The Austrian Financial Market Authority
Integrated Supervision in Austria

The advantages of integrated supervision are clear – it is the structure of the future for Austria's financial market.

- Austria's integrated supervisory authority reflects Austria's strongly interlinked Austrian financial market
- Cross-sector microprudential and macroprudential supervision permit a consistent approach to risk analysis backed up by effective measures
- The integrated approach also enables a coordinated approach in shaping European and international supervisory law
- Conduct supervision and prudential supervision under a single roof are the cornerstones for effective supervision addressing all causal links

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1 Aims of the Austrian Financial Market Authority

The FMA is the independent, autonomous and integrated supervisory authority for the Austrian financial market. It is an integral part of the European System of Financial Supervisors, and represents Austria in relevant committees in European institutions, and cooperates closely and actively with the network of supervisors.

The statutory aims of the FMA are to:

- contribute towards financial market stability in Austria,
- increase confidence in the efficient functioning of Austria's financial market,
- protect investors, creditors and consumers in accordance with legal provisions, and
- act in a preventive manner with respect to compliance with supervisory standards, while also punishing breaches committed in a consistent manner.

In international terms, while Austria has a small national economy with a small internal market, the financial market in comparison is disproportionally large and highly interconnected. Austria was therefore identified by the IMF at the end of 2013 as one of the 29 countries with a financial sector of systemic importance for the global economy[1]. In light of the economic significance of its financial market, Austria is required to focus strongly on regulatory development.

The development of the European supervisory landscape focuses strongly on centralisation and the creation of a level playing field, with the associated increasing development of cross-sectoral Directives.

To achieve its supervisory aims and be able to address the national and international challenges optimally in the future, Austria has chosen an integrated supervision approach for the entire financial market. Integration exists on at least 3 levels:

- Integration of all sectors of the financial market
- Integration of prudential and conduct supervision
- Integration of micro and macro supervision

The significant advantages of this approach can be summarised as follows:

Integrated supervision of the financial market as a whole permits the comprehensive supervision of companies, to address their risks and misconduct with suitable measures, while taking into account applicable legislation and the strongly interconnected nature of the market.

[1] "the systemic core of the global financial system", http://www.imf.org/external/np/pp/eng/2013/111513.pdf

Such an authority is available as the single point of contact for all eventualities for companies that are active in the financial market, while also acting as a centralised body for enquiries and complaints from investors and consumers.

Only an integrated approach to prudential supervision and conduct supervision allows a full picture to be gained of the chain of effects arising from risks that can be traced back to a lack of conduct.

With an integrated supervisory authority, Austria is able to make a particularly efficient and effective contribution towards regulatory development.

In addition to the far-reaching advantages that such an approach offers, there are from time to time conflicts of interest as a result of integration: The most recent such example was Austria's implementation of the duties of the authority for bank resolution within the organisational structure of the integrated Financial Market Authority. Potential conflicts of interest, which have already been addressed by organisational measures, are offset by far further-reaching advantages: the constant information exchange allows valuable time to be gained in preparation for the occurrence of a crisis situation, in the event that an institution falls into difficulties. At the same time, the expenditure involved for the credit institutions for reporting to the authority is minimised, and unnecessary duplication avoided. The process of accompanying a credit institution from the issuing of its licence through to its liquidation requires an in-depth knowledge of the specific case in hand, the consistent interpretation and application of legal provisions as well as adequate consideration of the effects on the Austrian financial market in all phases of the life cycle.

Microprudential and macroprudential supervision may all have an inherent conflict of aims, since the timeframe for analysis is slightly different in each case. It may seem necessary to tighten up regulation from a macroprudential perspective, while not seeming necessary from a microprudential perspective. This conflict of objectives is compensated for, however, by the synergy effects that result from the direct information exchange between both perspectives: The supervisor on the macro level profits from the observations of his micro level counterpart, for example from reporting activities; reciprocally, a macro supervisor is able to share information about systemic risk with the micro supervisor. At the same time, as a result of close cooperation, it is possible to avoid that risks are addressed by means of supervisory measures, either in a contradictory manner, or in a redundant manner.

Using the aims of supervision as a starting point, the advantages of integrated supervision in Austria are presented and explained using examples relating to supervisory practices.

1.1 Contributing to financial market stability in Austria

Cross-sectoral supervision of the finance market in its entirety

The strong degree of interconnectedness between the financial sectors, in particular as a result of their ownership structures, sales collaborations, financial transactions and undertaking of guarantees, makes integrated cross-sectoral supervision a necessity, in order to be able to be able to capture and assess the economic transactions and the capacity to withstand risk between the individual companies.

Examples of the interconnectedness between the sectors:

- 3 financial conglomerates that are subject to supplementary supervision, have a total market share of around 20% of the Austrian banking sector or approx. 30% in the insurance sector (in terms of their respective total assets)
- Investment funds hold EUR 5.3 billion in securities of Austrian credit institutions and EUR 0.3 billion in securities of Austrian insurance undertakings
- Austrian credit institutions or insurance undertakings hold a stake of 25% or higher in 18 of the 24 investment fund management companies; all 5 real estate investment fund management companies are majority owned by credit institutions or investment fund management companies

- Austrian insurance undertakings hold stakes of more than 25% in 6 of the 14 pension funds, while one insurance undertaking is majority owned by a pension fund
- Austrian credit institutions, insurance undertakings or pension funds hold a stake of more than 25% in 7 of the 9 occupational pension funds.
- 27 of the 72 members of the Vienna Stock Exchange are Austrian credit institutions
- The exposures of Austrian insurance undertakings towards Austrian credit institutions stand at approx. 13% of all assets, or approx. EUR 13.8 billion, while several insurance undertakings use banks as sales partners.

The integrated supervisory regime was created to counteract the considerable danger of an unsupervised cross-sector risk transfer.

The integrated supervision approach enables:

- a consistent and quick approach to supervision
- uniform standards for all sectors
- a consistent legal interpretation for all subject matters
- uniform administrative practices
- minimisation of the potential for supervisory arbitrage
- avoidance of potential room for manoeuvre for supervised entities by outsourcing of business activities or risks into other sectors.

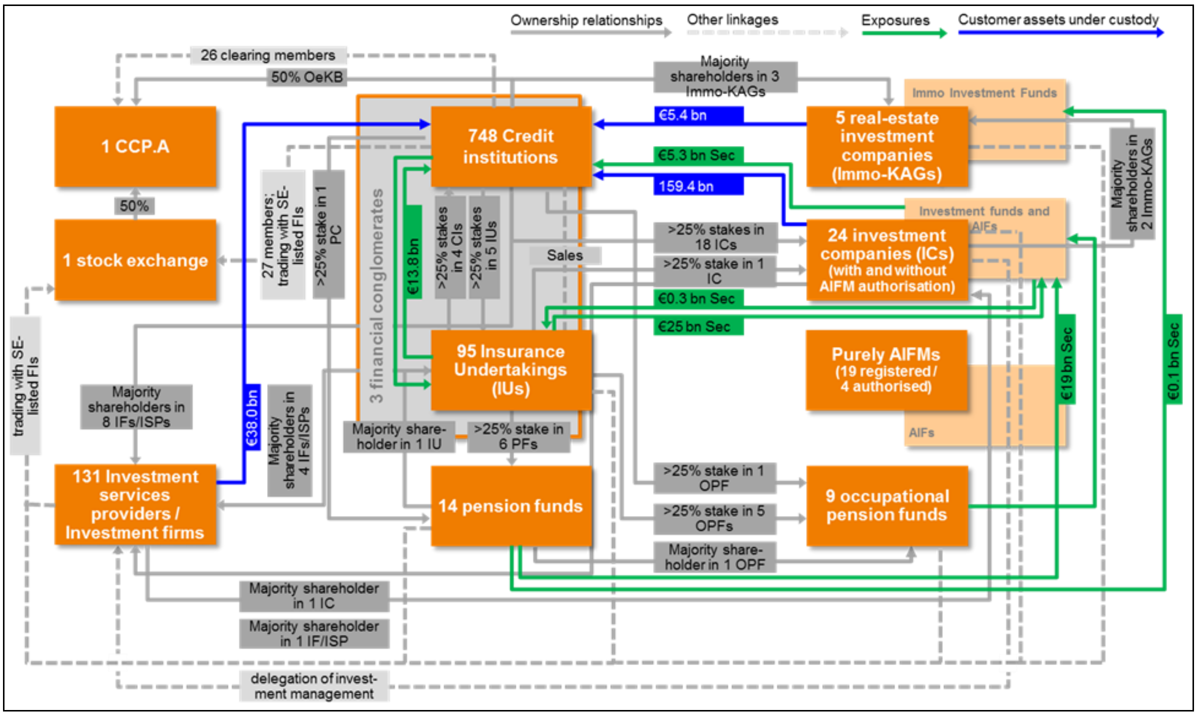

Figure 1: Schematic depiction of the interconnectedness of the Austrian financial market

An integrated supervisory authority is faced with a strongly interconnected Austrian financial market, which it supervises in its entirety, observing uniform standards and legal interpretation, thereby ensuring the stability of the financial market.

Integration of prudential and conduct supervision

The aim of prudential supervision is to ensure the capacity to pay of supervised entities at all times as well as their compliances with contractual commitments entered into, while the aim for conduct supervision is to ensure that identically fair and transparent conditions exist for all market participants. Only by amalgamating both supervisory activities under a single roof is it possible to ensure the comprehensive information exchange to capture the overall situation of a supervised entity and thereby to set coordinated supervisory measures, in order to ensure the compliance with all legal obligations, to capture risks effectively and to fully address problems in their entirety.

Issuances of supervised entities relevant to own funds requirements: Issuances that are relevant to own funds, e.g. participation certificates, that are publicly offered, have several aspects that are of supervisory relevance: The planned issuances must be evaluated in accordance with the regulations on capital requirements, the capital market prospectus must be checked and approved with regard to its completeness, consistency and clarity, disclosure obligations monitored with regard to ensuring that all shareholders and investors are informed at the same time, and sales and marketing must be supervised in terms of conduct supervision.

Conduct supervision addresses both the approval of prospectuses as well as the checking of compliance with conduct and compliance regulations. Only an integrated approach to supervision for issuances with a bearing on own funds permit supervisory measures to be taken quickly and effectively in the event of capital requirements being violated, in the event that information is inaccurate or made available in an untimely fashion in relation to the financial situation of the company, or in the event of an obligation to issue a supplement to a prospectus or in the case of other risks.

Example: Mis-Selling of Financial Instruments: The FMA detected that supervised credit institutions tend to advertise and sell some financial instruments as being comparably safe investments as savings books.

Since, however, for example participation capital participates fully in losses, and in the event of the liquidation of the credit institution, is only repayable once all other creditors have been repaid, the customer must be informed about this risk in particular. A lack of an explanation of this circumstance amounts to a violation of the conduct required under law.

Only an integrated supervisory authority is able at the planning stage of the issuance of participation certificates to become aware that such a product is intended to be marketed to customers in the future. An integrated supervisory authority is therefore able to profit from the knowledge that has already been obtained from conduction supervision, namely the risk of an inadequate explanation of the entailed risks of financial instruments, and to ensure that special brochures are produced for own funds instruments and are marketed in compliance with rules of conduct and with an appropriate explanation of the risks entailed.

Only by integrating both kinds of supervisory activities, namely prudential supervision and conduct supervision, under a single roof enables:

- a comprehensive exchange of information
- all-round knowledge of a supervised entity
- preventative action
- coordinated competent measures
- consequent comprehensive solutions to problems

Cross-sector management of micro and macroprudential risks

The aim of macroprudential supervision is to ensure the stability of the financial system as a whole, and to counteract adverse developments, such as credit bubbles. The addressing of macroprudential risks can only be conducted at the same time as, and in close consultation with micro-prudential supervision, since the stability of the financial market as a whole is a result of the degree of stability of the individual market participants. The results of micro supervision must be associated on a cross-sector level with the funding of analysis of the financial system as a whole, in order to be able to detect systemic risks, and to take appropriate measures for the market and market participants alike.

Example - the Systemic Risk Buffer in the Banking Sector: It is essential to avoid the double counting of risks in imposing additional macroprudential buffers, and to do so requires regular dialogue between micro and macro supervisors.

The decision-making process for macroprudential supervision (on a national basis by the FMSB, on a European level involving the ESRB, SSM and as necessary the European Commission) is facilitated visibly by the existence of an integrated supervisory authority.

Example - the low interest environment: As a result of the continuing low interest rate environment, the FMA examined the effects on both the insurance and banking sectors in a comprehensive analysis of the market. As a result rules were issued in a focussed manner (increasing allocation of additional interest provisions for insurance undertakings, and measures for minimising risks for building societies) as well as additional institution-specific measures.

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1.2 Increasing Austrian financial market confidence

One of the core lessons learned from the financial crisis is that the serious regulation and oversight of the entire financial sector is a key priority for the ability of the markets to function. Accordingly an integrated supervisory authority is faced with a complex and strongly interlinked financial market in Austria. An integrated supervisory authority means clearly defined competences and responsibilities, as well as uniform cross-sector administrative practices and legal interpretation.

To increase the level of confidence in the Austrian financial market, the FMA ensures that only authorised providers are allowed to provide financial services requiring a licence in the Austrian financial market and also monitors their compliance with legal provisions. The FMA also pursues providers offering financial services in Austria that do not hold the necessary licence to do so.

Combatting unauthorised business

The combatting of unauthorised business is handled by a centralised unit within the FMA. Following the initial suspicion of unauthorised business operations being conducted, the authority follows up with supervisory investigations. These investigations are required to be conducted taking into account all legal linkage. Investigations are not restricted to a single sector.

Example - current crowd funding models: Three legal issues exist for the FMA - the existence of banking transactions (in accordance with the BWG), obligations relating to prospectuses (KMG) and alternative investments (AIFMG). By bundling such investigations within a single organisation unit, and the close networking of all supervisory fields, it is possible to coordinate complex legal issues with experts using the shortest route under one roof, and to combat unauthorised operations both quickly and effectively.

Due to the necessary cross-sector expertise in relation to licencing issues, the quick and consistent pursuit of unauthorised operations for the financial market as a whole can only be conducted in an efficient and consistent manner in a single integrated supervisory authority.

A consistent approach to legal development, legal interpretation and enforcement

The current relationships and developments of the financial market are increasing taken the form of integrated issues, and therefore require consistent legal development and interpretation. Only an integrated approach with regard to the development, interpretation and enforcement of legal provisions is able to create the opportunity for a level playing field with a uniform legal framework. An integrated approach is therefore the only way to prevent the occurrence of permissible competitive distortions.

The use of ratings: The EU Regulation on Credit Rating Agencies and various sectoral directives prescribe that supervised entities in the financial industry should not use ratings in a mechanistic way, but should instead undertake their own credit risk assessments. In particular for the Austrian financial market, which has a large incidence of small financial services provides across its various sectors, it is essential to define a uniform set of criteria for all sectors, in order to minimise the dependency on external rating agencies and the effects that endanger stability that arise from the mechanistic application of ratings.

Information obligations for financial products and services: An autonomous decision taken by a consenting consumer in relation to products and services offered on the financial and capital market presupposes that a customer is able to understand and compare information.

In order to ensure a level playing field, information must be made available that is consistently clear and is available with a consistent level of information. Cross-sector legal provisions have been developed to legally fix this, under MiFID II, PRIIPs as well as the legal provisions governing information obligations in the BWG, ZaDiG, VAG 2016 and BörseG. Only once uniform obligations have been formed with regard to information and have been consequently implemented is a genuine comparison of products possible that results in a fair competition. At the same time the fairness and honesty of the information generates consumer confidence, which makes a necessary contribution to financial market stability.

Supervisory convergence starts with the drafting of national and international rules. The contribution towards transparent and uniform rules in all sectors on a national and international basis is a significant contribution that an integrated supervisory authority can make towards increased confidence in the financial market.

The issuing of further-reaching legal bases by an integrated supervisory authority, such as regulations, minimum standards and circulars, guarantees legal clarity.

In this way the FMA was able to draw up a consistent supervisory position with regard to the granting of loans by AIFs, and was able to issue a regulation on owner control that applies to all sectors of the financial market, as well as a regulation governing the handling of risk associated with money laundering and terrorist financing.

Only an integrated approach with regard to the development, interpretation and enforcement of legal provisions is able to create the opportunity for a level playing field with a uniform legal framework. Only an integrated supervisory authority can prevent permissible competitive distortions.

Effective and Efficient Organisation of Supervision

A rapid decision-making process: Flat hierarchies and the associated efficient processes for operative supervision, conducting of procedures and legislative processes are significant strengths of the FMA. An efficient transfer of information promotes unbureaucratic coordination processes and the ability to reach decisions quickly, while also involving all relevant internal stakeholders.

Cost effectiveness: The integrated approach to supervision under a single roof allows the pooled use of resources and minimises overheads, which would otherwise be considerably higher if borne by various institutions e.g. for staffing, finance and controlling and IT. By bundling all supervisory activities in a single organisation, it is possible for the necessary administrative system to be reduced to an absolute minimum. The supervised entities benefit directly as a result of lower supervision fees being prescribed, while also being able to use single channels (e.g. the incoming platform) to submit various types of notifications.

Know-how bundling: integrated supervision includes the ongoing direct exchange of knowledge and experiences from supervisory activities, between all staff members responsible for the supervision of entities or groups of entities. The considerable advantages of this approach become particularly apparent in:

- the supervision of financial conglomerates
- the supervision of insurance products with external guarantors (e.g. banks)

- the combatting of unauthorised business and the consistent interpretation of circumstances relating to licencing
- investigations in relation to insider trading by function holders in supervised entities

The structured exchange of information and the efficient transfer of knowledge is organised both vertically and horizontally (thematically) and is ensured by among other methods by the following structures:

- Various fora and committees (e.g. Executive Directors meeting, the "international" round table, the consumer protection circle and meeting of bridgeheads)
- Comprehensive training and further education in various formats (e.g. basic cross-department training for all employees, the university course in financial market supervision, the legal forum)
- Electronic systems (e.g. Fabasoft ELAK, SharePoint, reporting data pursuant to Article 9 EMIR, the Funds databank, repository of legal rulings and interpretations)

In-house competence centres allow synergy effects to be realised and the bundling of expert knowledge in the FMA:

- Financial market analysis
- Accounting and IFRS enforcement
- Conducting of procedures
- Consumer information
- Conduct supervision and compliance
- Combatting of money laundering and of terrorist financing
- Combatting unauthorised business

Synergies are realised in integrated supervision as a result of consistent legal development, legal interpretation and enforcement as well as by making used of shared organisational and administrative systems and common competence centres, thereby keeping costs to a minimum.

1.3 Protecting consumers, investors and creditors

Consumer protection

Increasing the confidence in a functioning Austrian financial market is an important goal of the FMA, while also protecting investors, creditors and consumers in accordance with the provisions of the supervisory laws.

The FMA's approach to collective consumer protection focuses equally in the enforcement of prudential rules as in the enforcement of rules on conduct and compliance. The integrated supervisory authority makes a direct contribution to the protection of consumers as a whole by enforcement of supervisory standards, because a functioning financial market ultimately benefits the economy as a whole and therefore consumers accordingly. Furthermore, it has also become apparent in the recent past, that in addition to this reflex reaction, standards have been increasingly issued in supervisory laws, the primary focus of which lies in consumer protection itself.

A central entry point for the general republic with regard to consumer protection and consumer information with regard to supervisory law, regardless of the supervised entity or financial product it concerns, has clear advantages:

- A universal point of contact
- A consistent process for treatment of issues (enquiries, complaints, etc.)

- A clear overview of the handling of consumer issues
- Cross-sector topics relating to consumer issues
- Cross-sector focus of supervisory activities

In relation to the idea of collective consumer protection standards are increasingly being issued in supervisory laws, whose primary concern lies in consumer protection itself. The focal points of all of these arrangements are provisions governing fair information and transparency. They can be found across all fields of supervision, and therefore form a fundamental pillar of an integration supervisory authority.

Compliance, Organisational and Conduct Rules

The conduct of a company towards its clients, which in recent years has been legally regulated in ever increasing detail, is one of the strongest factors for establishing confidence. Supervision of compliance with organisational and conduct provides is conducted in an integrated manner by a competence centre within the FMA. In this competence centre experts use their cross-sectoral know-how in synergy and supervise in a convergent manner in the interests of consumer protection. From the perspective of the investors to be protected, it is ultimately insignificant by which entity products and services are offered, provided that the entity behaves in an appropriate manner.

The good conduct of an entity towards its clients is one of the strongest confidence-building factors. The confidence of consumers in an entity as well as the financial market as a whole is a significant marker for financial stability. This combination is reflected on a cross-sector basis both in micro and macro supervision, as well as in prudential supervision and the supervision of conduct. Only an integrated supervisory authority is equal to the collective demands placed by these aspects.

1.4 Acting proactively and consistent treatment of breaches

A significant preventive measure for impeding misconduct by supervised entities is to clearly present the specific expectations of the supervisory authority. Supervision uses different instruments to accomplish this, such as recommendations, circulars and minimum standards relating to the supervisory laws. The ongoing dialogue with the market participants is significant for effecting a change of culture among the supervised entities, as well as to improve cross-sector discipline within the market. The intensification of the integrated approach to supervision has in particular contributed to a remarkable decline in the number of breaches of rules on advertising, as well as information and reporting obligations.

Consistency of legal interpretation and conducting of procedures are indispensable basic prerequisites. An integrated supervisory authority avoids varied interpretations of legal provisions applicable on a cross-sector basis, with interpretation with a consistent evaluation being carried over from one legal provision to another, and discretionary powers being used consistently. Only an integrated supervisory approach is able to ensure the greatest amount of legal clarity. This becomes particularly apparent in relation to administrative penal proceedings and procedure conducted in the Federal Administrative Court.

Other supervisory procedures requiring cross-sector harmonisation, include, for example, the following:

- Consistent monitoring of compliance with information obligations
- A consistent qualifying holding procedure within the highly interconnected Austrian financial market
- Fit & proper requirements and examinations for Members of the Management Board and Supervisory Board as well as other key positions in companies in the sector
- Monitoring of the accounting provisions over and above the sectoral boundaries;

- Procedures relating to the prevention of money laundering and terrorist financing for all companies
- Within a prospectus approval procedure relevant information from all supervisory areas may be collected from all areas of supervision in order to check the clarity, completeness and coherence in an efficient manner.

The clear consistent expectations, legal interpretation and conducting of procedures of an integrated supervisory authority, are indispensable basic pre-requisites for act preventatively in conjunction with compliance with supervisory standards as well as to ensure that breaches are followed up in a consistent manner.

2 Developments in European supervision and future trends

The European System of Financial Supervision includes the three European Supervisory Authorities (EBA, ESMA and EIOPA). The Joint Committee of the European Supervisory Authorities ("the Joint Committee") was established to coordinate the cooperation of these three authorities and to ensure cross-sectoral consistency. Furthermore, on a practical level, level 3 committees are used on an increasingly frequent basis in order to establish consistent cross-sectoral positions. The trend in the EU is heading increasingly towards horizontal cross-sectoral regulation (e.g. the Regulation on PRIIPs, Guidelines on Complaints Handling, Securities Financing Transactions, the new securitisation framework in the Capital Market Union, the Regulation on Financial Benchmarks etc.).

One of the advantages of an integrated supervisory approach is its ability to be equal to the constantly increasing requirements resulting from cross-sectoral cooperation on an organisational basis.

Development on a European level has shown that integrated cooperation of the various supervisory fields is necessary to ensure uniform supervisory practices.

3 Concluding Observations

The Financial Market Authority, which is integrated in every way, provides the optimum supervisory effect for the Austrian financial market. Efficiency and effectiveness in the designing of legal regulations on a national, European and international level constitutes a significant element in achieving this. Further contributory factors to its success, such as the bundling of knowhow, consistent conducting of procedures and supervisory practices as well as efficient coordination procedures, are apparent both in the supervision of individual entities as well as in the structured dialogue conducted with the market as a whole.

In order to exploit the advantages and potential of integrated supervision in Austria as the most effective form of supervisory organisation both on a national and an international basis, the following potential for further development can be taken advantage of:

- Increased interconnectedness of the uniform assessment of assets (funds, balance sheets positions of banks, insurance undertakings and issuers, ...);
- More intensive collaboration in conducting unified assessments e.g. of country risks;
- The establishment and continued development of unified collective consumer protection;
- Continuing development of the impact as the macroprudential authority for ensuring cross-sectoral financial market stability

Summary

In order to achieve the legally established aims of:

- contributing to financial market stability in Austria
- increasing confidence efficient functioning of the Austrian financial market
- protecting investors, creditors and consumers in accordance with the law
- acting in a preventive manner with respect to compliance with supervisory standards, while also punishing breaches committed in a consistent manner

a broad range of duties are required to be performed: from the practically-oriented co-determination of European legal development through to the shaping of national supervisory law, from the supervision of individual institutions through to the risk-oriented macroeconomic observation of the market, from uniform legislation and conducting of procedures across different sectors through to conducting supervisory activities in an economically efficient manner. Only in the organisational form of an integrated supervisory authority, which unites all these facets under a single roof, is supervision of a strongly interconnected financial market possible and enforceable in an effective, efficient and high quality manner.