

## DECISION OF THE ADMINISTRATIVE BOARD OF 15 NOVEMBER 2018 ADOPTING THE EMSA INTERNAL CONTROL FRAMEWORK

THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY (EMSA),

Having regard to Regulation (EC) N° 1406/2002 of the European Parliament and of the Council establishing a European Maritime Safety Agency, as amended, in particular Articles 10, 14, 18 and 19 thereof;

Having regard to the EMSA Financial Regulation, Articles 30 and 44 thereof, on Internal control of budget implementation and the powers and duties of the Authorising Officer;

Having regard to the minimum standards for internal management and control systems adopted by the EMSA Administrative Board on 20 November 2009 aiming to formalise the Agency's Internal Control System;

Having regard to the Communication to the Commission from Commissioner Oettinger on the Revision of the Internal Control Framework of 19 April 2017 (C(2017) 2373 final);

Whereas:

- (1) Article 30 of the EMSA Financial Regulation sets the overall aim and requirements for the Agency's Internal Control Framework, including its objectives and elements;
- (2) Article 40.2 of the EMSA Financial Regulation stipulates that the authorising officer shall, in accordance with the minimum standards adopted by the Administrative 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;
- (3) The Commission departments have revised their own Internal Control Framework;
- (4) The EMSA minimum standards for internal management and control systems adopted by the Administrative Board in 2009 do not reflect the revised minimum standards laid down by the Commission;

HAS DECIDED:

### Article 1

To adopt the Internal Control Framework provided in Annex, which will replace the minimum standards for internal management and control systems that were adopted by the Administrative Board at its meeting of 20 November 2009.

### Article 2

This Decision shall take effect on 1<sup>st</sup> January 2019.

Done at Lisbon, on 15 November 2018

A handwritten signature in black ink, appearing to read 'A. Nordseth', is written over a horizontal line.

Andreas Nordseth

Chairman of the Administrative Board

Annex: EMSA Internal Control Framework (ICF)

## EMSA Internal Control Framework

### A. CONTROL ENVIRONMENT

The control environment is the set of standards of conduct, processes, and structures that provide the basis for carrying out internal control across an organisation. The Executive Director and management set the tone on the importance of internal control including expected standards of conduct.

#### COMMITMENT TO INTEGRITY AND ETHICAL VALUES

1. The Agency, at all levels, demonstrates a commitment to integrity and ethical values.

Characteristics:

- Tone at the top. The Executive Director and management at all levels demonstrate their commitment to integrity and ethical values through their instructions, actions and behaviour.
- Standards of conduct. The Agency's expectations on integrity and ethical values are set out in standards of conduct and understood at all levels of the organisation.
- Alignment to standards. Processes are in place to assess the alignment of individuals and organisational entities (Departments, Units) to the Agency's expected standards of conduct and to address deviations in a timely manner.

#### STRUCTURE, AUTHORITY, RESPONSIBILITIES AND OVERSIGHT

2. The Executive Director establishes management and supervision structures and reporting lines covering all activities, operational and control objectives, delegates authority and assigns responsibilities as appropriate in the pursuit of the objectives and with oversight by the Administrative Board.

Characteristics:

- The Administrative Board provides oversight for the internal control systems and its performance via assessment of the Consolidated Annual Activity Report.
- Management structures are comprehensive. The design and implementation of the management and supervision structures cover all programmes and activities.

- Reporting Lines. The Executive Director, assisted by the Heads of Department, designs and evaluates reporting lines to enable execution of authorities and responsibilities and flow of information to manage the activities of the Agency.
- Authorities and responsibilities. The Administrative Board and Executive Director, as appropriate, delegate authority, establish responsibilities, and use appropriate processes and technology to assign responsibility and segregate duties as necessary at the various levels of the organisation.

### **COMMITMENT TO COMPETENCE**

3. The Agency demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.

Characteristics:

- Competence framework. The Agency assesses the competences necessary to support the achievement of objectives and regularly evaluates them across the organization, acting as necessary to address shortcomings.
- Professional development. The Agency provides the mentoring and training needed to attract, develop, and retain sufficient and competent personnel.
- Mobility. The Agency promotes and plans staff mobility to strike the right balance between continuity and renewal.

### **ACCOUNTABILITY**

4. The Agency holds individuals accountable for their internal control responsibilities in the pursuit of objectives.

Characteristics:

- Enforcing accountability. The Agency establishes the mechanisms to communicate authorities and responsibilities, hold individuals accountable for performance of internal control responsibilities and implements corrective action as necessary.
- Staff appraisal. The efficiency, ability and conduct in the service of staff is assessed annually reflecting expected standards of conduct, and considering the achievement of objectives, including whether the performance level has been satisfactory. Cases of underperformance are addressed.
- Staff Promotion. Promotion is decided after consideration of the comparative merits of eligible staff taking account, in particular, the appraisal reports.

## **B. RISK ASSESSMENT**

Risk assessment involves a dynamic and iterative process for identifying and assessing risks to the achievement of objectives, forming a basis to determine how risks should be managed. The assessment of risk related to fraud is fully embedded in the Agency's Risk Assessment policy.

### **OBJECTIVES**

5. The Agency specifies operational and control objectives with sufficient clarity to enable the monitoring of the progress and the identification and assessment of risks relating to the achievement of those objectives.

Characteristics:

- **Mission.** The Agency, Departments and Units have up-to-date mission statements which are linked across all hierarchical levels, including the tasks and objectives assigned to individual staff members. Mission statements are aligned with the Agency's responsibilities under the Treaties and the policy objectives set in relevant directives and regulations.
- **Objectives** are set at every level. The Agency's objectives are clearly set and updated when necessary (e.g. significant changes in priorities, activities and/or organigram). They are consistently broken down to the different levels within the Agency and are communicated and understood by management and staff.
- **Risk tolerance and materiality.** When setting objectives, management considers the acceptable levels of variation relative to the achievement of operational objectives as well as the appropriate level of materiality for reporting purposes, considering cost-effectiveness.
- **Monitoring.** Objectives and performance indicators are set in a way that makes it possible to monitor progress towards their achievement (multi-annual strategic objectives, annual objectives and annual planned output).
- **Objectives** are set for all activities. Objectives and indicators cover all activities, operations and financial performance goals.

### **RISK MANAGEMENT**

6. The Agency identifies risks to the achievement of their objectives across its Departments and Units and analyses risks as a basis for determining how they should be managed, including reputational risks, those related to potential fraud as well as those resulting from changes that could impact the internal control system.

Characteristics:

- Risk identification. The Agency identifies and assesses risks at the various organisational levels (Unit Risk Registers, EMSA Risk Register) analysing internal and external factors and involving management at the appropriate level.
- Risk assessment. The Agency estimates the significance of the risks identified and determines how to respond to significant risks considering how each one should be managed and whether to accept, avoid, reduce or share the risk. The intensity of mitigating controls is proportional to the risks.
- Risk of fraud. The risk identification and assessment consider the various types of fraud and assesses incentives and pressures, including opportunities as well as attitudes and rationalisations.
- Anti-fraud strategy. The Agency sets up and implements measures to counter fraud and any illegal activities affecting the financial interests of the EU. This is done by putting in place a sound anti-fraud strategy to improve the prevention, detection and conditions for investigating fraud, and to set out reparation and deterrence measures, with proportionate and dissuasive sanctions.
- Assess changes. The risk identification process considers changes in the internal and external environment; in policies and activities and operational priorities; as well as changes in management and respective attitudes towards the internal control systems.

## **C. CONTROL ACTIVITIES**

Control activities are the actions established through policies and procedures that ensure the implementation of management's instructions for mitigating risks related to the achievement of activities, operational and internal control objectives as defined in Article 30 of the Agency's Financial Regulation. Control activities are performed at all levels of the Agency, at various stages within business processes, and over the technological environment. They may be preventive or detective, encompass a range of manual and automated activities as well as segregation of duties.

### **CONTROL ACTIVITIES**

7. The Agency establishes cost-effective control activities and implements them through business processes, including automated ones, as well as through policies and procedures.

Characteristics:

- Control activities are performed to mitigate the risks identified. These activities are tailored to the specific activities and risks of the Agency. They consist of a variety of controls, including supervision arrangements, and considering both manual and automated controls. Automated control activities are designed and implemented to help ensure the completeness, accuracy and availability of the technology processing.

- Policies are established and implemented through control procedures. They assign responsibility and accountability for the control activities to the function in which the relevant risk resides. Responsible and competent personnel performs the control activities in a timely manner and with diligence, taking corrective action where needed. Management periodically reassesses the policies and procedures to determine their continued relevance.
- Segregation of duties. When putting in place control measures, management considers whether duties are correctly divided between staff members to reduce risks of error and inappropriate or fraudulent actions.
- Business continuity plans based on a business impact analysis are in place, up-to-date and used by trained staff to ensure that the Agency can continue working to the extent possible in case of a major disruption.
- Security of IT systems. The Agency applies adequate controls to ensure security of IT systems for which they are the system owners, in particular as regards data protection, availability, confidentiality and integrity.
- Control over technology. To ensure that technology used in business processes, including automated controls, is reliable, the Agency selects and develops control activities over the acquisition, development and maintenance of technology and related infrastructure.
- Control activities are cost-effective and adapted to the risk environment. Control activities include a range and variety of controls and may include a balance of approaches to mitigate risks, considering both manual and automated controls, and preventive and detective controls. Control systems are cost-effective and their intensity is proportional to the underlying risks.

## **D. INFORMATION AND COMMUNICATION**

Communication occurs both externally and internally. It provides the public and stakeholders with reliable and qualitative information on the Agency's objectives and actions.

### **INFORMATION AND COMMUNICATION**

8. The Agency produces, uses and safeguards relevant information, and communicates this information internally and with external parties as appropriate.

Characteristics:

- External communication. The Agency ensures its external communication is reliable, coherent, relevant to the audience and cost-effective. The Agency establishes clear responsibilities to align its communication activities with the political priorities of the EU.

- Internal communication. The Agency communicates information internally on their objectives and actions, including but not limited to objectives and responsibilities for internal control, necessary to support the functioning of the components of internal control.
- Communication on internal control. The Agency communicates with external parties on the functioning of the components of internal control. Relevant and timely information is communicated externally, considering the timing, audience, and nature of the communication, as well as legal, regulatory, and fiduciary requirements.
- Information and document management. Information systems process relevant data, captured from both internal and external sources, to obtain the required and expected quality information, in compliance with applicable security, document management and data protection rules. This information is timely, reliable, current, accurate, complete, accessible, protected, verifiable, filed and preserved, considering applicable rules, costs and benefits. The relevant information is communicated inside and outside of the Agency.

## **E. MONITORING ACTIVITIES**

Continuous and specific assessments are used to ascertain whether each of the five components of internal control is present and functioning. Continuous assessments, built into business processes at different levels of the Agency, provide timely information. Findings are assessed and deficiencies are communicated and corrected in a timely manner, with serious matters reported as appropriate.

### **ASSESSMENT OF INTERNAL CONTROL**

9. The Agency carries out continuous and specific assessments to ascertain whether the internal control systems and their components are present and functioning.

Characteristics:

- Continuous and specific assessments. The Agency continuously monitors the performance of the internal control systems, registering and assessing the results of controls, control deviations and exceptions. In addition, when necessary the Agency carries out specific assessments, considering changes in the control environment. Ongoing assessments are built into the business processes and adjust to changing conditions.
- Sufficient knowledge and information. Staff performing ongoing and separate assessments has sufficient knowledge and information to carry out the assessment, namely on the scope and completeness of the results of controls, control deviations and exceptions.
- Risk-based and periodical assessments. The Agency varies the scope and frequency of specific assessments depending on risk. Specific assessments are performed periodically to provide objective feedback.

- Exception reporting is one of the management tools used to draw conclusions about the effectiveness of internal control and/or the changes needed in the internal control system. A system is in place to ensure that all instances of overriding controls or deviations from established processes and procedures are documented in exception reports. All instances must be justified and approved before action is taken. A central register is kept.

## **INTERNAL CONTROL DEFICIENCIES**

10. The Agency assesses and reports internal control deficiencies in a timely manner to those parties responsible for taking corrective action.

Characteristics:

- **Deficiencies.** The Executive Director considers the results of the assessments of the internal control system. Deficiencies are communicated to management and to departments responsible for taking corrective action and are reported in the Consolidated Annual Activity Report, as appropriate.
- **Remedial actions.** The Executive Director ensures follow-up whether deficiencies are remediated on a timely basis.