



# Corporate Governance Report 2014

FMA Executive Board and Supervisory Board Report pursuant to  
the Federal Public Corporate Governance Code (B-PCGK)

The Federal Corporate Governance Code (B-PCGK; *Bundes Corporate Governance Kodex*) was adopted by the Austrian Federal Government on 30 October 2012. Its aim is to make the management and supervision of state-owned enterprises more transparent and verifiable, while also providing a clearer definition of the role played by the state and state enterprises in the capacity of owner.

In accordance with point 3.4.3, the definition of “state-owned enterprises” also includes “public-law institutions (...) as defined in Article 126b of B-VG that are subject to supervision by the federal government”. Additionally, pursuant to point 4.1, the B-PCGK applies to state-owned enterprises with more than ten employees or annual income of EUR 300,000 unless such application is prevented by statutory regulations that are binding on the enterprise concerned. Unlike the Austrian Corporate Governance Code (ÖCGK), which is primarily aimed at (listed) joint stock companies, the B-PCGK is aimed at a heterogeneous mix of entities, also including enterprises with a range of different regimes under company law. Consequently, the mandatory “L” rules contained in the B-PCGK are not a direct rendering of the statutory rules that are otherwise directly applicable to the enterprise. It must therefore be concluded that the intention when drawing up the B-PCGK was that mandatory statutory provisions governing the organisational set-up of an enterprise should take precedence over the corresponding rules contained in the Code.

The Austrian Financial Market Authority (FMA) falls within the intended scope of the Code as envisaged by the federal government. The FMA’s statutory bodies avail themselves of this opportunity to commit to the terms of the B-PCGK in their area of responsibility insofar as the Code’s application is not limited by specific statutory rules, notably the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*).

# 1 DECLARATION BY THE EXECUTIVE BOARD AND SUPERVISORY BOARD OF THE FMA

## 1.1 DECLARATION

The Executive Board and Supervisory Board of the FMA, in their capacity as the FMA’s statutory bodies (management and supervisory body), commit to the principles enshrined in the B-PCGK and declare that, as of the 2014 financial year-end, the applicable rules of the B-PCGK that are not superseded by provisions of the FMABG have been met in their respective areas of responsibility. The terms of the B-PCGK shall also be deemed to be observed provided that the reasons for any deviation are explained.

In keeping with this (L-12.1), the following deviation from an applicable C rule is explained and justified.

## 1.2 DEVIATION

Pursuant to C rule 8.3.3.2, the terms of any D&O liability insurance policy should include a deductible of at least 10% of the claim up to a maximum of one and a half times the annual remuneration of the manager concerned. An appropriate deductible should be agreed with members of the supervisory body when taking out such an insurance policy.

In accordance with the legal mandate, the FMA has therefore taken out an insurance policy for its bodies and employees. The policy terms do not include a deductible of “at least 10% of the claim up to a maximum of one and a half times the annual remuneration of the manager concerned”.

## 2 DESCRIPTION OF THE EXECUTIVE BOARD OF THE FMA

The FMA is headed by Helmut Ettl, born on 23 August 1965, and Klaus Kumpfmüller, born on 29 November 1969.

Helmut Ettl was appointed for the first time on 14 February 2008 and reappointed on 14 February 2013. His current term of office ends on 13 February 2018. Klaus Kumpfmüller was appointed for the first time on 14 February 2013. His current term of office ends on 13 February 2018.

In accordance with Article 5 para. 1 FMABG, the FMA Executive Board is a collegial body comprising two persons. Pursuant to Article 5 para. 2 of the FMA’s Rules of Procedure, the Executive Board takes decisions by unanimous vote. There is no provision for an allocation of responsibilities among the managers (L-12.2.3). In accordance with Article 3 of the FMA’s Rules of Procedure and regardless of the deputising arrangements set out in these Rules, the Executive Board bears collective responsibility.



## 4.2 GENERAL GENDER APECTS

In terms of gender-neutral language all job advertisements, announcements and publications published by the FMA are either gender-neutrally formulated or contain a gender-neutrality disclaimer as applicable. All advertised positions explicitly welcome female applicants to apply.

## 4.3 PROPORTION OF WOMEN ON THE FMA EXECUTIVE BOARD AND SUPERVISORY BOARD AND IN EXECUTIVE POSITIONS

In accordance with Article 6 FMABG, the members of the FMA's Executive Board are appointed by the Federal President on the basis of proposals from the Federal Government. There are currently no women on the Executive Board.

The FMA's Supervisory Board is appointed by the Federal Minister of Finance pursuant to Article 8 FMABG, with the exception of the co-opted members. Oesterreichische Nationalbank nominates the deputy chair and two further members of the Supervisory Board. The Supervisory Board also has two co-opted non-voting members proposed by the Austrian Federal Economic Chamber (WKO). As at 31 December 2014, the proportion of women on the Supervisory Board was 25% (two women out of eight members). As at 31 December 2014, there were 34 women holding managerial positions at the FMA (including Executive Board, directors, heads of divisions and team leaders). This equates to a proportion of 39% of all managerial positions at the FMA. Across the FMA as a whole, women account for 52.11% of the staff.

The working group on equal opportunities is to implement a range of measures to increase the proportion of women in managerial positions. During the appointment process for senior positions, attention is already paid to ensure that preference is given to female applicants holding the same level of qualifications as their male counterparts, since there is currently still a considerable gender imbalance at this level. The ratio of female to male applicants is disclosed to all employees of the FMA following each successful appointment of senior executives.

## 5 COMPATIBILITY OF CAREER AND FAMILY

The FMA's family friendly corporate culture is systematically advanced within the scope of the audit "berufundfamilie", which is carried out by the Federal Ministry for Economy, family and Youth. The conversion of the measure plan arising from this was continued in 2014 by the following steps:

- Introduction of a telework directive in May, 2014 in order to guarantee more flexibility in the compatibility of family and occupation for employees of the FMA.
- Implementation of a "contact hold programme" in order to improve the communication with employees who are absent because of parental-leave or other reasons.
- Fathers have the possibility to claim a parental-leave (so-called "dad's month").

## 6 PREVENTION OF CORRUPTION – IMPLEMENTATION OF A WHISTLEBLOWER SYSTEM

The FMA has provided a whistleblower system since 1 February 2014 to allow the anonymous submission of information, for example to help in the fight against corruption. This Internet-based tool allows external parties as well as employees to submit statements of facts. The received information is made available to the internal audit division for further handling (reporting directly to the FMA Executive Board) if it concerns internal matters or FMA employees. The FMA Executive Board is immediately informed by the internal audit and therefore is able to take all the appropriate measures.

Furthermore, whistleblowers can also be contacted to clarify facts, if they have set up a secure electronic mailbox within the whistleblower system. Whistleblowers are provided with full anonymity - their identity is not divulged through the whistleblower system.