

## **FMA Recommendation on Dividend Distributions and Share Buy-backs during the COVID-19 Pandemic**

On 27.03.2020 the European Central Bank (ECB) / Single Supervisory Mechanism (SSM) issued a recommendation (ECB/2020/19) on dividend distributions and share buy-backs during the COVID-19 pandemic<sup>1</sup>. The FMA has taken this recommendation on board and is applying it within the scope of its supervisory of less significant institutions (LSIs).

The FMA explicitly recommends that until 01.10.2020, credit institutions, irrespective of their legal form, should not

- agree to any dividend distributions<sup>2</sup> and should not make any pledges, irrespective of whether they are binding or not, for the 2019 and 2020 financial years;
- conduct any share buy-backs that are aimed at remunerating shareholders.

Such recommendation are addressed to every credit institution, irrespective of whether or not they belong to any association, sector or group. Where there is a legal obligation arising for distribution, then the FMA must be informed about the relevant reasons for it in advance.

The FMA (in consultation with ECB/SSM) will subsequently evaluate whether a further suspension of dividend payments or share buy-backs is necessary extending beyond 01.10.2020.

Especially during the prevailing crisis situation due to COVID-2019, it is essential that credit institutions ensure that their capital resources are maintained, in order to be able to make liquidity available to households and companies affected by the crisis. It is therefore essential that they hold back from distributing capital. The FMA reminds credit institutions about their responsibility for the real economy and expects them to contribution accordingly to overcome the crisis situation.

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<sup>1</sup> [https://www.ecb.europa.eu/ecb/legal/pdf/ecb\\_2020\\_19\\_f\\_sign.pdf](https://www.ecb.europa.eu/ecb/legal/pdf/ecb_2020_19_f_sign.pdf)

<sup>2</sup> This term accordingly covers all participations in profits of equity instruments (in particular the distribution of profits pursuant to Article 187 AktG, the sharing of profits pursuant to Article 35 para. 1 no. 1 and Article 82 GmbHG, sharing of profit pursuant to Article 27 GenG) and all pay-outs that are passed by a resolution by the competent body of the company.