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FMA MINIMUM STANDARDS

FOR THE REQUIREMENTS OF AN HTM VALUATION AND FOR THE PREPARATION OF A LIQUIDITY PLAN PURSUANT TO ARTICLE 23 PARA. 1 NO. 3A PKG

(FMA-HTM-MINIMUM STANDARD)

STATUS DECEMBER 2013

DISCLAIMER: These minimum standards do not constitute a legal regulation. They serve as guidance and reflect the FMA's legal interpretation and the FMA's practical recommendations for conduct. No rights and obligations extending over and above the provisions of the law can be derived from them. The FMA reviews on a case-by-case basis whether legal provisions were also breached as a result of the non-observance of recommendations in minimum standards.

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I. PREAMBLE

For certain debt securities, invested directly or via special funds pursuant to Article 163 of the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*), Federal Law Gazette I No. 77/2011, or via comparable foreign special funds where the *Pensionskasse* is the sole unit holder, a valuation deviating from the principle of current values, i.e. a held-to-maturity (HTM) valuation, is possible pursuant to Article 23 para. 1 no. 3a PKG.

This valuation method is conditional on the documented decision (classification) and the capacity (liquidity plan) to hold the debt securities to final maturity. The debt securities classified as HTM must be expressly designated as such in the books. The capacity is to be demonstrated by means of a conservative liquidity plan pursuant to Article 23 para. 1 no. 3a PKG.

This FMA Minimum Standard addresses all *Pensionskassen* (pension companies) as referred to in Article 1 of the *Pensionskassen* Act (PKG; *Pensionskassengesetz*). It is not a regulation but describes the legal view of the FMA, in the capacity of competent authority, on Article 23 para. 1 no. 3a PKG. No rights or obligations beyond those defined in the statutory provisions may be deduced from this Minimum Standard. With reference to Article 23 PKG, the FMA expects *Pensionskassen* however to adhere to this supplementary FMA Minimum Standard. Where specific provisions of this Minimum Standard exceed the legal framework, they shall constitute recommendations.

This FMA Minimum Standard does not prevent *Pensionskassen* from setting higher standards of their own. This FMA Minimum Standard replaces the Circular Letter of the Financial Market Authority of 1 October 2004 on the Liquidity Plan pursuant to Article 23 para. 1 no. 3a PKG with regard to HTM valuation by *Pensionskassen*. Other FMA Minimum Standards will remain unaffected.

The following statutory and recommendable requirements should be met:

II. PREREQUISITES AND LIQUIDITY MANAGEMENT

1. PREREQUISITES

Only those debt securities that meet the credit rating criteria pursuant to Article 23 para. 1 no. 3a PKG and that include a fixed rate of interest and a fixed repayment amount may be reported as HTM investments.
Variable-interest debt securities and products with optional components may not be classified as HTM due to their economic design. Government bonds containing collective action clauses (CAC) in accordance with the ESM Agreement (1731 of the Annexes to the 24th legislative period – Austrian State Treaty – 02 text of the treaty) are not affected.

The necessary resources must be made available for liquidity management. The evaluation of the liquidity management is also part of the evaluation conducted by Internal Auditing.

2. PREPARATION OF THE LIQUIDITY PLAN

A conservative liquidity plan must be drawn up for debt securities that are classified directly as HTM and debt securities that were acquired indirectly via special funds and are classified as HTM to prove their suitability as a long-term investment. In accordance with Article 23 para. 1 no. 3a PKG, the liquidity plan is drawn up when the debt security is classified for the first time and updated when it is increased. In accordance with Article 23 para. 1 no. 3a PKG, the liquidity plan must be regularly updated and reviewed at least once every year for the duration of the investment.

a. HTM classification in an IRG or sub-IG

A liquidity plan must be prepared for each investment and risk sharing group (IRG) and for each sub-investment group (sub-IG). This liquidity plan must be presented to the FMA upon request.

b. HTM classification in a security-oriented IRG

In light of the special significance of liquidity management in a security-oriented IRG, the *Pensionskasse* must annually prove to the FMA pursuant to Article 12a PKG that it will continue to be in a position to meet its obligations in the coming financial years. This evidence must be submitted by 30 November of each financial year by means of a liquidity plan as referred to in Article 23 para. 1 no. 3a PKG, as described in this FMA Minimum Standard.

c. Requirements for the liquidity plan

The debt securities are detailed in the liquidity plan with their ISIN, designation, characteristics, date of acquisition, coupon rate, repayment date, direct/indirect acquisition, rating and recognised credit rating agency.
The liquidity plan extends to the latest final maturity of the debt securities classified as HTM pursuant to Article 23 para. 1 no. 3a PKG. Any model assumptions and forecast parameters are to be selected prudently. The assumptions about the portfolio development must be stated and justified.
For each IRG or for each sub-IG and each security-oriented IRG with debt securities classified pursuant to Article 23 para. 1 no. 3a PKG, the following values are included and/or considered for the liquidity plan:

Invested assets of the IRG or sub-IG

Invested assets of the IRG or sub-IG means item 800 in Form A of the IRG (in accordance with the 2012 Regulation on Quarterly Financial Statements – QMV 2012; *Quartalsmeldeverordnung*).

Income

broken down at least into:

- income from the investment
- interest income pursuant to Article 48 PKG – direct guarantee
- interest expenses

Administrative expenses of investment

Payments

broken down at least into:

- old-age pensions, survivors' pensions and invalidity pensions
- other benefit payments

Contributions

broken down at least into:

- current contributions for beneficiaries (entitled)
- future transfers to the IRG

Percentage of debt securities to invested assets

The HTM investments (HTM value) held in accordance with Article 23 para. 1 no. 3a PKG must be stated in relation to the invested assets for each year.

Stress scenario

A stress scenario, with income forecasts for the investment assumed to be zero, must be calculated for a time period of at least ten years. Where threshold values are exceeded, an explanation must be given and documented.

Additional requirements for a conservative liquidity plan

Any other circumstances which might threaten a long-term investment must be stated in the liquidity plan. Such circumstances could include the assumption regarding the potential loss of a customer.

3. RISK MANAGEMENT

Debt securities classified as HTM must be subjected to a regular and appropriate risk management process, comprising in particular an analysis of risks other than interest rate risks.

4. LOSS OF "INVESTMENT GRADE" STATUS

Where a debt security classified as being HTM (held directly, or indirectly in a fund) loses its "investment grade" status, it will no longer be classed as being held to maturity and will be valued pursuant to Article 23 para. 1 no. 3 PKG instead; this does not require the FMA's approval. This applies to all debt securities that have been classified pursuant to Article 23 para. 3a lit a, b and c PKG, irrespective of the classification requirements.

5. APPROVAL OF CHANGE OF CLASSIFICATION

As a general rule it is not possible to change the classification of HTM debt securities (held in direct portfolios or indirectly via a special fund), as stated in the Explanatory Commentaries on Article 23 para. 1 no. 3a PKG: "A classification, once performed, may not be reversed;" […]".
Debt securities classed as HTM may only be reclassified under "special circumstances" and subject to FMA approval.

III. OLD AND NEW ADMINISTRATIVE PRACTICE

The underlying legal framework does not allow for any transitional provisions. Debt securities whose classification does not comply with the legal situation, as described in this Minimum Standard, will immediately be earmarked by the *Pensionskasse* for reclassification. An application for reclassification should be filed with the FMA within three months of this Minimum Standard being published.