall constitute internal assigned revenue:
 - (a) revenue from third parties in respect of goods, services or work supplied at their request, with the exception of fees and charges referred to in Article 6(1)(a);
 - (b) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus which are replaced or scrapped when the book value is fully depreciated or a recognised gain is made if the asset is sold prior to being fully depreciated;
 - (c) revenue arising from the repayment, in accordance with Article 62, of amounts wrongly paid;
 - (d) proceeds from the supply of goods, services and works for Union institutions or other Union bodies;
 - (e) insurance payments received;
 - (f) revenue from lettings;

- (g) revenue from the sale of publications and films, including those on an electronic medium;
 - (h) revenue arising from subsequent reimbursement of taxes pursuant to Article 25(3)(b).
4. Without prejudice to Article 23(2)(e) the relevant constituent act may also assign the revenue for which it provides to specific items of expenditure. Unless specified otherwise in the relevant constituent act, such revenue shall constitute internal assigned revenue.
 5. All items of revenue within the meaning of points (a) to (c) of paragraph 2 and points (a) and (d) of paragraph 3, shall cover all direct or indirect expenditure incurred by the activity or purpose in question.
 6. The budget of the Agency shall include lines to accommodate external assigned revenue and internal assigned revenue and wherever possible shall indicate the amount.

Assigned revenue may be included in the estimate of revenue and expenditure only for the amounts which are certain at the date of the establishment of the estimate.

Article 8

Structure to accommodate assigned revenue and provision of corresponding appropriations (Article 23(6) FR)

1. The structure to accommodate assigned revenue in the budget shall comprise:
 - (a) in the statement of revenue, a budget line to receive the revenue;
 - (b) in the statement of expenditure, the budget remarks, including general remarks, shall show which lines may receive the appropriations corresponding to the assigned revenue which are made available.

In the case referred to in point (a) of the first subparagraph, a token entry 'pro memoria' shall be made and the estimated revenue shall be shown for information in the remarks.

2. The appropriations corresponding to assigned revenue shall be made available automatically, both as commitment appropriations and as payment appropriations, when the revenue has been received by the Agency.

Article 24 **Donations**

1. The Executive Director may accept any donation made to the Agency, such as foundations, subsidies, gifts and bequests.
2. Acceptance of donations which may involve a financial charge shall be subject to the prior authorisation of the Management Board or, where the constituent act allows it, of the Executive Board, which shall take a decision within two months of the date on which the request is submitted to it. If the Management Board or, where the constituent act allows it, the Executive Board fails to take a decision within that period, the donation shall be deemed accepted.

Article 9

Charges entailed by acceptance of donations to the Agency (Article 24(2) FR)

For the purposes of the authorisation of the Management Board referred to in Article 24(2) of the Financial Regulation, the Director shall estimate and duly explain the financial charges, including follow-up costs, entailed by the acceptance of donations made to the Agency.

Article 25 **Rules on deductions and exchange rates adjustments**

1. The following deductions may be made from payment requests which shall then be passed for payment of the net amount:

- (a) penalties imposed on parties to procurement contracts or beneficiaries;
- (b) discounts, refunds and rebates on individual invoices and cost statements;
- (c) adjustments for amounts unduly paid.

The adjustments referred to in point (c) of the first subparagraph may be made, by means of direct deduction, against a new interim payment or payment of a balance to the same payee under the chapter, article and financial year in respect of which the excess payment was made.

Union accounting rules shall apply to the deductions referred to in point (c) of the first subparagraph.

2. The cost of products or services provided to the Agency incorporating taxes refunded by the Member States pursuant to the Protocol on the Privileges and Immunities of the European Union shall be charged to the budget of the Agency for the ex-tax amount provided that it applies to the Agency.
3. The cost of products or services provided to the Agency incorporating taxes refunded by third countries on the basis of relevant agreements may be charged to the budget of the Agency for any of the following:
 - (a) the ex-tax amount;
 - (b) the tax-inclusive amount. In such case, subsequently reimbursed taxes shall be treated as internal assigned revenue.
4. Any national taxes temporarily borne by the Agency under paragraphs 2 and 3 shall be entered in a suspense account until they are refunded by the State concerned.
5. Any negative budget result shall be entered in the budget of the Agency as expenditure.
6. Adjustments may be made in respect of exchange differences occurring in the implementation of the budget of the Agency. The final gain or loss shall be included in the budget result for the year.

CHAPTER 6

PRINCIPLE OF SPECIFICATION

Article 26 ***General provisions***

Appropriations shall be earmarked for specific purposes by title and chapter. The chapters shall be further subdivided into articles and items.

Article 27 ***Transfers***

1. The Executive Director may transfer appropriations:
 - (a) from one title to another up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made;
 - (b) from one chapter to another and from one article to another without limit.
2. Beyond the limit referred in paragraph 1, the Executive Director may propose to the Management Board or, where the constituent act allows it, to the Executive Board transfers of appropriations from one title to another. The Management Board or, where the constituent act allows it, the Executive Board shall have three weeks to oppose such transfers. After that time-limit they shall be deemed to be adopted.
3. Proposals for transfers and transfers carried out under paragraphs 1 and 2 shall be accompanied by appropriate and detailed supporting documents showing the

implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.

4. The Executive Director shall inform the Management Board as soon as possible of all transfers made. The Executive Director shall inform the European Parliament and the Council of all transfers carried out under paragraph 2.

Article 10

Rules concerning the calculation of percentages of transfers (Article 27 FR)

1. The percentages referred to in Article 27 of the Financial Regulation shall be calculated at the time the request for transfer is made and with reference to the appropriations provided in the budget, including amending budgets.
2. The amount to be taken into consideration shall be the sum of the transfers to be made on the line from which transfers are being made, after adjustment for earlier transfers made.

Article 28

Specific rules on transfers

1. Appropriations may only be transferred to lines in budget of the Agency for which the budget of the Agency has authorised appropriations or which carry a token entry "*pro memoria*".
2. Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose for which it is assigned.

CHAPTER 7

PRINCIPLE OF SOUND FINANCIAL MANAGEMENT

Article 29

Principles of economy, efficiency and effectiveness/Principle of sound financial management

1. Appropriations shall be used in accordance with the principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.
2. The principle of economy requires that the resources used by the Agency in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency concerns the best relationship between resources employed and results achieved.

The principle of effectiveness concerns the attainment of the specific objectives set and the achievement of the intended results.

3. The Agency shall participate in a benchmarking exercise undertaken by the Commission referred to in Article 50 of Regulation (EU, Euratom) No 966/2012.

The benchmarking exercise shall include:

- a review of the efficiency of the Agency's horizontal services;
- a cost-benefit analysis of sharing services or transferring them entirely to other Union body or the Commission.

When carrying out the benchmarking exercise referred to in the first and the second subparagraph the Agency shall make necessary arrangements to avoid any conflict of interests.

4. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget of the Agency. The achievement of those objectives shall be monitored by performance indicators for each activity, and the information shall be provided to the Management Board by the Executive Director. That information shall be provided annually and at the latest in the documents accompanying the draft budget of the Agency.
5. In order to improve decision-making, the Agency shall undertake both *ex ante* and *ex post* evaluations in line with guidance provided by the Commission. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results shall be sent to the Management Board.
6. The Executive Director shall prepare an action plan to follow-up on the conclusions of the evaluations referred to in paragraph 5 and report on its progress twice a year to the Commission and regularly to the Management Board.
7. The Management Board shall scrutinise the implementation of the action plan referred to in paragraph 6.

Article 11

Evaluation (Article 29(5) FR)

1. All proposals for programmes, projects or activities occasioning budget expenditure or changes to the work programme for which the overall estimated expenditure exceeds EUR 1.000.000 (one million) shall be the subject of an *ex ante* evaluation, which shall address in particular:
 - (a) the legal basis, if applicable;
 - (b) the need to be met in the short or long term;
 - (c) the business case, the scope of the programme, project or activity, the policy and management objectives to be achieved and the link to agency priorities;
 - (d) the options available, including the risks associated with them, also including the option of doing nothing and the priority (low/medium/high);
 - (e) the results and impacts expected, in particular economic, social and environmental impacts, and the indicators and evaluation arrangement needed to measure them;
 - (f) the most appropriate method of implementation for the preferred option(s);
 - (g) the internal coherence of the proposed programme, projects or activity and its relations with other relevant programmes, projects or activities;
 - (h) the volume of appropriations, human resources and other administrative expenditure to be allocated to each proposal with due regard for the cost-effectiveness principle;
 - (i) the lessons learned from similar experiences in the past.
2. The proposal shall set out the arrangements for monitoring, reporting and evaluation, taking due account of the respective responsibilities of all levels of management that will be involved in the implementation of the proposed programme, project or activity.
3. All programmes, projects or activities, including pilot projects and preparatory actions, where the resources mobilised exceed EUR 2.000.000 (two million) shall be the subject of an interim and/or *ex post* evaluation in terms of the human and financial resources allocated and the results obtained in order to verify that they were consistent with the objectives set, as follows:
 - (a) the results obtained in carrying out a multiannual programme, project or activity shall be periodically evaluated in accordance with a timetable which enables the findings of that evaluation to be taken into account for any decision on the renewal, modification or suspension of the programme;
 - (b) activities financed on an annual basis shall have their results evaluated at least every six years.

Points (a) and (b) of the first subparagraph shall not apply to each of the projects or actions conducted within those activities, for which the requirement may be met by the final reports sent by the bodies which carried out the action.
4. The evaluations referred to in paragraphs 1 and 3 shall be proportionate to the resources

Article 30
Internal control of budget implementation

1. The budget of the Agency shall be implemented in compliance with effective and efficient internal control.
2. For the purposes of the implementation of the budget of the Agency, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:
 - (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;
 - (e) 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.
3. Effective internal control shall be based on best international practices and include, in particular, the following:
 - (a) segregation of tasks;
 - (b) an appropriate risk management and control strategy including control at recipient level;
 - (c) avoidance of conflicts of interests;
 - (d) adequate audit trails and data integrity in data systems;
 - (e) procedures for monitoring of performance and for follow-up of identified internal control weaknesses and exceptions;
 - (f) periodic assessment of the sound functioning of the internal control system.
4. Efficient internal control shall be based on the following elements:
 - (a) the implementation of an appropriate risk management and control strategy coordinated among appropriate actors involved in the control chain;
 - (b) the accessibility for all appropriate actors in the control chain of the results of controls carried out;
 - (c) reliance, where appropriate, on independent audit opinions, provided that the quality of the underlying work is adequate and acceptable and that it was performed in accordance with agreed standards;
 - (d) the timely application of corrective measures including, where appropriate, dissuasive penalties;
 - (e) the elimination of multiple controls;
 - (f) improving the cost-benefit ratio of controls.

CHAPTER 8

PRINCIPLE OF TRANSPARENCY

Article 31 **Publication of accounts, budgets and reports**

1. The budget of the Agency shall be established and implemented and the accounts presented in accordance with the principle of transparency.
2. A summary of the budget of the Agency and any amending budget of the Agency, as definitively adopted, shall be published in the *Official Journal of the European Union* within three months of their adoption.

The summary shall show the five main revenue budget lines, the five main expenditure budget lines for the administrative and operational budget of the Agency, the establishment plan and an estimate of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts. It shall also indicate the figures for the previous year.
3. The budget of the Agency including the establishment plan and amending budgets of the Agency, as finally adopted, as well as an indication of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts, shall be transmitted for information to the European Parliament and the Council, the Court of Auditors and the Commission, and shall be published on the Internet site of the Agency concerned within four weeks of their adoption.
4. The Agency shall make available on its internet site no later than 30 June of the following financial year information on the recipients of funds deriving from the budget of the Agency, including experts contracted pursuant to Article 89, in accordance with paragraphs 2, 3 and 4 of Article 21 of Commission Delegated Regulation (EU) No 1268/2012⁴ following a standard presentation. The published information shall be easily accessible, transparent and comprehensive. The information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EC) No 45/2001.

Article 12

Publication of information on value and recipients of Union funds (Article 31(4) FR)

1. The following information shall be published unless otherwise provided in these Rules, taking into account the criteria set out in Article 31(4) of the Financial Regulation:
 - (a) the name of the recipient;
 - (b) the locality of the recipient;
 - (c) the amount awarded;
 - (d) the nature and purpose of the measure.

For the purpose of point (b) the term 'locality' shall mean:

- (i) the address of the recipient when the latter is a legal person;
- (ii) Region/Province/State/Prefecture/other, where relevant on NUTS 2 (Nomenclature of Units for Territorial Statistics) level, i.e. 8 000 – 3 million inhabitants, when the recipient is a natural person.

As far as personal data referring to natural persons are concerned, the information published shall be removed two years after the end of the financial year in which the funds were awarded. The same shall apply to personal data referring to legal persons for whom the official title

⁴ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

identifies one or more natural persons.

2. The information referred to in paragraph 1 shall only be published for prizes, grants and contracts which have been awarded as a result of contests or grant award procedures or public procurement procedures. The information shall not be published for:
 - (a) scholarships paid to natural persons and other direct support paid to natural persons in most need, referred to in Article 125(4)(c) of the General Financial Regulation;
 - (b) contracts below the amount referred to in Article 137(2) of the Rules of Application.
3. The publication shall be waived if such disclosure risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union or harm the commercial interests of the recipients.

TITLE III

ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1

Establishment of the budget of the Agency

Article 32 *Annual and multi-annual programming*

1. The Agency shall draw up a programming document containing multi-annual and annual programming taking into account guidelines set by the Commission.
2. The multiannual programme shall set out:
 - overall strategic programming including objectives, expected results and performance indicators;
 - resource programming including multi-annual budget and staff.

The resource programming shall include qualitative and quantitative information on the human resource and budgetary matters for the reporting purposes, in particular:

- for the years n-1 and n, the information on, the number of officials, temporary and contract staff as defined in the Staff Regulations as well as seconded national experts;
- for the year n-1 an estimate of the budgetary operations within the meaning of Article 97 and information on contribution in kind granted by the host Member State to the Agency;
- for the year n+1 estimate of the number of officials, temporary and contract staff as defined in the Staff Regulations;
- for the following years, an indicative budget and staff resource programming.

The Commission shall send to the Agency the opinion of its relevant services on the draft human resource programming.

If the Agency does not fully take into account the Commission services' opinion, it shall provide the Commission with adequate explanations.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the overall evaluations referred to in the constituent act.

3. The annual work programme of the Agency shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the action(s) to be financed and an indication of the amount of financial and human resource allocated to each action. The annual work programme shall be coherent with the multi-annual programme referred to in paragraph 1.

It shall clearly indicate which tasks of the Agency have been added, changed or deleted in comparison with the previous financial year.

4. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of the constituent act and Article 33 of this Regulation.

The Management Board may delegate the power to make non-substantial amendments to the annual work program to the Authorising Officer of the Agency.

Article 33
Establishment of the budget

1. The budget shall be established in accordance with the provisions of the constituent act.
2. The Agency shall send the Commission a provisional draft estimate of its revenue and expenditure and the general guidelines underlying that estimate no later than 31 January each year.
3. In accordance with Article 37 of Regulation (EU, Euratom) No 966/2012, each year the Agency shall send to the Commission, the European Parliament and the Council an estimate of its revenue and expenditure as specified in the constituent act.
4. The estimate of revenue and expenditure of the Agency shall include:
 - (a) an establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;
 - (b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
 - (c) a quarterly estimate of cash payments and receipts;
 - (d) information on the achievement of all previously set objectives for the various activities. Evaluation results shall be consulted and referred to as evidence of the likely merits of an increase or decrease of the proposed budget of the Agency in comparison with its budget for year n.
5. The Agency shall send to the Commission, the European Parliament and the Council the draft programming document referred to in Article 32 no later than 31 January each year as well as any later updated version of that document.
6. As part of the procedure for adoption of the budget, the Commission shall send the Agency's statement of estimates to the European Parliament and the Council and propose the amount of the contribution for the Agency and the number of staff it considers that the body needs. The Commission shall provide the draft establishment plan of the Union bodies and for an estimate of the number of contract staff and of seconded national experts expressed in full-time equivalents for which appropriations are proposed as soon as the Commission has established the draft budget.
7. The European Parliament and the Council shall adopt the establishment plan of the Agency and any subsequent amendment thereto in accordance with Article 38(1). The establishment plan shall be published in an Annex to Section III – Commission – of the budget.
8. The budget of the Agency and the establishment plan together with the programming document referred to in Article 32 shall be adopted by the Management Board. They shall become definitive after final adoption of the budget setting the amount of the contribution and the establishment plan and if necessary the budget of the Agency and the establishment plan shall be adjusted accordingly.
9. When entrusting new tasks to the Agency, the Commission shall, without prejudice to the legislative procedures for the modification of the constituent act, submit to the European Parliament and to the Council the necessary information to assess impact of the new tasks on the resources of the Agency so as to review, where necessary, its financing.

Article 34
Amending budgets

Any amendment to the budget of the Agency, including the establishment plan, shall be the subject of an amending budget adopted by the same procedure as the initial budget of the Agency, in accordance with the provisions of the constituent act and Article 33 of this Regulation.

Article 13
Amending budgets (Article 34 FR)

Amending budgets shall be accompanied by statements of grounds and the information on the implementation of the budget for the preceding and current financial years available at the time of their establishment.

CHAPTER 2

STRUCTURE AND PRESENTATION OF THE BUDGET OF THE AGENCY

Article 35
Structure of the budget of the Agency

The budget of the Agency shall consist of a statement of revenue and a statement of expenditure.

Article 36
Budget nomenclature

In so far as it is justified by the nature of the Agency's activities, the statement of expenditure must be set out on the basis of a nomenclature with a classification by purpose. That nomenclature shall be determined by the Agency and shall make a clear distinction between administrative appropriations and operating appropriations.

Article 14
Budget nomenclature (Article 36 FR)

The budget nomenclature shall comply with the principles of specification, transparency and sound financial management. It shall provide clarity and transparency necessary for the budgetary process, facilitating the identification of the main objectives as reflected in the relevant legal bases, making possible choices on political priorities and enabling efficient and effective implementation.

Article 37
Presentation of the budget of the Agency

The budget of the Agency shall show:

1. In the statement of revenue:
 - (a) the estimated revenue of the Agency for the financial year concerned ('year n');
 - (b) the estimated revenue for the preceding financial year and the revenue for year n – 2;
 - (c) appropriate remarks on each revenue line.
2. In the statement of expenditure:
 - (a) the commitment and payment appropriations for year n;
 - (b) the commitment and payment appropriations for the preceding financial year, and the expenditure committed and the expenditure paid in year n – 2 - the latter also expressed as a percentage of the budget of the Agency of year n;
 - (c) a summary statement of the schedule of payments due in subsequent financial years to meet budget commitments entered into in earlier financial years;
 - (d) appropriate remarks on each subdivision.

Article 15

Actual expenditure in the last financial year for which the accounts have been closed (Article 37(2) FR)

For the purposes of establishing the budget, actual expenditure in the last financial year for which the accounts have been closed shall be determined as follows:

- (a) in commitments: commitments entered in the accounts during the financial year against appropriations for that financial year as defined in Article 4;
- (b) in payments: payments made during the financial year, that is to say, for which a payment order has been sent to the bank, against appropriations for that financial year as defined in Article 4.

Article 16

Budget remarks (Article 37 FR)

The budget remarks shall include:

- (a) the references of the basic act, where one exists;
- (b) all appropriate explanations concerning the nature and purpose of the appropriations.

Article 38

Rules on the establishment plans for staff

1. The establishment plan referred to in Article 33 shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. It shall constitute an absolute limit for the Agency. No appointment may be made in excess of the limit set.

However, save in the case of grades AD 16, AD 15, AD 14 and AD 13, the Management Board may modify the establishment plan by up to 10 % of posts authorised, subject to the following conditions:
 - (a) the volume of staff appropriations corresponding to a full financial year is not affected;
 - (b) the limit of the total number of posts authorised by the establishment plan is not exceeded;
 - (c) the Agency has taken part in a benchmarking exercise with other bodies of the Union as initiated by the Commission's staff screening exercise.
2. By derogation from the second subparagraph of paragraph 1, the effects of part-time work authorised by the appointing authority in accordance with the Staff Regulations may be offset by other appointments. Where a staff member requests the withdrawal of the authorisation before expiry of the granted period, the Agency shall take appropriate measures to respect the limit referred to in point (b) of the second subparagraph of paragraph 1 as soon as possible.

TITLE IV IMPLEMENTATION OF THE BUDGET OF THE AGENCY

CHAPTER 1 General provisions

Article 39

Budget implementation in accordance with the principle of sound financial management

1. The Executive Director shall perform the duties of Authorising Officer. He or she shall implement the revenue and expenditure of the budget in accordance with the financial rules of the Agency and the principle of sound financial management under his or her own responsibility and within the limits of the appropriations authorised.
2. Without prejudice to the responsibilities of the Authorising Officer as regards prevention and detection of fraud and irregularities, the Agency shall participate in fraud prevention activities of the European Anti-fraud Office.

Article 17

Information on transfers of personal data for audit purposes (Article 39(2) FR)

In any call made in the context of grants, procurement or prizes implemented in direct management, potential beneficiaries, candidates, tenderers and participants shall, in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council be informed that, for the purposes of safeguarding the financial interests of the Union, their personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office (hereinafter 'OLAF').

Article 40

Delegation of budget implementation powers

1. The Executive Director may delegate the powers of budget implementation to staff of the Agency covered by the Staff Regulations, in accordance with the conditions laid down in the financial rules of the Agency adopted by the Management Board. Those so empowered may act only within the limits of the powers expressly conferred upon them.
2. The delegatee may subdelegate the powers received as provided for in the rules implementing this Regulation referred to in Article 113. Each act of subdelegation shall require the explicit agreement of the Executive Director.

Article 18

Delegation of budget implementation powers (Article 40 FR)

1. The powers which the Authorising Officer delegates, allow the holders, in their capacity as authorising officers by delegation, to implement the budget by, in particular:
 - (a) making budgetary and legal commitments as well as carrying out the preliminaries for these commitments,
 - (b) validating and authorising expenditure,
 - (c) establishing amounts receivable (including making financial corrections), and issuing recovery orders, waiving recovery and cancelling established amounts receivable,
 - (d) taking individual decisions on the award of grants, public procurement contracts or prizes,
 - (e) proposing transfers of appropriations,

- (f) selling assets placed under his responsibility.

The powers delegated may allow the authorising officer by delegation to carry out only some of the specific acts referred to above.

2. The tasks and responsibilities which are inherent to the position of the Authorising Officer may not be delegated, in particular:
- (a) the general responsibility for implementing revenue and expenditure in accordance with the principle of sound financial management and for ensuring that the requirements of legality and regularity are complied with, in accordance with Article 44(1) Financial Regulation;
 - (b) the general responsibility for putting in place the organisational structure and the internal management and control procedures suited to the performance of his duties, including where appropriate ex post verifications, in accordance with Article 44(2) Financial Regulation;
 - (c) the obligation to take the necessary measures in the cases referred to in Article 48(1) Financial Regulation concerning possible irregularities, bad financial management or failure to abide by professional rules;
 - (d) provision of the Consolidated Annual Activity Report (AAR) and the annexes thereto, in accordance with Article 47(1) Financial Regulation;
 - (e) the waiving of amounts receivable exceeding EUR 5 000;
 - (f) the signing of loans to finance the acquisition of buildings under Article 88(5) Financial Regulation;
 - (g) the signing of public contracts concluded jointly with Member States, EFTA Member States and candidate countries.
3. Without prejudice to paragraphs 1 and 2, the authorising officer may lay down in the internal rules detailed measures for the management of appropriations as he considers necessary for proper implementation of the budget.

Article 41 **Conflict of interests**

1. Financial actors within the meaning of Chapter 2 of this Title and other persons involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the Agency.
- Where such a risk exists, the person in question shall refrain from such action and shall refer the matter to the competent authority who shall confirm in writing whether a conflict of interests exists. Where a conflict of interest is found to exist, the person in question shall cease all activities in the matter. The competent authority shall take any further appropriate action.
2. For the purposes of paragraph 1, a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient.
3. The competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the Executive Director, the competent authority shall be the Management Board or, where the constituent act allows it, the Executive Board.
4. The Agency shall adopt rules on the prevention and management of conflict of interests.

Article 19 **Acts likely to constitute a conflict of interests and procedure (Article 41(2) FR)**

1. Acts likely to be affected by a conflict of interests within the meaning of Article 41(2) of the Financial Regulation may, inter alia, take one of the following forms without prejudice of their

qualification as illegal activities under Article 141 of the Rules of Application:

- (a) granting oneself or others unjustified direct or indirect advantages;
- (b) refusing to grant a beneficiary the rights or advantages to which that beneficiary is entitled;
- (c) committing undue or wrongful acts or failing to carry out acts that are mandatory.

Other acts likely to be affected by a conflict of interests are those which may impair the impartial and objective performance of a person's duties such as, inter alia, the participation in an evaluation committee for a public procurement or grant procedure when the person may, directly or indirectly, benefit financially from the outcome of these procedures.

2. A conflict of interest shall be presumed to exist if an applicant, candidate or tenderer is a member of staff covered by the Staff Regulations, unless his participation in the procedure has been authorised in advance by his superior.
3. In the event of a conflict of interests, the competent authority, as defined in Article 41(3) of the Financial Regulation, shall take appropriate measures to avoid any undue influence of the person concerned on the process or procedure in question.

Article 42

Method of implementation of the budget of the Agency

1. The budget of the Agency shall be implemented by the Executive Director in the departments placed under his or her authority.
2. Technical expertise tasks and administrative, preparatory or ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities or bodies, where this proves to be indispensable.

CHAPTER 2 Financial actors

SECTION 1

PRINCIPLE OF SEGREGATION OF DUTIES

Article 43

Segregation of duties

The duties of Authorising Officer and Accounting Officer shall be segregated and mutually exclusive.

Article 20

Rights and obligations of the financial actors (Article 43 FR)

The Agency shall provide each financial actor with the resources required to perform his duties and a charter describing in detail his tasks, rights and obligations.

SECTION 2 AUTHORISING OFFICER

Article 44

Powers and duties of Authorising Officer

1. The Authorising Officer shall be responsible for implementing revenue and expenditure in accordance with the principle of sound financial management and for ensuring compliance with the requirements of legality and regularity.
2. For the purposes of paragraph 1, the Authorising Officer shall, in accordance with the minimum standards adopted by the Management Board or, where the constituent act allows it, by the Executive Board on the basis of equivalent standards laid down by the Commission for its own departments and having due regard to the risks associated with the management environment and the nature of the action financed, put in place the organisational structure and the internal control systems suited to the performance of the duties of Authorising Officer.

The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness.

The Authorising Officer may establish within his or her departments an expertise and advice function to help him or her control the risks involved in his or her activities.
3. To implement expenditure, the Authorising Officer shall make budgetary and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminary steps for the implementation of appropriations.
4. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements, where appropriate.
5. The Authorising Officer shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget of the Agency. Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. In any event, as regards the conservation of traffic data, Article 37(2) of Regulation (EC) No 45/2001 shall apply.

Article 21

Keeping of supporting documents by authorising officers (Article 44(5) FR)

The authorising officer shall set up paper based or electronic systems for the keeping of original supporting documents relating to and subsequent to budget implementation and budget implementation measures. The systems shall provide for:

- (a) such documents to be numbered;
- (b) such documents to be dated;
- (c) registers, which may be computerised, to be kept identifying the exact location of such documents;
- (d) such documents to be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate;
- (e) keeping of documents relating to pre-financing guarantees for the Agency and of a log to enable such guarantees to be adequately monitored.

Documents relating to operations not definitively closed shall be kept for longer than provided for in point (d) of the first paragraph, that is to say, until the end of the year following that in which the operations are closed.

Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. Article 37(2) of Regulation

(EC) No 45/2001 shall apply to the conservation of traffic data.

Article 22

Transmission of financial and management information to the accounting officer (Article 44 FR)

The authorising officer shall send the accounting officer, in accordance with the rules adopted by the latter, the financial and management information required for the performance of the accounting officer's duties.

The accounting officer shall be informed, regularly and at least for the closure of the accounts, by the authorising officer of the relevant financial data of the fiduciary bank accounts in order to allow the use of Agency funds to be reflected in the accounts of the Agency.

Article 23

Report on negotiated procedures (Article 44 FR)

The authorising officer shall record, for each financial year, contracts concluded by the negotiated procedures referred to in points (a) to (g) of Article 134(1) and points (a) to (d) of Article 135(1) of the Rules of Application. If the proportion of negotiated procedures in relation to the number of contracts awarded by the same authorising officer by delegation increases appreciably in relation to earlier years, the authorising officer shall report to the management board setting out any measures taken to reverse that trend.

Article 45
Ex ante controls

1. Each operation referred to in Article 44 shall be subject at least to an *ex ante* control based on a desk review of documents and on the available results of controls already carried out, relating to the operational and financial aspects of the operation.

Ex ante controls shall comprise the initiation and the verification of an operation.

2. Initiation of an operation shall be understood as all the operations which are preparatory to the adoption of the acts implementing the budget of the Agency by the Authorising Officers referred to in Articles 33 and 34.
3. *Ex ante* verification of an operation shall be understood as all the *ex ante* checks put in place by the Authorising Officer in order to verify the operational and financial aspects.
4. *Ex ante* controls shall verify the coherence among supporting documents requested and any other information available. The extent in terms of frequency and intensity of the *ex ante* controls shall be determined by the Authorising Officer responsible taking into account risk-based and cost-effectiveness considerations. In case of doubt, the Authorising Officer responsible for validating the relevant payment shall request complementary information or perform an on-the-spot control in order to obtain reasonable assurance as part of the *ex ante* control.

The purpose of the *ex ante* controls shall be to ascertain that:

- (a) the expenditure is in order and comply with the provisions applicable;
- (b) the principle of sound financial management set out in Article 29 has been applied.

For the purpose of controls, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the Authorising Officer to constitute a single operation.

5. For a given transaction, the verification shall be carried out by staff other than those who initiated the operation. The staff who carry out the verification shall not be subordinate to the members of staff who initiated the operation.

Article 46
Ex post controls

1. The Authorising Officer may put in place *ex post* controls to verify operations already approved following *ex ante* controls. Such controls may be organised on a sample basis according to risk.

2. The *ex post* controls may be carried out on the basis of documents and, where appropriate, on the spot.

The *ex post* controls shall verify that operations financed by the budget of the Agency are correctly implemented and in particular that the criteria referred to in Article 45(4) are complied with.

The outcomes of *ex post* controls shall be reviewed by the Authorising Officer at least annually to identify any potential systemic issues. The Authorising Officer shall take measures to address those issues.

The risk analysis referred to in paragraph 1 shall be reviewed in the light of the results of controls and other relevant information.

In case of multi-annual programmes, the Authorising Officer shall establish a multi-annual control strategy, specifying the nature and extent of controls over the period and the manner how the results are to be measured year-on-year for the annual assurance process.

3. The *ex ante* controls shall be carried out by staff other than those responsible for the *ex post* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of staff responsible for the *ex ante* controls.

Where the Authorising Officer implements financial audits of beneficiaries as *ex-post* controls, the related audit rules shall be clear, consistent and transparent, and shall respect the rights of both the Agency and the auditees.

4. Staff responsible for controlling the management of financial operations referred to in paragraph 3 shall have the necessary professional skills. They shall respect a specific code of professional standards adopted by the Agency and based on standards laid down by the Commission for its own departments.

Article 24

Code of professional standards (Article 46(4) and 54 FR)

1. The staff designated by the authorising officer responsible to verify financial operations shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience, or after an appropriate training programme.

2. The specific code of professional standards referred to in Article 46(4) of the Financial Regulation shall determine, on matters of internal control:

- (a) the level of technical and financial competence required of the staff referred to in paragraph 1;
- (b) the obligation for such staff to undergo continuous training;
- (c) the mission, role and tasks allocated to them;
- (d) the rules of conduct, in particular the standards of ethics and integrity that they must comply with and the rights they enjoy.

3. The Agency shall put in place the appropriate structures to distribute to authorising departments and update periodically appropriate information concerning the control standards and the methods and techniques available for that purpose.

Article 47
Consolidated Annual Activity Report

1. The Authorising Officer shall report to the Management Board on the performance of his duties in a form of a consolidated annual activity report containing:
 - (a) information on:
 - the implementation of the Agency's annual work programme, budget and staff resources referred to in Article 38;
 - management and internal control systems including the summary of number and type of internal audits carried out by the Internal Auditor, the internal audit capabilities, the recommendations made and the action taken on these recommendations and on the recommendations of previous years, as referred to in Articles 82 and 83;
 - any observations of the Court of Auditors and the actions taken on these observations;
 - the accounts and the report on budgetary and financial management without prejudice to Articles 92, 96 and 97.
 - (b) a declaration of the Authorising Officer stating whether he has a reasonable assurance that unless otherwise specified in any reservations related to defined areas of revenue and expenditure:
 - the information contained in the report presents a true and fair view;
 - the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management;
 - the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

The consolidated annual activity report shall indicate the results of the operations by reference to the objectives set, the risks associated with the operations, the use made of the resources provided and the efficiency and effectiveness of the internal control systems, including an overall assessment of the costs and benefits of controls.

The consolidated annual report shall be submitted to the Management Board for the assessment.

2. No later than 1 July each year the consolidated annual activity report together with its assessment shall be sent by the Management Board to the Court of Auditors, to the Commission, to the European Parliament and the Council.
3. Additional reporting requirements may be provided in the constituent act in duly justified cases, in particular when it is required by the nature of the field in which the Agency operates.

Article 25
Consolidated annual activity report (Article 47(1) FR)

The consolidated annual activity report shall give an accurate description of:

- (a) the achievement of the objectives for the year, in accordance with the principle of sound financial management;
- (b) the financial situation and the events which have had a significant influence on activities during the year.

Article 48
Protection of Union's financial interests

1. If a member of staff, involved in the financial management and control of transactions, considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules which that member of staff is required to observe, he or she shall inform the Executive Director in writing who shall reply in writing. If the Executive Director fails to take action or confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff shall inform the relevant panel referred to in Article 54(5) and the Management Board in writing.
2. In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, the member of staff shall inform the authorities and bodies designated by the applicable legislation. Contracts with external auditors carrying out audits of the financial management of the Agency shall provide for an obligation of the external auditor to inform the Authorising Officer of any suspected illegal activity, fraud or corruption which may harm the interests of the Union.

Article 26

Failure of the authorising officer by delegation to take action (Article 48(1) FR)

Failure by the director to take action, as referred to in Article 48(1) of the Financial Regulation, shall mean the absence of any reply within a reasonable time given the circumstances of the case and, in any event, within a month at most.

Article 27

Bodies responsible in matters of fraud (Article 48(2) and 53(2) FR)

The authorities and bodies referred to in Article 48(2) and 53(2) of the Financial Regulation, shall be understood as the bodies designated in the Staff Regulations and the decisions of the Union institutions concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any other illegal activity detrimental to the Union's interests.

Article 49
Delegation of budget implementation

Where powers of budget implementation are delegated or subdelegated in accordance with Article 40, Article 44(1), (2) and (3) shall apply *mutatis mutandis* to the Authorising Officers by delegation or subdelegation.

SECTION 3
ACCOUNTING OFFICER

Article 50
Powers and duties of the Accounting Officer

1. The Management Board shall appoint an Accounting Officer, covered by the Staff Regulations, who shall be totally independent in the performance of his or her duties. The Accounting Officer shall be responsible in the Agency for:
 - (a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;
 - (b) preparing and presenting the accounts in accordance with Title IX;
 - (c) keeping the accounts in accordance with Title IX;

- (d) implementing, in accordance with Title IX, the accounting rules and the chart of accounts in accordance with the provisions adopted by the Commission's Accounting Officer;
 - (e) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the Authorising Officer to supply or justify accounting information; in this respect, the Accounting Officer shall be empowered to verify at any time compliance with validation criteria;
 - (f) treasury management.
2. Two or more Union bodies may appoint the same Accounting Officer.
- Union bodies may also agree with the Commission that the Accounting Officer of the Commission shall also act as Accounting Officer of the Union body.
- Union bodies may also entrust the Accounting Officer of the Commission with part of the tasks of an Accounting Officer of the Union body, taking into account the cost-benefit analysis referred to in Article 29.
- In the cases referred to in this paragraph, they shall make necessary arrangements in order to avoid any conflict of interests.
3. The Accounting Officer shall obtain from the Authorising Officer all the information necessary for the production of accounts which give a true and fair view of the Agency's financial situation and of budgetary implementation. The Authorising Officer shall guarantee the reliability of that information.
4. Before the adoption of the accounts by the Executive Director, the Accounting Officer shall sign them off, thereby certifying that the Accounting Officer has reasonable assurance that the accounts present a true and fair view of the financial situation of the Agency.
- For the purposes of the first subparagraph, the Accounting Officer shall verify that the accounts have been prepared in accordance with the accounting rules, referred to in Article 143 of Regulation (EU, Euratom) No 966/2012, and that all revenue and expenditure is entered in the accounts.
- The Authorising Officer shall forward any information that the Accounting Officer needs in order to fulfil his or her duties.
- The Authorising Officers shall remain fully responsible for the proper use of the funds they manage, the legality and regularity of the expenditure under their control and the completeness and accuracy of the information forwarded to the Accounting Officer.
5. The Accounting Officer shall be empowered to check the information received as well as to carry out any further checks he or she deems necessary in order to sign off the accounts.
- The Accounting Officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.
6. Subject to paragraph 7 of this Article and Article 51, only the Accounting Officer shall be empowered to manage cash and cash equivalents. The Accounting Officer shall be responsible for their safekeeping.
7. The Accounting Officer may, in the performance of his or her duties, delegate certain tasks to subordinate staff subject to the Staff Regulations, where this is indispensable for the performance of his or her duties.
8. The instrument of delegation shall lay down the tasks entrusted to the delegates and their rights and obligations.

Article 28

Termination of duties of the accounting officer (Article 50(1) FR)

1. A trial balance shall be drawn up without delay in the event of termination of the duties of the accounting officer.

2. The trial balance accompanied by a handing over report shall be transmitted by the accounting officer who is terminating his duties or, if it is not possible, by a staff member in his department to the new accounting officer.

The new accounting officer shall sign the trial balance in acceptance within one month from the date of transmission and he may make reservations.

The handing over report shall also contain the result of the trial balance and any reservations made.

3. The Agency shall inform the European Parliament, the Council and the accounting officer of the Commission within two weeks of the appointment or termination of duties of its accounting officer.

Article 29

Methods of payment (Article 50(1)(a) FR)

Payments shall be made by bank credit transfer, by cheque or, from imprest accounts by debit card in accordance with the second sub-paragraph of Article 51 of the Financial Regulation.

Article 30

Legal entities files (Article 50(1)(a) FR)

1. The accounting officer may make payments by bank credit transfer only if the payee's bank account details and information confirming the payee's identity, or any modification, have first been entered in a common file.

Any such entry in the file of the payee's legal and bank account details or modification of those details shall be based on a supporting document, the form of which shall be defined by the accounting officer.

2. With a view to payment by bank credit transfer, authorising officers may enter into a commitment towards a third party on behalf of the Agency only if that third party has provided the documentation required for its entry in the file.

Authorising officers shall inform the accounting officer of any change in the legal and bank account details communicated to them by the payee and shall check that these details are valid before a payment is made.

Article 31

Keeping of supporting documents by the accounting officer (Article 50(1) FR)

Supporting documents for the accounting system and for the preparation of the accounts referred to in Article 92 of the Financial Regulation shall be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate.

However, documents relating to operations not definitively closed shall be kept for longer, that is to say, until the end of the year following that in which the operations are closed. Article 37(2) of Regulation (EC) No 45/2001 shall apply to the conservation of traffic data.

The Agency shall decide in which department the supporting documents are to be kept.

Article 32

Validation of accounting and inventory systems (Article 50(1) FR)

The responsible authorising officer shall notify the accounting officer of all developments or significant modifications of a financial management system, an inventory system or a system for the valuation of assets and liabilities, if it provides data for the accounts of the Agency or is used to substantiate data thereof, so that the accounting officer can verify compliance with the validation criteria.

At any time, the accounting officer may re-examine a financial management system already validated.

Where a financial management system set up by the authorising officer is not or is no longer validated by the accounting officer, the responsible authorising officer shall establish an action plan in order to correct, in due time, weaknesses for which the validation has been rejected.

Article 33

Treasury management (Article 50(1)(f) FR)

1. The accounting officer shall ensure that the Agency has at its disposal sufficient funds to cover the cash requirements arising from budgetary implementation.
2. For the purposes of paragraph 1, the accounting officer shall set up cash management systems enabling him to draw up cash-flow forecasts.

Article 34

Management of bank accounts (Article 50(1)(f) FR)

1. For the requirements of treasury management, the accounting officer may open accounts in the name of the Agency with financial institutions or cause such accounts to be opened. In duly warranted circumstances, the accounting officer may open accounts in currencies other than the euro.
2. The accounting officer shall be responsible for closing accounts referred to in the paragraph 1 or for ensuring that such accounts are closed.
3. The accounting officer shall set the operating terms for accounts referred to in paragraph 1 with financial institutions, in accordance with the principles of sound financial management, efficiency and competitive tendering.
4. At least every five years the accounting officer shall re-launch competitive tendering between financial institutions with which accounts could be opened in accordance with paragraph 1.

Where local banking conditions allow for it, imprest related bank accounts opened with financial institutions located outside the Union shall be regularly subject to a competitive survey. Such a survey shall be undertaken, at least every five years, at the initiative of the imprest account holder, who then shall submit to the accounting officer a substantiated proposal for the selection of a bank for a period not exceeding five years.

5. The accounting officer shall ensure strict compliance with the operating terms for accounts opened with financial institutions in accordance with paragraph 1.

For imprest related bank accounts opened with financial institutions located outside the Union, the imprest account holder shall assume this responsibility taking into account the applicable legislation in the country where that holder exercises his mandate.

6. The accounting officer of the Commission shall inform the accounting officer of the agency, on the operating terms of accounts opened with financial institutions. The accounting officer of the Agency shall harmonise, with those operating terms, the operating terms of the accounts they open.

Article 35

Signatures on accounts (Article 50(1)(f) FR)

The terms governing the opening, operation and use of accounts shall provide, depending on internal control requirements, that cheques, bank credit transfer orders or any other banking operations must be signed by one or more duly authorised members of staff. Manual instructions shall be signed by at least two duly authorised members of staff, or by the accounting officer in person.

For the purposes of the first subparagraph, the accounting officer shall communicate to all financial institutions with which the Agency has opened accounts the names and specimen signatures of the authorised members of staff.

Article 36

Management of account balances (Article 50(1)(f) FR)

1. The accounting officer shall ensure that the balance on the bank accounts provided for in Article 34 does not deviate significantly from the cash-flow forecasts referred to in Article 33(2) and in any event:
 - (a) that none of those accounts is in debit;

- (b) that the balance of accounts held in other currencies is periodically converted into euro.
2. The accounting officer may not maintain balances in foreign currency accounts which might cause excessive losses to the Agency as a result of exchange rate fluctuations.

Article 37

Transfers and conversion operations (Article 50(1)(f) FR)

Without prejudice to Article 41, the accounting officer shall conduct transfers between accounts opened by him in the name of the Agency with financial institutions, and conduct currency conversion operations.

SECTION 4

IMPREST ADMINISTRATOR

Article 51

Imprest accounts

Where it proves indispensable for the payment of small sums and for the collection of other revenue referred to in Article 6, imprest accounts may be set up. Imprest accounts shall be endowed by the Accounting Officer and shall be placed under the responsibility of imprest administrators designated by him or her.

The maximum amount of each item of expenditure or revenue that can be paid by the imprest administrator to third parties shall not exceed EUR 60 000 and shall be specified by each Agency for each item of expenditure or revenue. Payments from imprest accounts may be made by bank credit transfer, including the direct debit system referred to in Article 74(1), cheque or other means of payment, in accordance with the instructions laid down by the Accounting Officer.

Article 38

Conditions of use of imprest accounts (Article 51 FR)

1. Where, owing to the limited amounts involved, it is materially impossible or inefficient to carry out payment operations by budgetary procedures, imprest accounts may be set up for the payment of such expenditure.
2. The imprest administrator may provisionally validate and pay expenditure, on the basis of a detailed framework set out in the instructions from the authorising officer responsible. Those instructions shall specify the rules and conditions under which the provisional validation and payments shall be carried out.
3. The creation of an imprest account and the appointment of an imprest administrator shall be the subject of a decision by the accounting officer, on a duly substantiated proposal from the authorising officer responsible. That decision shall set out the respective responsibilities and obligations of the imprest administrator and the authorising officer.

Amendment of the operating terms for an imprest account shall also be the subject of a decision by the accounting officer on a duly substantiated proposal from the authorising officer responsible.

Article 39

Conditions governing creation and payment (Article 51 FR)

1. The decision setting up an imprest account and appointing an imprest administrator and the decision amending the operating terms for an imprest account shall specify in particular:
 - (a) the maximum amount which may be initially provided as an imprest, and its purpose;
 - (b) whether a bank account or post office giro account is to be opened in the name of the Agency;
 - (c) the nature and maximum amount of each item of expenditure which may be paid by the imprest administrator to third parties or collected from them;

- (d) the frequency with which supporting documents must be produced, the procedure for producing them and the arrangements for transmitting them to the authorising officer for settlement;
 - (e) the procedure to be followed if the imprest has to be replenished;
 - (f) that imprest transactions will be settled by the authorising officer by no later than the end of the following month, so that the accounting balance and the bank balance can be reconciled;
 - (g) the period of validity of the authorisation given to the imprest administrator by the accounting officer;
 - (h) the identity of the appointed imprest administrator.
2. In proposals for decisions setting up imprest accounts the authorising officer responsible shall ensure that:
 - (a) priority is given to the use of budgetary procedures where there is access to the central computerised accounting system;
 - (b) imprest accounts are used only in substantiated cases.
 3. The imprest administrator may make payments to third parties on the basis and within the limits of:
 - (a) prior budgetary and legal commitments signed by the authorising officer responsible;
 - (b) the positive residual balance of the imprest account, in cash or at the bank.
 4. Payments made shall be followed by formal final validation decisions and/or payment orders signed by the authorising officer responsible.

Article 40

Choice of imprest administrators (Article 51 FR)

Imprest administrators shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience, or after an appropriate training programme.

Article 41

Endowment of imprest accounts (Article 51 FR)

1. The accounting officer shall make payments endowing imprest accounts and shall monitor those accounts from the point of view of opening of bank accounts and delegation of signatures and controls on the spot and in the centralised accounts. The accounting officer shall endow the imprest accounts. Imprests shall be paid to the bank account opened for the imprest.

Imprest accounts may also be endowed directly by miscellaneous local revenue such as that arising from:

- (a) sales of equipment;
- (b) publications;
- (c) miscellaneous repayments;
- (d) interest.

The imprest shall be regularised, in terms of expenditure or miscellaneous or assigned revenue, in accordance with the decision setting up the imprest account referred to in Article 38(3) and the provisions of the Financial Regulation. The amounts in question shall be deducted by the authorising officer when he subsequently replenishes the imprest accounts concerned.

2. In order, in particular, to avoid any exchange losses, the imprest administrator may make transfers between different bank accounts relating to the same imprest.

Article 42

Checks by authorising officers and accounting officers (Article 51 FR)

1. The imprest administrator shall keep an account of the funds at his disposal, in cash and at the bank, and of payments made and amounts received, in accordance with the rules and on the instructions given by the accounting officer. Statements of that account shall be accessible at all times to the authorising officer responsible and a list of transactions shall be established at least once a quarter and be sent in the following quarter together with supporting documents by the imprest administrator to the authorising officer responsible for settlement of the imprest

operations.

2. The accounting officer shall carry out, or have carried out by a staff member in his own department or in the authorising department specially empowered for that purpose, checks, which must as a general rule be effected on the spot and without warning, to verify the existence of the funds allocated to the imprest administrators and the bookkeeping and to check that imprest transactions are settled within the time limit set. The accounting officer shall communicate the findings of those checks to the authorising officer responsible.

Article 43

Procurement procedure (Article 51 FR)

Payments made from imprest accounts may, within the limits laid down in Article 137(3) Rules of Application, consist simply in the payment of costs against invoices, without prior acceptance of a tender.

Chapter 3

Liability of financial actors

SECTION 1

GENERAL RULES

Article 52

Withdrawal of delegation and suspension of duties given to financial actors

1. Authorising Officers by delegation and subdelegation may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them. The Authorising Officer may at any time withdraw his or her agreement to a specific subdelegation.
2. The Accounting Officer or imprest administrator, or both, may at any time be suspended temporarily or definitively from their duties by the Management Board. In such a case, the Management Board shall appoint an interim Accounting Officer.
3. Paragraphs 1 and 2 shall be without prejudice to any disciplinary action taken in respect of the financial actors referred to in those paragraphs.

Article 53

Liability of the financial actors for illegal activity, fraud or corruption

1. Articles 52 to 56 are without prejudice to any liability under criminal-law which the financial actors referred to in Article 52 may incur as provided for in the applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.
2. Without prejudice to Articles 54, 55 and 56 each Authorising Officer, Accounting Officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the Union, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to European Anti-Fraud Office.

SECTION 2

RULES APPLICABLE TO AUTHORISING OFFICERS

Article 54 *Rules applicable to Authorising Officers*

1. The Authorising Officer shall be liable for payment of compensation as laid down in the Staff Regulations.
2. The obligation to pay compensation shall apply in particular if the Authorising Officer, whether intentionally or through gross negligence on his or her part:
 - (a) determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation and, where appropriate, with the rules implementing the Agency's Financial Regulation;
 - (b) omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it or is late in issuing a payment order, thereby rendering the Agency liable to civil action by third parties.
3. An Authorising Officer by delegation or subdelegation who considers that a decision, which is his or her responsibility to take, is irregular or contrary to the principle of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the Authorising Officer by delegation or subdelegation to take that decision, that Authorising Officer shall not be held liable.
4. In the event of delegation, the Authorising Officer shall continue to be responsible for the efficiency and effectiveness of the internal management and control systems put in place and for the choice of the Authorising Officer by delegation.
5. The specialised financial irregularities panel set up by the Commission or in which the Commission participates in accordance with Article 73(6) of Regulation (EU, Euratom) No 966/2012, shall exercise the same powers in respect of the Agency as it does in respect of Commission departments, unless the Management Board or, where the constituent act allows it, the Executive Board decides to set up a functionally independent panel, or to participate in a joint panel established by several bodies. For cases submitted by Union bodies, the specialised financial irregularities panel set up by the Commission or in which the Commission participates shall include one staff member of a Union body.

On the basis of the opinion of the panel referred to in the first subparagraph, the Executive Director shall decide whether to initiate proceedings for disciplinary action or payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the Authorising Officer and to the Commission's Internal Auditor. If the opinion implicates the Executive Director, the panel shall send it to the Management Board and the Commission's Internal Auditor. The Executive Director shall refer, in anonymous form, to opinions of the panel in his or her annual activity report and indicate the follow-up measures taken.
6. Any member of staff may be required to compensate, in whole or in part, any damage suffered by the Agency as a result of serious misconduct on his or her part in the course of or in connection with the performance of his or her duties. The appointing authority shall take a reasoned decision, after completing the formalities laid down by the Staff Regulations with regard to disciplinary matters.

Article 44 **Confirmation of instructions (Article 54(3) FR)**

1. An authorising officer by delegation or subdelegation who receives a binding instruction which he considers being irregular or contrary to the principle of sound financial management, in particular because the instruction cannot be carried out with the resources allocated to him, shall, in writing, so inform the delegating authority from whom he received the delegation or subdelegation. If the instruction is confirmed in writing and that confirmation is received in good

time and is sufficiently clear, in that it refers explicitly to the points which the authorising officer by delegation or subdelegation has challenged, the authorising officer may not be held liable. He shall carry out the instruction, unless it is manifestly illegal or constitutes a breach of the relevant safety standards.

2. Paragraph 1 shall also apply in cases where an authorising officer learns, in the course of acting on a binding instruction, that the circumstances of the case may give rise to an irregular situation.

Any instructions confirmed in the circumstances described in Article 54(3) of the Financial Regulation shall be recorded by the authorising officer by delegation responsible and mentioned in his annual activity report.

Article 45
Financial irregularities (Article 54(5) FR)

Without prejudice to the powers of OLAF, the Financial Irregularities Panel referred to in Article 17 (hereinafter 'the Panel') shall be competent in respect of any infringement of a provision of the Financial Regulation or of a provision relating to financial management or the checking of operations resulting from an act or omission of a member of staff.

Article 46
Financial Irregularities Panel (Article 54(5) FR)

1. Cases of financial irregularities as referred to in Article 45 shall be referred to the Panel by the appointing authority/Director for an opinion referred to in the second subparagraph of Article 54(5) of the Financial Regulation.

An authorising officer by delegation may refer a matter to the panel if he considers that a financial irregularity has occurred. The Panel shall deliver an opinion evaluating whether irregularities within the meaning of Article 45 have occurred, how serious they are and what their consequences might be. Where the Panel's analysis suggests that the case referred to it is a matter for OLAF, it shall transmit the file to the appointing authority without delay and shall inform OLAF at once.

2. When the Panel is directly informed of a matter by a member of staff in accordance with Article 48 (1) of the Financial Regulation, it shall transmit the file to the appointing authority and shall inform the member of staff accordingly. The appointing authority/Director may request the Panel's opinion on the case.

SECTION 3

RULES APPLICABLE TO ACCOUNTING OFFICERS AND IMPREST ADMINISTRATORS

Article 55
Rules applicable to Accounting Officers

An Accounting Officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with the procedures in the Staff Regulations. An Accounting Officer may, in particular, become liable as a result of any of the following forms of misconduct on his or her part:

- (a) losing or damaging funds, assets or documents in his or her keeping or causing them to be lost or damaged by his or her negligence;
- (b) wrongly altering bank accounts or postal giro accounts;
- (c) recovering or paying amounts which are not in conformity with the corresponding recovery or payment orders;
- (d) failing to collect revenue due.

Article 56
Rules applicable to imprest administrators

An imprest administrator officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An imprest administrator may in particular become liable as a result of any of the following forms of misconduct on his or her part:

- (a) losing or damaging funds, assets and documents in his or her keeping or causing them to be lost or damaged by his or her negligence;
- (b) not providing proper supporting documents for the payments he or she has made;
- (c) making payments to persons other than those entitled to such payments;
- (d) failing to collect revenue due.

CHAPTER 4 **REVENUE OPERATIONS**

Article 57
Request for payment

The Agency shall present to the Commission requests for payment of all or part of the Union contribution pursuant to Article 19(6) under terms and at intervals agreed with the Commission.

Article 58
Treatment of interest

The interest generated by funds paid to the Agency by the Commission by way of the contribution shall not be due to the general budget.

Article 59
Estimate of amounts receivable

1. When the Authorising Officer has sufficient and reliable information in respect of any measure or situation which may give rise to an amount owing to the Agency, the Authorising Officer shall make an estimate of the amount receivable.
2. The estimate of the amount receivable shall be adjusted by the Authorising Officer as soon as he or she is aware of an event modifying the measure or the situation which gave rise to the estimate being made.

When establishing the recovery order on a measure or situation that had previously given rise to an estimate of amounts receivable, that estimate shall be adjusted accordingly by the Authorising Officer.

If the recovery order is drawn up for the same amount as the original estimate of amounts receivable, that estimate shall be reduced to zero.

Article 47
Estimate of amounts receivable (Article 59(1) FR)

1. Estimates of amounts receivable shall specify the type of revenue and the budget item to which they are to be booked and, as far as possible, the particulars of the debtor and the estimated amount.

When drawing up an estimate of amounts receivable, the authorising officer responsible shall check in particular that:

- (a) the revenue is booked to the correct budget item;
- (b) the estimate is in order and complies with the provisions applicable and the principle of

sound financial management.

2. Subject to Article 8(2), an estimate of amounts receivable shall not have the effect of making commitment appropriations available. In the cases referred to in Article 23 of the Financial Regulation, appropriations may be made available only after the sums due have actually been recovered by the Agency.

Article 60

Establishment of amounts receivable

1. The establishment of an amount receivable is the act by which the Authorising Officer:
 - (a) verifies that the debt exists;
 - (b) determines or verifies the reality and the amount of the debt;
 - (c) verifies the conditions according to which the debt is due.
2. Any amount receivable that is identified as being certain, of a fixed amount and due shall be established by a recovery order to the Accounting Officer followed by a debit note sent to the debtor, both drawn up by the Authorising Officer.
3. Amounts wrongly paid shall be recovered.
4. Any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Delegated Regulation (EU) No 1268/2012.
5. In duly substantiated cases, certain routine revenue items may be established provisionally. Provisional establishment shall cover the recovery of several individual amounts which need not therefore be established individually. Before the end of the financial year, the Authorising Officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

Article 48

Procedure (Article 60 FR)

1. The establishment by the authorising officer responsible of an amount receivable shall constitute recognition of the right of the Agency in respect of a debtor and establishment of entitlement to demand that the debtor pay the debt.
2. The recovery order shall be the operation by which the authorising officer responsible instructs the accounting officer to recover the amount established.
3. The debit note shall be to inform the debtor that:
 - (a) the Agency has established the amount receivable;
 - (b) if payment of the debt is made before the deadline, no default interest will be due;
 - (c) failing reimbursement by the deadline referred to in point (b) the debt shall bear interest at the rate referred to in Article 51, without any prejudice to any specific regulations applicable;
 - (d) failing reimbursement by the deadline referred to in point (b) the Agency shall effect recovery either by offsetting or by enforcement of any guarantee lodged in advance;
 - (e) the accounting officer may effect recovery by offsetting before the deadline referred to in point b), where it is necessary to protect the Agency's financial interests when he has justified grounds to believe that the amount due to the Agency would be lost, after the debtor has been informed of the reasons and date of the recovery by offsetting;
 - (f) if, after taking all the steps set out in points (a) to (e) of this subparagraph, the amount has not been recovered in full, the Agency shall effect recovery by enforcement of a decision secured by legal action.

The Authorising officer shall print out the debit note and send it to the debtor. The accounting

officer shall be informed of that dispatch through the financial information system.

Article 49

Establishment of amounts receivable (Article 60(1) FR)

To establish an amount receivable the authorising officer responsible shall ensure that:

- (a) the receivable is certain, meaning that it is not subject to any condition;
- (b) the receivable is of fixed amount, expressed precisely in cash terms;
- (c) the receivable is due and is not subject to any payment time;
- (d) the particulars of the debtor are correct;
- (e) the amount to be recovered is booked to the correct budget item;
- (f) the supporting documents are in order; and
- (g) the principle of sound financial management is complied with, in particular with regard to the criteria referred to in point (a) of Article 54(1).

Article 50

Supporting documents for the establishment of amounts receivable (Article 60(1) FR)

1. The establishment of an amount receivable shall be based on supporting documents certifying the Agency's entitlement.
2. Before establishing an amount receivable the authorising officer responsible shall personally check the supporting documents or, on his own responsibility, shall ascertain that this has been done.
3. The supporting documents shall be kept by the authorising officer in accordance with Article 21.

Article 51

Default interest (Article 60(4) FR)

1. Without prejudice to any specific provisions deriving from the application of sector-specific regulations, any amount receivable not repaid on the deadline referred to in Article 48(3)(b) shall bear interest in accordance with paragraphs 2 and 3 of this Article.
2. The interest rate for amounts receivable not repaid on the deadline referred to in Article 48(3)(b) shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the deadline falls, increased by:
 - (a) eight percentage points where the obligating event is a public supply and service contract referred to in Title V of the Financial Regulation;
 - (b) three and a half percentage points in all other cases.
3. Interest shall be calculated from the calendar day following the deadline referred to in Article 48(3)(b) and specified in the debit note up to the calendar day on which the debt is repaid in full.

The recovery order corresponding to the amount of the default interest shall be issued when this interest is actually received.
4. In the case of fines, where the debtor provides a financial guarantee which is accepted by the accounting officer instead of payment, the interest rate applicable from the deadline referred to in Article 48(3)(b) shall be the rate referred to in paragraph 2 of this Article as in force on the first day of the month in which the decision imposing a fine has been adopted and increased only by one and a half percentage points.

Article 61
Authorisation of recovery

The authorisation of recovery is the act by which the Authorising Officer instructs the Accounting Officer, by issuing a recovery order, to recover an amount receivable which that Authorising Officer has established.

Article 52
Establishment of the recovery order (Article 61 FR)

1. The recovery order shall specify:
 - (a) the financial year to which the revenue is to be booked;
 - (b) the references of the act or legal commitment which is the source of the debt and gives rise to the entitlement to recovery;
 - (c) the budget article and any other subdivision that may apply, including, where appropriate, the references of the corresponding budget commitment;
 - (d) the amount to be recovered, expressed in euro;
 - (e) the name and address of the debtor;
 - (f) the deadline referred to in Article 48(3)(b);
 - (g) the possible method of recovery, including in particular recovery by offsetting or enforcement of any guarantee lodged.
2. The recovery order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer.
3. The accounting officer of the Agency shall keep a list of amounts due to be recovered. Agency entitlements shall be grouped in the list according to the date of issue of the recovery order.

Article 62
Rules on recovery

1. The Accounting Officer shall act on recovery orders for amounts receivable duly established by the Authorising Officer. The Accounting Officer shall exercise due diligence to ensure that the Agency receives its revenue and shall ensure that its rights are safeguarded.
2. If actual recovery has not taken place by the due date stipulated in the debit note, the Accounting Officer shall inform the Authorising Officer and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.
3. The Accounting Officer shall recover amounts by offsetting them against equivalent claims that the Agency has on any debtor who in turn has a claim on the Agency. Such claims shall be certain, of a fixed amount and due.
4. Where the Authorising Officer plans to waive or partially waive recovery of an established amount receivable, he or she shall ensure that the waiver is in order and is in accordance with the principles of sound financial management and proportionality. The waiver decision shall be substantiated. The Authorising Officer may delegate the waiver decision only for amounts receivable of less than EUR 5 000.

The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.
5. The Authorising Officer shall cancel an established amount receivable in full or in part when the discovery of a mistake reveals that the amount had not been correctly established. Such cancellation shall be by decision of the Authorising Officer and shall be suitably substantiated.

Article 53

Recovery by offsetting (Article 62(3) FR)

1. Where the debtor has a claim on the Agency that is certain as defined in point (a) of Article 49, of a fixed amount and due, relating to a sum established by a payment order, the accounting officer shall, following the deadline referred to in Article 48(3)(b) recover established amounts receivable by offsetting.

In exceptional circumstances, where it is necessary to safeguard the financial interests of the Agency, when the accounting officer has justified grounds to believe that the amount due to the Agency would be lost, the accounting officer shall recover by offsetting before the deadline referred to in Article 48(3)(b).

The accounting officer shall also recover by offsetting before the deadline referred to in Article 48(3)(b) when the debtor agrees.

2. Before proceeding with any recovery in accordance with paragraph 1, the accounting officer shall consult the authorising officer responsible and inform the debtors concerned.

Where the debtor is a national authority or one of its administrative entities, the accounting officer shall also inform the Member State concerned at least 10 working days in advance of his intention to resort to recovery by offsetting. However, in agreement with the Member State or administrative entity concerned, the accounting officer may proceed with the recovery by offsetting before the deadline has passed.

3. The offsetting referred to in paragraph 1 shall have the same effect as a payment and discharge the Agency for the amount of the debt and, where appropriate of the interest due.

Article 54

Waiving of recovery of an established amount receivable (Article 62(4) FR)

1. The authorising officer responsible may waive recovery of all or part of an established amount receivable only in the following cases:

- (a) where the foreseeable cost of recovery would exceed the amount to be recovered and the waiver would not harm the image of the Agency;
- (b) where the amount receivable cannot be recovered in view of its age or the insolvency of the debtor;
- (c) where recovery is inconsistent with the principle of proportionality.

2. In the case referred to in point (c) of paragraph 1, the authorising officer responsible shall act in accordance with predetermined procedures established within the Agency and shall apply the following criteria which are compulsory and applicable in all circumstances:

- (a) the facts, having regard to the gravity of the irregularity giving rise to the establishment of the amount receivable (fraud, repeat offence, intent, diligence, good faith, manifest error);
- (b) the impact that waiving recovery would have on the operation of the Agency and its financial interests (amount involved, risk of setting a precedent, undermining of the authority of the law).

Depending on the circumstances of the case, the authorising officer responsible may also have to take the following additional criteria into account:

- (a) any distortion of competition that would be caused by the waiving of recovery;
- (b) the economic and social damage that would be caused were the debt to be recovered in full.

3. The waiver decision referred to in Article 62(4) of the Financial Regulation shall be substantiated and shall refer to the diligence exercised to secure recovery and the points of law and fact on which the waiver is based. The authorising officer responsible shall waive recovery in accordance with Article 52.

4. The Agency shall send to the European Parliament and Council each year a report on the

waivers referred to in paragraphs 1 to 3 of this Article involving EUR 100 000 or more. That report shall be annexed to the consolidated annual activity report referred to in Article 47 of the Financial Regulation.

Article 55

Cancellation of an established amount receivable (Article 62(5) FR)

1. In the event of a mistake, the authorising officer responsible shall cancel totally or partially the established amount receivable in accordance with Articles 50 and 52 and include adequate reasons.
2. The Agency shall lay down in its internal rules the conditions and procedure for delegating the power to cancel an established amount receivable.

Article 56

Recovery of fines or other penalties (Article 62 FR)

1. Where an action is brought before the Court of Justice of the European Union against an Agency decision imposing a fine or other penalties under the TFEU or Euratom Treaty and until such time as all legal remedies have been exhausted, the debtor shall either provisionally pay the amounts concerned on the bank account designated by the accounting officer or provide a financial guarantee acceptable to the accounting officer. The guarantee shall be independent of the obligation to pay the fine or penalty payment or other penalties and shall be enforceable upon first call. It shall cover the claim as to principal and the interest due as specified in Article 51(4).
2. The Agency shall secure the provisionally cashed amounts by having them invested in financial assets thus ensuring the security and liquidity of the monies whilst also aiming at yielding a positive return.
3. After the exhaustion of all legal remedies and where the fine or penalty has been confirmed any of the following measures shall be taken:
 - (a) the provisionally collected amounts and the interest and other amounts they have yielded shall be entered into the budget in accordance with Article 62 of the Financial Regulation at the latest during the financial year following the year in which all legal remedies have been exhausted;
 - (b) where a financial guarantee has been lodged, the latter shall be enforced and the corresponding amounts entered in the budget;

Where the amount of the fine or of the penalty has been increased by the Court, points (a) and (b) of the first subparagraph shall apply up to the amounts of the decision of the Agency and the accounting officer shall collect the amount corresponding to the increase, which will be entered into the budget.

4. After all legal remedies have been exhausted and where the fine or penalty has been cancelled or reduced any of the following measures shall be taken:
 - (a) the amounts unduly collected together with the interest yielded shall be repaid to the third party concerned. In cases where the overall return yielded for the relevant period has been negative, the nominal value of the amounts unduly collected shall be repaid;
 - (b) where a financial guarantee has been lodged, the latter shall be released accordingly.

Article 63

Collection formalities

1. Upon actual recovery of the sum due, the Accounting Officer shall make an entry in the accounts and shall inform the Authorising Officer.
2. A receipt shall be issued in respect of all cash payments made to the Accounting Officer.

3. Partial reimbursement by a debtor subject to several recovery orders shall first be posted on the oldest entitlement unless otherwise specified by the debtor, or in the relevant Commission Regulation setting out the provisions on fees.

Any partial payments shall first cover the interest, if applicable.

Article 64

Additional time for payment

1. The Accounting Officer, in collaboration with the Authorising Officer, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, and provided that the following two conditions are fulfilled:
 - (a) the debtor undertakes to pay interest at the rate specified in Article 83 of Delegated Regulation (EU) 1268/2012 for the entire additional period allowed, starting from the deadline referred to in Article 80(3)(b) of Delegated Regulation (EU) 1268/2012;
 - (b) in order to safeguard the rights of the Agency, the debtor lodges a financial guarantee covering the debt outstanding in both the principal sum and the interest, which is accepted by the Agency's Accounting Officer.

The guarantee referred to in point (b) of the first subparagraph may be replaced by a joint and several guarantee by a third party approved by the Agency's Accounting Officer.
2. In exceptional circumstances, following a request by the debtor, the Accounting Officer may waive the requirement of a guarantee referred to in point (b) of the first subparagraph of paragraph 1 when, on the basis of his assessment, the debtor is willing and able to make the payment in the additional time period but is not able to lodge such guarantee and is in a distressed situation.

Article 65

List of entitlements

1. The Accounting Officer shall keep a list of amounts due to be recovered. The Agency's entitlements shall be grouped in the list according to the date of issue of the recovery order. The Accounting Officer shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to the Agency's report on budgetary and financial management.
2. The Agency shall establish a list of Agency entitlements stating the names of the debtors and the amount of the debt, where the debtor has been ordered to reimburse by a court decision that has the force of *res judicata* and where no or no significant reimbursement has been made for one year following its pronouncement. The list shall be published, with due regard to the protection of personal data in accordance with the requirements of Regulation (EC) No 45/2001.

As far as personal data referring to natural persons are concerned, the information published shall be removed once the amount of the debt has been fully reimbursed. The same shall apply to personal data referring to legal persons for whom the official title identifies one or more natural persons.

The decision to include the debtor on the list of Agency entitlements shall be taken in compliance with the principle of proportionality and shall take into account, in particular the significance of the amount.

Article 66

Limitation period

Entitlements of the Agency in respect of third parties and entitlements of third parties in respect of the Agency shall be subject to a limitation period of five years.

Article 57

Rules for limitation periods (Article 66 FR)

1. The limitation period for entitlements of the Agency in respect of third parties shall begin to run on the expiry of the deadline communicated to the debtor in the debit note as specified in Article 48(3)(b).

The limitation period for entitlements of third parties in respect of the Agency shall begin to run on the date on which the payment of the third party's entitlement is due according to the corresponding legal commitment.

2. The limitation period for entitlements of the Agency in respect of third parties shall be interrupted by any act of an institution, or a Member State acting at the request of an institution, notified to the third party and aiming at recovering the debt.

The limitation period for entitlements of third parties in respect of the Agency shall be interrupted by any act notified to the Agency by its creditors or on behalf of its creditors aiming at recovering the debt.

3. A new limitation period of five years shall begin to run on the day following the interruptions referred to in paragraph 2.
4. Any legal action relating to an amount receivable as referred to in paragraph 1, including actions brought before a court which later declares itself not to have jurisdiction, shall interrupt the limitation period. The new limitation period of five years shall not begin until a judgment having the force of *res judicata* is given or there is an extrajudicial settlement between the same parties on the same action.
5. Where the accounting officer allows the debtor additional time for payment in accordance with Article 64 of the Financial Regulation, this shall be considered as an interruption of the limitation period. The new limitation period of five years shall begin to run on the day following the expiry of the extended time for payment.
6. Entitlements shall not be recovered after the expiry of the limitation period, as established in paragraphs 1 to 5.

Article 67

Specific provisions applicable to fees and charges

Where the Agency collects fees and charges referred to in Article 6(1)(a), an overall provisional estimate of such fees and charges shall be made at the beginning of each financial year.

Where fees and charges are entirely determined by legislation or decisions of the Management Board, the Authorising Officer may abstain from issuing recovery orders and directly draw up debit notes after having established the amount receivable. In this case all details of the Agency's entitlement shall be registered. The Accounting Officer shall keep a list of all debit notes and provide the number of the debit notes and the global amount in the Agency's report on budgetary and financial management.

Where the Agency uses a separate invoicing system, the Accounting Officer shall regularly, and at least on a monthly basis, enter the accumulated sum of fees and charges received into the accounts.

The Agency shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety. However, in exceptional circumstances, a service may be provided without prior payment of the corresponding charge or fee. In cases where service has been provided without prior payment of the corresponding charge or fee, Article 63 shall apply.

CHAPTER 5

EXPENDITURE OPERATIONS

Article 68 *Financing decisions*

1. Every item of expenditure shall be committed, validated, authorised and paid.
2. Every commitment of expenditure shall be preceded by a financing decision.
3. The annual work programme of the Agency shall be equivalent to a financing decision for the activities it covers, provided that the elements set out in Article 32(3) are clearly identified.
4. Administrative appropriations may be implemented without a prior financing decision.

Article 58 **Financing decision (Article 68(2) FR)**

1. The financing decision shall set out the essential elements of an action involving expenditure from the budget.
2. The financing decision shall in particular set out the following:
 - (a) for grants:
 - (i) the reference to the basic act and the budgetary line;
 - (ii) the priorities of the year, the objectives to be fulfilled and the foreseen results with the appropriations authorised for the financial year;
 - (iii) the essential eligibility, selection and award criteria to be used to select the proposals;
 - (iv) the maximum possible rate of co-financing and if different rates are envisaged the criteria to be followed for each rate;
 - (v) the timetable and the indicative amount of the calls for proposals;
 - (b) for procurement:
 - (i) the global budgetary envelope reserved for the procurements during the year;
 - (ii) the indicative number and type of contracts envisaged and if possible their subject in generic terms;
 - (iii) the indicative time-frame for launching the procurement procedures;
 - (c) for prizes:
 - (i) the reference to the basic act and the budgetary line;
 - (ii) the objectives to be fulfilled and the foreseen results;
 - (iii) the essential conditions for participation and award criteria;
 - (iv) the timetable of the contest and the amount of the prize or prizes.

Article 69 *Types of commitments*

1. A budgetary commitment is the operation by which the appropriation necessary to cover subsequent payments to honour legal commitments is reserved.
2. A legal commitment is the act whereby the Authorising Officer enters into or establishes an obligation which results in a charge.
3. Budgetary commitments shall fall into one of the following three categories:
 - (a) individual: the budgetary commitment is individual when the recipient and the amount of the expenditure are known;

- (b) global: the budgetary commitment is global when at least one of the elements necessary to identify the individual commitment is still not known;
- (c) provisional: the budgetary commitment is provisional when it is intended to cover routine administrative expenditure and either the amount or the final payees are not definitively known.

The provisional budget commitment shall be implemented either by the conclusion of one or more individual legal commitments giving rise to an entitlement to subsequent payments or, in exceptional cases relating to expenditure on staff management, directly by payments.

- 4. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments only where the constituent act or basic act so provides or requires or where they relate to administrative expenditure.

Article 59

Single signature (Article 69(1) FR)

- 1. The rule that there shall be a single signatory for the budget commitment and the corresponding legal commitment may be departed from only in the following cases:
 - (a) where the commitments are provisional;
 - (b) where the Agency's decision constitutes the legal commitment;
 - (c) where the global commitment is implemented by a number of legal commitments, for which different authorising officers are responsible.
- 2. If the authorising officer responsible who signed the budget commitment is not available and remains unavailable for a period incompatible with the time limits for concluding the legal commitment, that legal commitment shall be concluded by the person designated under the deputisation rules adopted by the Agency, provided that that person has the status of authorising officer in accordance with Article 40(1) of the Financial Regulation.

Article 60

Global and provisional commitments (Article 69(3) FR)

- 1. The global budgetary commitment shall be implemented by the conclusion of one or more legal commitments.
- 2. In relation to communication expenditures engaged in by the Agency for the coverage of Agency events, the provisional budgetary commitment may be implemented directly by payments.

Article 61

Adoption of a global commitment (Article 69(3)(b) FR)

A global commitment shall be made on the basis of a financing decision.

The global commitment shall be made at the latest before the decision on the selection of recipients is taken and, where implementation of the appropriations concerned involves the adoption of a work programme within the meaning of Article 188 of the Rules of Application, at the earliest after that programme has been adopted.

Article 62

Administrative expenditure covered by provisional commitments (Article 69(3)(c) FR)

Items regarded as routine administrative expenditure which may give rise to provisional commitments shall include the following:

- (a) expenditure on staff, whether or not covered by the Staff Regulations, on other human resources and pensions and on the remuneration of experts;
- (b) training expenditure;
- (c) expenditure on competitions, selection and recruitment;
- (d) mission expenses;
- (e) representation expenses;
- (f) meeting expenses;

- (g) freelance interpreters and translators;
- (h) exchanges of officials;
- (i) recurring rentals of movable and immovable property or recurring payments relating to building contracts within the meaning of Article 121 of the Rules of Application or loan instalments pursuant to Article 88(5) of the Financial Regulation;
- (j) miscellaneous insurance;
- (k) cleaning, maintenance and security;
- (l) welfare and medical expenditure;
- (m) the use of telecommunications services;
- (n) financial charges;
- (o) legal expenses;
- (p) damages, including interest;
- (q) work equipment;
- (r) water, gas and electricity;
- (s) publications on paper or in electronic versions;
- (t) communications activities engaged in by the Agency for the coverage of Agency events.

Article 70
Rules applicable to commitments

1. In respect of any measure which may give rise to expenditure chargeable to the budget of the Agency, the Authorising Officer shall make a budgetary commitment before entering into a legal commitment with third parties.
2. The obligation to make a budgetary commitment before entering into a legal commitment as provided for in paragraph 1, shall not be applicable to legal commitments concluded following a declaration of a crisis situation in the framework of a business continuity plan, in accordance with the procedures adopted by the Agency.
3. Global budgetary commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year $n + 1$.
Subject to Articles 69(4) and 87(2) individual legal commitments relating to individual or provisional budgetary commitments shall be concluded by 31 December of year n .
At the end of the periods referred to in the first and the second subparagraph, the unused balance of such budgetary commitments shall be decommitted by the Authorising Officer.
The amount of each individual legal commitment adopted following a global budgetary commitment shall, prior to signature, be registered by the Authorising Officer in the budgetary accounts and booked to the global budgetary commitment.
4. The budgetary and legal commitments entered into for actions extending over more than one financial year shall, except in the case of staff expenditure, have a final date for implementation set, in accordance with the principle of sound financial management.
Any parts of such commitments which have not been executed six months after the date referred to in the first subparagraph of this paragraph shall be decommitted in accordance with Article 16.
The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 75 has been made within two years of the signing of the legal commitment shall be decommitted, except where that amount relates to a case under litigation before judicial courts or arbitral bodies or where there are special provisions laid down in basic acts.

Article 63

Registration of individual legal commitments (Article 70 FR)

In the case of a global budget commitment followed by one or several individual legal commitments, the authorising officer responsible shall register in the central accounts the amounts of this or these successive individual legal commitments.

The registration in the accounts shall indicate the references of the global commitment against which the individual commitments are being booked.

The authorising officer responsible shall register the amounts in the accounts before signing the corresponding individual legal commitment, except in the cases referred to in Article 70(2) of the Financial Regulation.

In all cases, the authorising officer responsible shall check that the aggregated amount does not exceed the amount of the global commitment covering them.

Article 71

Checks applicable to commitments

1. When adopting a budget commitment, the Authorising Officer shall ensure that:
 - (a) the expenditure has been charged to the correct item in the budget of the Agency;
 - (b) the appropriations are available;
 - (c) the expenditure is in compliance with the applicable provisions, in particular those of the constituent act, the financial rules of the Agency and all acts adopted pursuant to them;
 - (d) the principle of sound financial management is respected.
2. When registering a legal commitment by physical or electronic signature, the Authorising Officer shall ensure that:
 - (a) the commitment is covered by the corresponding budgetary commitment;
 - (b) the expenditure is legal and regular and in compliance with the applicable provisions, in particular those of the constituent act, the financial rules of the Agency and all acts adopted pursuant to them;
 - (c) the principle of sound financial management is respected.

Article 72

Validation of expenditure

Validation of expenditure is the act whereby the Authorising Officer:

- (a) verifies the existence of the creditor's entitlement;
- (b) determines or verifies the reality and the amount of the claim;
- (c) verifies the conditions according to which payment is due.

Article 73

Validation and material form of 'passing for payment'

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment, including recurring payments of subscriptions or training courses.
2. The Authorising Officer shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done, before taking the decision validating the expenditure.

3. The validation decision shall be expressed by the signing of a 'passed for payment' voucher by the Authorising Officer.
4. In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the Authorising Officer.

In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the Authorising Officer.

Article 64

Certified correct for pre-financing payments (Article 73 FR)

For pre-financing payments, the authorising officer responsible or a technically competent member of staff, duly empowered by the authorising officer responsible shall certify with the endorsement 'certified correct' that the conditions required in the legal commitment for the payment of the pre-financing are met.

Article 65

Passing for payment of procurement contracts for interim and balance payments (Article 73(3) FR)

For interim and balance payments corresponding to procurement contracts, the endorsement 'passed for payment' shall certify that:

- (a) the Agency has received and formally registered an invoice drawn up by the contractor;
- (b) the invoice itself, or an internal document accompanying the invoice received, has been endorsed 'certified correct' and signed by the authorising officer responsible or by a technically competent member of staff, duly empowered by the authorising officer responsible;
- (c) all aspects of the invoice have been checked by the authorising officer responsible or on his responsibility with a view to determining in particular the amount to be paid and the validity of the payment as discharge of the debt.

The endorsement 'certified correct', referred to in point (b) of the first paragraph shall certify that the services provided for in the contract have been properly provided, or that the supplies provided for in the contract have been properly delivered, or that the work provided for in the contract has been properly carried out. For supplies and work, the official or other servant technically competent shall draw up a provisional acceptance certificate, then a final acceptance certificate at the end of the guarantee period laid down in the contract. Those two certificates shall count as the 'certified correct' endorsement.

For recurring payments including payment of subscriptions or training courses, the endorsement 'certified correct', shall certify that the entitlement of the creditor is in accordance with relevant documents justifying payment.

Article 66

Passing for payment of grants for interim and balance payments (Article 73(3) FR)

For interim and balance payments corresponding to grants, the endorsement 'passed for payment' shall certify that:

- (a) the Agency has received and formally registered a payment request drawn up by the beneficiary;
- (b) the payment request itself, or an internal document accompanying the cost statement received, has been endorsed 'certified correct' and signed by an official or other servant technically competent, duly empowered by the authorising officer responsible;
- (c) all aspects of the payment request have been checked by the authorising officer responsible or on his responsibility with a view to determining in particular the amount to be paid and the validity of the payment as discharge of the debt.

By endorsement referred to in point (b) of the first paragraph, the official or other servant technically competent, duly empowered by the authorising officer responsible, certifies that the action or work programme carried out by the beneficiary is in all respects in compliance with the

grant agreement or decision, including, where applicable that the costs declared by the beneficiary are eligible.

Article 67

Passing for payment of staff expenditure (Article 73(3) FR)

For payments corresponding to staff expenditure, the endorsement 'passed for payment' shall certify that the following supporting documents exist:

- (a) in respect of monthly salary:
 - (i) the complete list of staff, giving all the components of remuneration;
 - (ii) a form (personal information sheet) based on decisions taken in each individual case, showing, whenever such change occurs, any change in any component of remuneration;
 - (iii) in the case of recruitments or appointments, a certified true copy of the recruitment or appointment decision which accompanies the validation of the first salary payment;
- (b) in respect of other remunerations such as staff paid on an hourly or daily basis:
 - a statement signed by the authorised member of staff showing the days and hours worked;
- (c) in respect of overtime:
 - a statement signed by the authorised member of staff certifying the amount of overtime worked;
- (d) in respect of mission expenses:
 - (i) the travel order signed by the competent authority;
 - (ii) the statement of mission expenses, signed by the member of staff on mission and by the administrative superior to whom the appropriate powers have been delegated, if the mission expenses differ from the mission order;
- (e) in respect of some other administrative expenditure related to staff including subscriptions or training courses which, according to the contract, are to be paid in advance: the supporting documents referring to the decision on which the expenditure is based and giving all the components of the calculation.

The statement of mission expenses referred to in point (d)(ii) of the first subparagraph shall indicate the place of mission, the dates and times of departure and arrival at the place of mission, travel expenses, subsistence expenses, and other expenses duly authorised on production of supporting documents.

Article 68

Material form of 'certified correct' (Article 73(4) FR)

In a non-computerised system, 'certified correct' shall take the form of a stamp incorporating the signature of the authorising officer responsible or of a technically competent member of staff, duly empowered by the authorising officer responsible in accordance with Article 64. In a computerised system, 'certified correct' may take the form of an electronically secured validation by the technically competent member of staff, duly empowered by the authorising officer responsible.

Article 74

Authorisation of expenditure

1. The authorisation of expenditure is the act by which the Authorising Officer, having verified that the appropriations are available, instructs the Accounting Officer, by issuing a payment order, to pay an amount of expenditure which the Authorising Officer has validated.

Where periodic payments are made with regard to services rendered, including rental services, or goods delivered, and subject to the Authorising Officer's risk analysis, the Authorising Officer may order the application of a direct debit system.

2. The payment order shall be dated and signed by the Authorising Officer, then sent to the Accounting Officer. The supporting documents shall be kept by the Authorising Officer in accordance with Article 44(5).
3. Where appropriate, the payment order sent to the Accounting Officer shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 106(1).

Article 69

Checks on payments by the authorising officer (Article 74(1) FR)

When drawing up the payment order, the authorising officer responsible shall ensure that:

- (a) the payment order has been properly issued, meaning that a corresponding validation decision has been taken previously in the form of 'passed for payment', that the particulars of the payee are correct and that the amount is due;
- (b) the payment order corresponds to the budgetary commitment against which it is booked;
- (c) the expenditure is charged to the correct item in the budget;
- (d) appropriations are available.

Article 70

Mandatory details on payment orders and transmission to the accounting officer (Article 74(2) FR)

1. The payment order shall state:
 - (a) the financial year to which the expenditure is to be booked;
 - (b) the budget article and any other subdivision that may apply;
 - (c) the references of the legal commitment giving rise to an entitlement to payment;
 - (d) the references of the budgetary commitment against which it is to be booked;
 - (e) the amount to be paid, expressed in euro;
 - (f) the name, address and bank account details of the payee;
 - (g) the object of the expenditure;
 - (h) the means of payment;
 - (i) the entry of items in the inventory in accordance with Article 101.

Article 75

Types of payments

1. Payment shall be made on production of proof that the relevant action has been carried out in accordance with the provisions of the basic act or the contract or grant agreement, and shall cover one of the following operations:
 - (a) payment of the entire amount due;
 - (b) payment of the amount due in any of the following ways:
 - (1) pre-financing, which may be divided into a number of payments after the signature of the contract or grant agreement or after notification of the grant decision.
 - (2) one or more interim payments as a counterpart of a partial execution of the action;
 - (3) payment of the balance of the amounts due where the action is completely executed.

Pre-financing shall provide a float. It may be split into a number of payments in accordance with sound financial management.

An interim payment, which may be repeated, may cover expenditure incurred for the implementation of the decision or agreement or to pay for services, supplies or works completed and/or delivered at interim stages of the contract. It may clear pre-financing in whole or in part, without prejudice to the provisions of the basic act.

The closure of the expenditure shall take the form of the payment of the balance which may not be repeated and which clears all preceding expenditure, or a recovery order.

2. A distinction shall be made in the budgetary accounting between the different types of payment referred to in paragraph 1 at the time each payment is made.

Article 71

Supporting documents Article 75(1) FR

1. Pre-financing, including in cases where it is split into a number of payments, shall be paid either on the basis of the contract, the decision, agreement or the basic act, or on the basis of supporting documents which make it possible to check that the terms of the contract, decision or agreement in question are complied with. If a date of payment for pre-financing is determined in those instruments, payment of the due amount shall not be dependent upon further demand.
2. Interim payments and payments of balances shall be based on supporting documents which make it possible to check that the action financed has been carried out in accordance with the basic act or the decision, or in accordance with the terms of the contract or agreement.
3. The authorising officer responsible shall lay down, in compliance with the principle of sound financial management, the nature of the supporting documents referred to in this Article in accordance with the basic act, decisions, contracts and agreements. Interim and final technical and financial implementation reports shall constitute supporting documents for the purposes of paragraph 2.
4. The supporting documents shall be kept by the authorising officer responsible in accordance with Article 21.

Article 76

Payment limited to funds available

Payment of expenditure shall be made by the Accounting Officer within the limits of the funds available.

Article 77

Time limits

The payment of expenditure shall be carried out within the time limits specified in, and in accordance with Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

Article 72

Time limits (Article 77 FR, Article 92 of the General Financial Regulation)

1. Payments shall be made within:
 - (a) 90 calendar days for delegation agreements, contracts, grant agreements and decisions involving technical services or actions which are particularly complex to evaluate and for which payment depends on the approval of a report or a certificate;
 - (b) 60 calendar days for all other delegation agreements, contracts, grant agreements and decisions for which payment depends on the approval of a report or a certificate;
 - (c) 30 calendar days for all other delegation agreements, contracts, grant agreements and

decisions.

2. The authorising officer responsible may suspend the time limit for payment where:

- (a) the amount of the payment request is not due; or
- (b) the appropriate supporting documents have not been produced.

If information comes to the notice of the authorising officer responsible which puts in doubt the eligibility of expenditure in a payment request, he or she may suspend the time limit for payment for the purpose of verifying, including by means of on the spot checks, that the expenditure is indeed eligible.

3. The creditors concerned shall be informed in writing of the reasons for that suspension.

4. Where the suspension exceeds two months, the creditor may request a decision by the authorising officer responsible on whether the suspension is to be continued.

5. Except in the case of Member States, on expiry of the time limits laid down in paragraph 1, the creditor shall be entitled to interest.

Article 73

Payment time limits and default interest (Article 77 FR, Article 111 of the Rules of Application)

1. The time allowed for making payments shall be understood as including validation, authorisation and payment of expenditure.

It shall begin to run from the date on which a payment request is received.

A payment request shall be registered by the authorised department of the authorising officer responsible as soon as possible and is deemed to be received on the date it is registered.

The date of payment is deemed to be the date on which the Agency's account is debited.

2. A payment request shall include the following essential elements:

- (a) creditor's identification;
- (b) amount;
- (c) currency;
- (d) date;

Where at least one essential element is missing, the payment request shall be rejected.

The creditor shall be informed in writing of the rejection and the reasons for it as soon as possible and in any case within 30 calendar days from the date on which the payment request was received.

3. In the case of suspension as referred to in Article 72(2), the remaining time allowed for payment shall begin to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out.

4. On expiry of the time-limits laid down in Article 72(1), the creditor shall be entitled to interest in accordance with the following conditions:

- (a) the interest rates shall be those referred to in Article 51(2);
- (b) the interest shall be payable for the period elapsing from the calendar day following expiry of the time-limit for payment laid down in Article 72(1) of up to the day of payment.

However, when the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only upon a demand submitted within two months of receiving late payment.

5. The Agency shall submit to the European Parliament and Council a report on the compliance with the time-limits and on the suspension of the time-limits laid down in Article 72. The report of the Agency shall be annexed to the consolidated annual activity report referred to in Article

CHAPTER 6 IT SYSTEMS

Article 78

Electronic management of operations

Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

Article 74

Description of IT systems (Article 78 FR)

Where computer systems and subsystems are used to process budget implementation operations, a full and up-to-date description of each system or subsystem shall be required.

Each description shall define the content of all data fields and describe how the system treats each individual operation. It shall show in detail how the system guarantees the existence of a complete audit trail for each operation.

Article 75

Periodical save (Article 78 FR)

The data in computer systems and subsystems shall be saved periodically and kept in a safe place.

Article 79

e-Government

The Agency shall establish and apply uniform standards for the electronic exchange of information with third parties participating in procurement and grant procedures. In particular, they shall, to the greatest possible extent, design and implement solutions for the submission, storage and processing of data submitted in grant and procurement procedures, and to this end, shall put in place a single electronic data interchange area for applicants, candidates and tenderers.

Article 80

Good administration

1. The Authorising Officer shall make known without delay the need to supply evidence and/or documentation, their form and prerequisite content, as well as, where appropriate, the indicative timetable for completion of award procedures.
2. Where, due to an obvious clerical error on the part of the applicant or tenderer, the applicant or tenderer omits to submit evidence or to make statements, the evaluation committee or, where appropriate, the Authorising Officer shall, except in duly justified cases, ask the applicant or tenderer to provide the missing information or clarify supporting documents. Such information or clarifications shall not substantially change the proposal or alter the terms of the tender.

Article 81

Indication of means of redress

Where a procedural act of an Authorising Officer adversely affects the rights of an applicant or tenderer, beneficiary or contractor, it shall contain an indication of the available means of administrative and/or judicial redress for challenging that act.

In particular, the nature of the redress, the body or bodies before which it can be brought, as well as time limits for their exercise shall be indicated.

CHAPTER 7 INTERNAL AUDITOR

Article 82

Appointment and powers and duties of the Internal Auditor

1. The Agency shall have an internal auditing function which shall be performed in compliance with the relevant international standards.
2. The internal audit function shall be performed by the Commissions' Internal Auditor. The Internal Auditor may be neither Authorising Officer nor Accounting Officer neither of the Agency nor of the Commission
3. The Internal Auditor shall advise the Agency on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The Internal Auditor shall be responsible, in particular, for:

- (a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them;
 - (b) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each operation for implementation of the budget of the Agency.
4. The Internal Auditor shall perform his or her duties in relation to all the Agency's activities and departments. The Internal Auditor shall enjoy full and unlimited access to all information required to perform his or her duties.
 5. The Internal Auditor shall take note of the consolidated annual activity report of the Authorising Officer and any other pieces of information identified.
 6. The Internal Auditor shall report to the Management Board and the Executive Director on his or her findings and recommendations.

The Internal Auditor shall also report in any of the following cases:

- critical risks and recommendations have not been addressed;
- there are significant delays in the implementation of the recommendations made in previous years.

The Management Board or, where the constituent act allows it, the Executive Board, and the Executive Director shall ensure regular monitoring of the implementation of audit recommendations. The Management Board or, where the constituent act allows it, the Executive Board shall examine the information referred to in the Article 47(1)(a) and whether the recommendations have been fully and timely implemented.

7. The Agency shall make available the contact details of the Internal Auditor to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the Internal Auditor.
8. The reports and findings of the Internal Auditor shall be accessible to the public only after validation by the Internal Auditor of the action taken for their implementation.

Article 76

Work programme (Article 82(3) FR)

1. The internal auditor shall adopt his work programme and shall submit it to the agency.
2. The agency may ask the internal auditor to carry out audits not included in the work programme referred to in paragraph 1.

Article 83
Independence of the Internal Auditor

The independence of the Internal Auditor, his or her liability for action taken in the performance of his or her duties and the right for the Internal Auditor to bring action before the Court of Justice of the European Union shall be determined in accordance with Article 100 of Regulation (EU, Euratom) No 966/2012.

Article 77
Independence (Article 83 FR)

The internal auditor shall enjoy complete independence in the conduct of his audits.

He may not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his appointment, are assigned to him under the Financial Regulation.

Article 78
Action before the Court of Justice of the European Union (Article 83 FR)

Without prejudice to the remedies allowed by the Staff Regulations, the internal auditor may bring an action directly before the Court of Justice of the European Union in respect of any act relating to the performance of his duties as internal auditor. Such an action must be lodged within three months running from the calendar day on which the act in question is notified.

Such actions shall be investigated and heard as provided for in Article 91(5) of the Staff Regulations of Officials of the European Union.

Article 84
Establishment of internal audit capability

1. The Management Board or, where the constituent act allows it, the Executive Board may establish, with due regard to cost effectiveness and added value, an internal audit capability which shall perform its duties in compliance with the relevant international standards.

The purpose, authority and responsibility of the internal audit capability shall be provided for in the internal audit charter and shall be subject to the approval of the Management Board or, where the constituent act allows it, of the Executive Board.

The annual audit plan of an internal audit capability shall be drawn up by the Head of internal audit capability taking into consideration inter alia the Executive Director's assessment of risk in the Agency.

It shall be reviewed and approved by Management Board or, where the constituent act allows it, by the Executive Board.

The internal audit capability shall report to the Management Board and the Executive Director on his or her findings and recommendations.

2. If the internal audit capability of a single Union body is not cost-effective or is not able to meet international standards, the Union body may decide to share an internal audit capability with other Union bodies functioning in the same policy area.

In such cases the Management Board or, where the constituent act allows it, the Executive Board of the concerned Union bodies shall agree on the practical modalities of the shared internal audit capability.

3. The internal audit actors shall cooperate efficiently through exchanging information and audit reports and, where appropriate, establishing joint risk assessments, and carrying out joint audits.

The Management Board or, where the constituent act allows it, the Executive Board, and the Executive Director shall ensure regular monitoring of the implementation of internal audit capability's recommendation.

TITLE V PROCUREMENT

Article 85 **General provisions**

1. As regards procurement, Title V of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 shall apply subject to Article 86.
2. The Agency may be associated, at its request, as contracting authority, in the award of Commission or interinstitutional contracts and with the award of contracts of other Union bodies.
3. The Agency shall participate in the central exclusion database set up and operated by the Commission pursuant to Article 108 of Regulation (EU, Euratom) No 966/2012.

Article 86 **Procurement Procedures**

1. The Agency may conclude a contract, without having recourse to a public procurement procedure, with the Commission, the interinstitutional offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94⁵ for the supply of goods, provision of services or performance of work that the latter provide.
2. The Agency may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs. In such case, Article 133 of Delegated Regulation (EU) No 1268/2012 shall apply *mutatis mutandis*.

TITLE VI SPECIFIC PROVISIONS REGARDING ADMINISTRATIVE APPROPRIATIONS

Article 87 **Administrative appropriations**

1. Administrative appropriations shall be non-differentiated appropriations.
2. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the Agency of the financial year in which it is effected.
3. The Agency shall provide the European Parliament and the Council, by 1 July each year, with a working document on its building policy, which shall incorporate the following information:
 - (a) for each building, the expenditure and surface area covered by the appropriations of the corresponding lines in the budget of the Agency;
 - (b) the expected evolution of the global programming of surface area and locations for the coming years with a description of the building projects in planning phase which are already identified;
 - (c) the final terms and costs, as well as relevant information regarding project implementation of new building projects previously submitted to the European

⁵ Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1).

Parliament and the Council under the procedure established in Article 88 and not included in the preceding year's working documents.

Article 88

Building projects

1. For any building project likely to have significant financial implications for the budget of the Agency, the Agency shall inform the European Parliament and the Council as early as possible about the building surface area required and provisional planning before any prospecting of the local market takes place, in the case of building contracts, or before invitations to tender are issued, in the case of building works.
2. For any building project likely to have significant financial implications for the budget of the Agency, the Agency shall present the building project, including its detailed estimated costs and its financing, as well as a list of draft contracts intended to be used, and shall request the approval of the European Parliament and the Council before contracts are concluded. At the request of the Agency, documents submitted relating to the building project shall be treated confidentially.

Except in cases of force majeure, the European Parliament and the Council shall deliberate upon the building project within four weeks of its receipt by both institutions.

The building project shall be deemed approved at the expiry of this four-week period, unless the European Parliament or the Council take a decision contrary to the proposal within that period of time.

If the European Parliament and/or the Council raise duly justified concerns within that four-week period, that period shall be extended once by two weeks.

If the European Parliament or the Council takes a decision contrary to the building project, the Agency shall withdraw its proposal and may submit a new one.

3. In cases of force majeure, the information provided for in paragraph 1 may be submitted jointly with the building project. The European Parliament and the Council shall deliberate upon the building project within two weeks of its receipt by both institutions. The building project shall be deemed to be approved at the expiry of this two-week period, unless the European Parliament and/or the Council take a decision contrary to the proposal within this period of time.
4. The following shall be considered as building projects likely to have significant financial implications for the budget of the Agency:
 - (a) any acquisition of land;
 - (b) the acquisition, sale, structural renovation, construction of buildings or any project combining these elements to be implemented in the same timeframe, exceeding EUR 3 000 000;
 - (c) any new building contract (including usufructs, long-term leases and renewals of existing building contracts under less favourable conditions) not covered by point b) with an annual charge of at least EUR 750 000;
 - (d) the extension or renewal of existing building contracts (including usufruct and long-term leases) under the same or more favourable conditions, with an annual charge of at least EUR 3 000 000.
5. Without prejudice to Article 19(4), a building acquisition project may be financed through a loan, subject to prior approval by the European Parliament and the Council.

Loans shall be contracted and repaid in accordance with the principle of sound financial management and with due regard to the best financial interests of the Union.

When the Agency proposes to finance the acquisition through a loan, the financing plan to be submitted, together with the request for prior approval by the Agency, shall specify in

particular, the maximum level of financing, the financing period, the type of financing, the financing conditions and savings compared to other types of contractual arrangements.

The European Parliament and the Council shall deliberate upon the request for prior approval within four weeks, extendable once by two weeks, of its receipt by both institutions. The acquisition through a loan shall be deemed to be rejected if the European Parliament and the Council do not expressly approve it within the deadline.

Article 79

Buildings (Article 88 FR)

1. The expenditure referred to in Article 88(1) of the Financial Regulation shall include the costs of the fitting out of buildings. It shall not include the charges.
2. The early information procedure set out in Article 88(1) of the Financial Regulation and the prior approval procedure set out in Article 88(2) thereof shall not apply to acquisition of land free of charge or for a symbolic amount.
3. The prior approval procedure set out in Article 88(2) of the Financial Regulation shall not apply to preparatory contracts or studies necessary to evaluate the detailed cost and financing of the building project.
4. The thresholds of EUR 750 000 or EUR 3 000 000 referred to in points (b), (c) and (d) of Article 88(4) of the Financial Regulation shall include the costs of fitting out of the building. For rents and usufruct contracts, those thresholds shall take into account the costs of the fitting out of the building but not the other charges.

TITLE VII EXPERTS

Article 89

Remunerated external experts

Article 287 of Delegated Regulation (EU) No 1268/2012 shall apply *mutatis mutandis* to the selection of experts. Such experts shall be paid on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity. The selection shall be done on the basis of selection criteria respecting the principles of non-discrimination, equal treatment and absence of conflict of interests.

Article 80

Remunerated external experts (Article 89 FR, Article 287 of the Rules of Application)

1. For values below the thresholds laid down in Article 170(1) of the Rules of Application, remunerated external experts may be selected on the basis of the procedure laid down in paragraph 2.
2. A call for expressions of interest shall be published in the Official Journal of the European Union or where it is necessary to provide publicity among potential candidates, on the internet site of the Agency.

The call for expressions of interest shall include a description of the tasks, their duration and the fixed conditions of remuneration. Those conditions may be based on unit prices.

A list of experts shall be drawn up following the call for expressions of interest. It shall be valid for no more than five years from its publication or for the duration of a multiannual programme related to the tasks.

3. Any interested natural person may submit an application at any time during the period of its validity, with the exception of the last three months of that period. Remunerated external experts shall not be selected to perform the tasks referred to in Article 89 of the Financial Regulation if they are in one of the situations of exclusion referred to in Articles 106 and 107 of

the general Financial Regulation.

4. All exchanges with selected experts, including the conclusion of contracts and any amendments thereto, may be done through electronic exchange systems set up by the Union institutions and bodies.

These systems shall meet the following requirements:

- (a) only authorised persons may have access to the system and to documents transmitted through it;
- (b) only authorised persons may electronically sign or transmit a document through the system;
- (c) authorised persons must be identified through the system by established means;
- (d) the time and date of the electronic transaction must be determined precisely;
- (e) the integrity of documents must be preserved;
- (f) the availability of documents must be preserved;
- (g) where appropriate, the confidentiality of documents must be preserved;
- (h) the protection of personal data in accordance with the requirements of Regulation (EC) No 45/2001 must be ensured.

Data sent or received through such a system shall enjoy legal presumption of the integrity of the data and the accuracy of the date and time of sending or receiving the data indicated by the system.

A document sent or notified through such a system shall be considered as equivalent to a paper document, shall be admissible as evidence in legal proceedings, shall be deemed to be the original of the document and shall enjoy legal presumption of its authenticity and integrity, provided it does not contain any dynamic features capable of automatically changing it.

The electronic signatures referred to in point (b) of the second subparagraph shall have the equivalent legal effect of handwritten signatures.

5. The list of experts and the subject of the tasks shall be published annually. The remuneration shall be published where it exceeds EUR 15 000 for the task performed.
6. Paragraph 5 shall not apply if such publication risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union or harm the commercial interests of experts.

TITLE VIII

GRANTS AND PRIZES AWARDED BY THE AGENCY

Article 90 ***Grants***

Where the Agency may award grants in accordance with the constituent act or by delegation of the Commission pursuant to Article 58(1)(c)(iv) of Regulation (EU, Euratom) No 966/2012, the relevant provisions of that Regulation and Delegated Regulation (EU) No 1268/2012 shall apply.

Article 91 ***Prizes***

Where the Agency may award prizes in accordance with the constituent act or by delegation of the Commission pursuant to Article 58(1)(c)(iv) of Regulation (EU, Euratom) No 966/2012, the relevant provisions of that Regulation and Delegated Regulation (EU) No 1268/2012 shall apply.

TITLE IX PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

CHAPTER 1 PRESENTATION OF THE ACCOUNTS

Article 92 *Structure of the accounts*

The accounts of the Agency shall comprise:

- (a) the financial statements of the Agency;
- (b) the reports on implementation of the budget of the Agency.

Article 93 *Report on budgetary and financial management*

1. The Agency shall prepare a report on budgetary and financial management for the financial year.
2. The Executive Director shall send the report to the European Parliament, the Council, the Commission and the Court of Auditors, by 31 March of the following financial year.
3. The report referred to in paragraph 2 shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.

Article 94 *Rules governing the accounts*

1. The Accounting Officer of the Agency shall apply the rules adopted by the Accounting Officer of the Commission based on internationally accepted accounting standards for the public sector.
2. The accounts of the Agency referred to in Article 92 shall respect the budgetary principles laid down in Articles 5 to 31. They shall present a true and fair view of the budgetary revenue and expenditure operations.

Article 95 *Accounting principles*

The financial statements referred to in Article 92 shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable. The financial statements shall be drawn up in accordance with generally accepted accounting principles as outlined in the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012.

Article 81 **Exception to the accounting principles (Article 95 FR)**

Where, in a specific case, the accounting officers consider that an exception should be made to the content of one of the accounting principles outlined in the Union accounting rules, that exception shall be duly substantiated and reported in the notes to the financial statements referred to in Article 85.

Article 82

Supporting documents (Article 95 FR)

1. Each entry shall be based on dated and numbered supporting documents, produced on paper or on a medium which guarantees the reliability and safeguarding of its content for the periods laid down in Article 21.
2. Operations of the same type, carried out in the same place and on the same day may be summarised in a single supporting document.

Article 96

Financial statements

1. The financial statements shall be presented in euro and shall comprise:
 - (a) the balance sheet and the statement of financial performance, which represent all assets and liabilities, the financial situation and the economic result at 31 December of the preceding year; they shall be presented in accordance with the accounting rules referred to in Article 143 of Regulation (EU, Euratom) No 966/2012;
 - (b) the cash-flow statement showing amounts collected and disbursed during the year and the final treasury position;
 - (c) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.
2. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the Agency's activities.

Article 83

Statement of financial performance (Article 96(1)(a) FR)

The statement of financial performance shall show the income and charges for the year, classified according to their nature.

Article 84

Cash flow statement (Article 96(1)(b) FR)

The cash flow statement shall report cash flows during the period showing the movement between opening and closing treasury amounts.

The treasury shall be made up of the following:

- (a) cash in hand;
- (b) bank accounts and deposits payable on demand;
- (c) other disposable assets which can quickly be converted to cash and whose value is stable.

Article 85

Notes to the financial statements (Article 96(2) FR)

The notes referred to in Article 96(2) of the Financial Regulation shall form an integral part of the financial statements. The notes shall contain at least the following information:

- (a) accounting principles, rules and methods;
- (b) explanatory notes, supplying additional information not contained in the body of the financial statements which is necessary for a true and fair view.

Article 97
Budgetary implementation reports

1. The budgetary implementation reports shall be presented in euro. They shall consist of:
 - (a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;
 - (b) explanatory notes, which shall supplement and comment on the information given in the reports.
2. The budget result shall consist of the difference between:
 - all the revenue collected in respect of that financial year;
 - the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over.

The difference referred to in the first subparagraph shall be increased or decreased on the one hand, by the net amount of appropriations carried over from previous financial years which have been cancelled and, on the other hand, by:

 - payments made in excess of non-differentiated appropriations carried over from the previous financial year, as a result of change in euro rates;
 - the balance resulting from exchange gains and losses during the financial year, both realised and non-realised.
3. The structure of the budgetary implementation reports shall be the same as that of the budget of the Agency itself.

Article 86
Budgetary outturn accounts (Article 97 FR)

The budgetary outturn accounts shall contain:

- (a) information on revenue comprising:
 - (i) changes in the revenue estimates in the budget;
 - (ii) the revenue outturn;
 - (iii) entitlements established;
- (b) information showing changes in the total commitment and payment appropriations available;
- (c) information showing the use made of the total commitment and payment appropriations available;
- (d) information showing commitments outstanding, those carried over from the previous year and those made during the year.

Article 98
Provisional accounts

1. The Accounting Officer of the Agency shall send the provisional accounts to the Accounting Officer of the Commission and to the Court of Auditors by 1 March of the following year.
2. The Accounting Officer of the Agency shall also send by 1 March of the following year a reporting package to the Accounting Officer of the Commission, in a standardised format as laid down by the Accounting Officer of the Commission for consolidation purposes.

Article 99
Approval of the final accounts

1. In accordance with Article 148(1) of Regulation (EU, Euratom) No 966/2012, the Court of Auditors shall, by 1 June of the following year at the latest, make its observations on the provisional accounts of the Agency.
2. On receiving the Court of Auditors' observations on the provisional accounts of the Agency, the Accounting Officer shall draw up the final accounts of the Agency in accordance with Article 50. The Executive Director shall send them to the Management Board, which shall give an opinion on these accounts.
3. The Accounting Officer shall send the final accounts, together with the opinion of the Management Board, to the Accounting Officer of the Commission, the Court of Auditors, the European Parliament and the Council, by 1 July of the following financial year.

The Accounting Officer of the Agency shall also send by 1 July, a reporting package to the Accounting Officer of the Commission, in a standardised format as laid down by the Accounting Officer of the Commission for consolidation purposes.
4. The Accounting Officer of the Agency shall also send to the Court of Auditors, with a copy to the Accounting Officer of the Commission, at the same date as the transmission of his or her final accounts, a representation letter covering those final accounts.

The final accounts shall be accompanied by a note drawn up by the Accounting Officer, in which the latter declares that the final accounts were prepared in accordance with this Title and with the applicable accounting principles, rules and methods.

The final accounts of the Agency shall be published in the *Official Journal of the European Union* by 15 November of the following year.
5. The Executive director shall send to the Court of Auditors a reply to the observations made in its annual report by 30 September of the following year at the latest. The replies of the Agency shall be submitted to the Commission at the same time.

Article 87

Modalities of transmission of accounts (Article 98 and 99 FR)

Provisional accounts and the final accounts referred to in Articles 98 and 99 of the Financial Regulation may be sent by electronic means.

CHAPTER 2 ACCOUNTING AND PROPERTY INVENTORIES

SECTION 1 COMMON PROVISIONS

Article 100
The accounting system

1. The accounting system of the Agency shall serve to organise the budgetary and financial information in such a way that figures can be entered, filed and registered.
2. The accounting system shall consist of general accounts and budgetary accounts. The accounts shall be kept in euro on the basis of the calendar year.
3. The Authorising Officer may also keep analytical accounts.

Article 88

Organisation of the accounts (Article 100(1) FR)

1. The accounting officer of the Agency shall draw up and keep updated documents describing the organisation of the accounts and accounting procedures.
2. Budget revenue and expenditure shall be recorded in the computerised system referred to in Article 89, according to the economic nature of the operation, as current revenue or expenditure or as capital.

Article 89

Computerised systems (Article 100(1) FR)

1. The accounts shall be kept with the help of an integrated computerised system.
2. Where accounts are kept using computerised systems and subsystems, such systems and subsystems shall be described in full.

That description shall define the content of all data fields and specify how the system treats individual operations. It shall state how the system guarantees the existence of a complete audit trail for each operation and for any change made to the computerised systems and subsystems so that it is possible at any time to identify the nature of the change and the person who made it.

The description of computerised accounting systems and subsystems shall indicate any links between those systems and the central accounting system, particularly as regards the transfer of data and the reconciliation of balances.

3. Access to the computerised systems and subsystems shall be confined to persons included on a list of authorised users which is kept and updated.

Article 101

Common requirements for the institutions' accounting system

The accounting rules and the harmonised chart of accounts to be applied by the Agency shall be adopted by the Commission's Accounting Officer in accordance with Article 152 of Regulation (EU, Euratom) No 966/2012.

SECTION 2 GENERAL AND BUDGETARY ACCOUNTS

Article 102

The general accounts

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the Agency.

Article 103

Entries in the general accounts

1. Balances and movements in the general accounts shall be entered in the accounting ledgers.
2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which the entries shall refer.
3. The accounting system shall be such as to leave a clear audit trail for all accounting entries.

Article 90

Accounting ledgers (Article 103 FR)

The Agency shall keep a journal, a general ledger and at least sub-ledgers for debtors, creditors and fixed assets, unless it is not justified by cost-benefit considerations.

The accounting ledgers shall consist of electronic documents which are identified by the accounting officer and offer full guarantees for use as evidence.

Entries in the journal shall be transferred to the general ledger, itemised according to the chart of accounts referred to in Article 50(1)(d) and 101 of the Financial Regulation.

The journal and the general ledger may be split into as many special journals and special ledgers are necessary to meet requirements.

Entries recorded in special journals and special ledgers shall be centralised at least every month in the journal and in the general ledger.

Article 91

Trial balance (Article 103 FR)

The Agency shall establish a trial balance covering all the accounts of the general accounts, including the accounts cleared during the year, with, in each case:

- (a) account number;
- (b) description;
- (c) total debits;
- (d) total credits;
- (e) balance.

Article 92

Accounting reconciliations (Article 103 FR)

1. The data in the general ledger shall be kept and organised in such a way as to justify the content of each of the accounts included in the trial balance.
2. As regards the inventory of fixed assets, the provisions of Articles 99 to 106 shall apply.

Article 93

Entries in the accounts (Article 103 FR)

1. Entries shall be made using the double entry method, whereby any movement or variation recorded in the accounts shall be represented by an entry establishing an equivalence between the amount debited and the amount credited in the various accounts affected by that entry.
2. The euro counterpart of a transaction denominated in a currency other than the euro shall be calculated and entered in the accounts.

Transactions in foreign currencies in accounts which can be revalued shall be revalued at least each time the accounts are closed.

That revaluation shall be based on the rates laid down in accordance with Article 7.

The rate to be used for conversion between the euro and another currency to draw up the balance sheet at 31 December of year N shall be that of the last working day of year N.

3. The Union accounting rules adopted under Article 101 of the Financial Regulation shall specify the conversion and re-evaluation rules to be provided for the purposes of accrual accounting.

Article 94

Accounting records (Article 103 FR)

All accounting records shall specify the origin, content and booking reference of each data item and the references of the relevant supporting documents.

Article 95

Recording in the journal (Article 103 FR)

Accounting operations shall be recorded in the journal by one of the following methods, which are not mutually exclusive:

- (a) day by day, operation by operation;
- (b) in the form of a monthly summary of the total amounts involved in operations, provided that all documents allowing verification of individual operations day by day are kept.

Article 96

Validation of entries (Article 103 FR)

1. Entries in the journal and in sub-ledgers shall be made final by means of a validation procedure prohibiting any change to or deletion of the entry.
2. A closure procedure designed to freeze the chronology of records and guarantee their inviolability shall be implemented at the latest before the final financial statements are presented.

Article 97

Reconciliation of accounts (Article 103 FR)

1. The balance of accounts in the trial balance shall be reconciled periodically and at least at the annual closure, with the data from the management systems used by authorising officers for the management of assets and liabilities and for the daily input into the accounting system.
2. Periodically, and at least whenever the accounts are closed, the accounting officer shall check that the bank balances correspond to the actual situation, in particular as regards:
 - (a) cash at bank, by reconciliation of the statements of account from financial institutions;
 - (b) cash in cash offices, by reconciliation with the data in the cash book.The fixed assets accounts shall be reviewed in accordance with Article 103.
3. The suspense accounts shall be opened and reviewed annually by the accounting officer. Those accounts shall be under the responsibility of the authorising officer and he shall clear them as soon as possible.

Article 104

Accounting adjustments

The Accounting Officer of the Agency shall, after the close of the financial year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts. Such adjustments shall comply with the accounting rules referred to in Article 101.

Article 105

Budgetary accounting

1. The budgetary accounts shall provide a detailed record of the implementation of the budget of the Agency.
2. For the purposes of paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV.

Article 98

Content and keeping of budget accounts (Article 105 FR)

1. The budget accounts shall show, for each subdivision of the budget:
 - (a) in the case of expenditure:
 - (i) the appropriations authorised in the initial budget, the appropriations entered in amending budgets, the appropriations carried over, the appropriations available following

collection of assigned revenue, transfers of appropriations and the total appropriations thus available;

(ii) the commitments and payments in respect of the financial year;

(b) in the case of revenue:

(i) the estimates entered in the initial budget, the estimates entered in amending budgets, assigned revenue and the total amount of estimates thus determined;

(ii) the entitlements established and the amounts recovered in respect of the financial year in question;

(c) the commitments still to be paid and revenue still to be recovered carried forward from previous financial years.

The commitment appropriations and payment appropriations referred to in point (a) of the first subparagraph shall be entered and shown separately.

2. The budget accounts shall show separately:

(a) the use of appropriations carried over and the appropriations for the year;

(b) the clearance of outstanding commitments.

On the revenue side, amounts still to be recovered from previous financial years shall be shown separately.

3. The budget accounts may be organised in such a way as to develop a cost accounting system.

4. The budget accounts shall be kept using computer systems, in books or on file cards.

Article 106 **Property inventory**

1. The Agency shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Union property in accordance with a model drawn up by the Accounting Officer of the Commission.

The Agency shall check that entries in the inventory correspond to the actual situation.

2. The sale of the Agency's tangible assets shall be suitably advertised.

Article 99 **Property inventories (Article 106(1) FR)**

The system of property inventories shall be established by the authorising officer with technical assistance from the accounting officer. That inventory system must supply all the information required for keeping the accounts and safeguarding assets.

Article 100 **Safeguarding property (Article 106(1) FR)**

The Agency shall adopt provisions on safeguarding the assets included in their respective balance sheets and decide which administrative departments are responsible for the inventory system.

Article 101 **Entry of items in the inventory (Article 106(1) FR)**

All items acquired with a period of use greater than one year, which are not consumables, and whose purchase price or production cost is higher than that indicated in the Union accounting rules adopted under Article 101 of the Financial Regulation shall be entered in the inventory and recorded in the fixed assets accounts.

Article 102 **Content of the inventory for each item (Article 106(1) FR)**

The inventory shall contain an appropriate description of each item and specify its location, or for

movable items, the service or person responsible, the date of acquisition and its unit cost.

Article 103

Inventory checks of movable property (Article 106(1) FR)

Inventory checks carried out by the Agency shall be performed in such a way as to ensure that each item physically exists and matches the relevant entry in the inventory. Such checks shall be carried out under an annual verification programme, save for fixed tangible assets and intangible assets, which shall be checked at least on a three-year basis.

Article 104

Resale of tangible assets (Article 106(2) FR)

Officials or other servants and any other staff of the Agency may not acquire items that are resold by the Agency, save where those items are resold by public tender procedure.

Article 105

Procedure for sale of tangible assets (Article 106(2) FR)

1. Sales of tangible assets shall be advertised locally in appropriate manner, if the unit purchase value is EUR 8 100 or more. The period between publication of the last announcement and conclusion of the sales contract shall be no less than 14 calendar days.

The sales referred to in the first subparagraph shall be the subject of a notice of sale published in the Official Journal of the European Union, if the unit purchase value is EUR 391 100 or more. Appropriate advertising may also be placed in the Member States' press. The period between the date of publication of the notice in the Official Journal of the European Union and conclusion of the sales contract shall be no less than one month.

2. The Agency may forgo advertising where the cost of advertising exceeds the expected return from the operation.
3. The Agency shall always endeavour to obtain the best price for sales of tangible assets.
4. Paragraphs 1, 2 and 3 shall not apply to sales between Union institutions and their bodies referred to in Article 208 of the General Financial Regulation.

Article 106

Procedure for disposing of tangible assets (Article 106(2) FR)

A statement or record shall be drawn up by the authorising officer whenever any property in the inventory, including buildings, is sold, given away free of charge, scrapped, hired out or missing on account of loss, theft or any other reason.

The statement or record shall indicate in particular whether the item must be replaced at the expense of an official or other servant of the Union body or any other person.

Where immovable property or major installations are made available free of charge, a contract must be drawn up and the case notified in an annual report sent to the European Parliament and the Council when the draft budget is presented.

Officials or other servants and any other staff of the Agency may not be recipients of the property in the inventory given away free of charge or scrapped.

TITLE X

EXTERNAL AUDIT, DISCHARGE AND COMBATTING FRAUD

Article 107 **External audit**

1. An independent external auditor shall verify that the annual accounts of the Agency, properly present the income, expenditure and financial position of the Agency prior to the consolidation in the final accounts of the Commission.

Unless otherwise provided for in the constituent act, the Court of Auditors shall prepare a specific annual report on the Agency in line with the requirements of Article 287(1) of TFEU.

In preparing the report referred to in the second subparagraph, the Court shall consider the audit work performed by the independent external auditor referred to in the first subparagraph and the action taken in response to his or her findings.
2. The Agency shall send to the Court of Auditors the budget of the Agency, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 10, 14, 19 and 23.
3. The scrutiny carried out by the Court of Auditors shall be governed by Articles 158 to 163 of Regulation (EU, Euratom) No 966/2012.

Article 108 **Timetable of the discharge procedure**

1. The European Parliament, upon a recommendation from the Council, shall, before 15 May of year N+2 save where otherwise provided in the constituent act, give a discharge to the Executive Director in respect of the implementation of the budget for year N. The Executive Director shall inform the Management Board of the observations of the European Parliament contained in the resolution accompanying the discharge decision.
2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the Executive Director of the reasons for the postponement.
3. If the European Parliament postpones the decision giving a discharge, the Executive Director, in cooperation with the Management Board, shall make every effort to take measures as soon as possible to remove or facilitate removal of the obstacles to that decision.

Article 109 **The discharge procedure**

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the Agency, the budget result and the assets and liabilities of the Agency shown in the financial statement.
2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts and financial statements of the Agency. It shall also examine the annual report made by the Court of Auditors, together with the replies of the Executive Director of the Agency, any relevant special reports by the Court of Auditors in respect of the financial year concerned and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.
3. The Executive Director shall submit to the European Parliament, at its request, in the same manner as provided for in Article 165(3) of Regulation (EU, Euratom) No 966/2012 any

information required for the smooth application of the discharge procedure for the financial year concerned.

Article 110
Follow-up measures

1. The Executive Director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.
2. At the request of the European Parliament or the Council, the Executive Director shall report on the measures taken in the light of those observations and comments. The Executive Director shall send a copy thereof to the Commission and the Court of Auditors.

Article 111
On-the-spot checks by the Commission, the Court of Auditors and OLAF

1. The Agency shall grant Commission staff and other persons authorised by it, as well as the Court of Auditors, access to its sites and premises and to all the data and information, including data and information in electronic format, needed in order to conduct their audits.
2. The European Anti-Fraud Office (OLAF) may carry out investigations including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁶ and Council Regulation (Euratom, EC) No 2185/96⁷ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with grant or contract awarded under this Regulation.
3. Without prejudice to paragraphs 1 and 2, agreements with third countries and international organisations, contracts, grants and procurements of the Agency shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

TITLE XI

TRANSITIONAL AND FINAL PROVISIONS

Article 112
Information requests by the European Parliament and the Council

The European Parliament, the Council and the Commission shall be entitled to obtain any necessary information or explanations from the Agency regarding budgetary matters within their fields of competence.

Article 113
Rules implementing the financial regulation of the Agency

The Management Board shall, as far as is necessary and with the Commission's prior consent, adopt detailed rules for implementing the financial regulation of the Agency, on a proposal from its executive director.

⁶ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p.1)

⁷ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292 , 15.11.1996 p. 2)

Article 114
Repeal

The Financial Regulation applicable to the Agency of 24 September 2008 is repealed with effect from 01 March 2014. However, Article 40 shall continue to apply until 31 December 2014 and paragraphs 4 and 7 of Article 27 shall continue to apply until 31 December 2015.

Article 107
Repeal (Article 114 FR)

The Implementing Rules adopted by the Management Board in December 2007 **(MB/05/2007)** are repealed with effect from 01 January 2015.

Article 115
Entry into force

This Regulation shall enter into force on the day following the date of its adoption. It shall apply from 01 March 2014. However, Articles 47 and 82(5) shall apply from 1 January 2015 and Article 32 and paragraphs 5 and 8 of Article 33 shall apply from 1 January 2016.

Article 108
Entry into force (Article 115 FR)

These Implementing Rules shall enter into force on the day following that of their adoption by the management board. They shall apply as of 01 January 2015.