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OF THE FINANCIAL  
MARKET AUTHORITY



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FINANCIAL MARKET AUTHORITY 2014

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**T**he FMA is an independent, autonomous and integrated supervisory authority for the Austrian financial market, established as an institution under public law. It is responsible for supervising credit institutions, payment institutions, insurance undertakings, *Pensionskassen* (pension companies), corporate provision funds, investment funds, licensed investment service providers, credit rating agencies and stock exchanges, as well as for prospectus supervision. The FMA is also responsible for monitoring trading in listed securities to ensure that this is carried out properly and for monitoring issuers' compliance with information and organisation obligations. Further tasks include combating the unauthorised provision of financial services and taking preventive action against money laundering and terrorist financing.

The FMA is an integral part of the European System of Financial Supervisors (ESFS) and represents Austria in the relevant European institutions, closely cooperating with the network of supervisors and actively contributing to its work.

The aims of the FMA are:

- to contribute towards the stability of Austria as a financial market;
- to reinforce confidence in the ability of the Austrian financial market to function;
- to protect in accordance with provisions of law investors, creditors and consumers; and
- to put forth preventive efforts with respect to compliance with supervisory standards while consistently punishing any violations of these standards.

In order to achieve these aims:

- the FMA monitors and takes any measures necessary to ensure compliance with provisions of law;
- the FMA defines minimum standards and publishes regulations putting legal provisions into concrete terms;
- in dialogue with market participants the FMA works out proposals for ensuring that the Austrian financial market permanently adheres to high standards;
- the FMA represents Austria's interests in the EU and other international bodies and supports cooperation with other supervisory authorities;
- the FMA utilises and further develops modern analysis systems;
- the FMA places great emphasis on employing highly qualified and motivated staff as well as deploying the most modern technology; and
- its staff works as a team towards solving problems in a holistic manner so as to accomplish its integrated supervisory tasks efficiently and effectively.

We as staff members of the FMA identify with these aims and base our actions on the values of independence and objectivity. We fulfil our commission with confidence and in the knowledge of the significance of our efforts for the Austrian financial market.



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## PREFACE BY THE FEDERAL MINISTER OF FINANCE



2014 was a significant year for the Financial Market Authority: major steps towards achieving the banking union were taken at national and European levels. The banking union, consisting of the three pillars of the Single Supervisory Mechanism, the Single Resolution Mechanism and harmonised deposit guarantee schemes, is the most important step in European integration since the monetary union. The union is a precondition for a stable financial system. Through it the negative feedback loop existing between sovereign debt and bank bail-outs is interrupted, which will help to substantially reduce the likelihood of any future crises.

You are aware that the ECB assumed responsibility for operational banking supervision as of 4 November 2014. In keeping with the goal of supervising the roughly 8 000 banks in the EU in an efficient and practicable manner, the ECB is tasked with directly supervising significant banks only. The remaining, non-significant banks generally continue to be under direct supervision by the national authority, which in Austria is you, our esteemed colleagues at the FMA.

The division of tasks between the ECB and the national competent authorities is determined based on criteria closely related to the size of banks and their significance for the particular country. In the case of licensing and controlling holdings, however, the ECB takes decisions on non-significant banks as well. Nonetheless, the FMA's scope of responsibilities continues to include the supervision of non-significant institutions and tasks in preparation for decisions as well as cooperation as part of the Joint Supervisory Teams.

In the run-up to 4 November 2014 the European Central Bank performed a comprehensive assessment, with the aim of checking the balance sheets of directly supervised banks. Due to the high auditing standards applied and the close schedule, carrying out the comprehensive assessment last year was a major challenge, both for the audited banks and for the FMA and the OeNB.

Yet in the end the results were without exception positive. The balance sheet audit and the stress test motivated many institutions early on to significantly improve the amount and the quality of their capital base. The transparency of financial reporting was also greatly enhanced. Certain more stringent standards applied in the comprehensive assessment have continued to be used in regular supervisory practice. The ECB has also recommended all of the participating institutions to prepare their financial statements for 2014 in the light of the insights derived from the comprehensive assessment.

The Single Resolution Mechanism, another central component of the banking union, has resulted in harmonised rules, as embodied in the Bank Recovery and Resolution Directive (BRRD), for banks and investment firms in the EU. The Directive provides for a separate resolution authority, to be either newly established or set up within, yet separated in structure from, an existing supervisory authority.

The Federal Act on the Recovery and Resolution of Banks (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*) implements the BRRD in Austria. As specified in the BaSAG, the FMA assumed additional responsibilities as national resolution authority effective as of 1 January 2015. The FMA is making a key contribution to safe-



guarding financial market stability by taking responsibility for the properly structured resolution of institutions that fail or threaten to fail in future. As a result of the decision of 1 March 2015 to resolve the HETA Asset Resolution AG within this new European legal framework, the FMA is the first resolution authority to put this new set of rules into practice. I am confident that the FMA will proceed in a professional manner and in a direction to be followed, allowing us to present a positive image of Austria as a country and as a centre of financial dealings to Europe and the capital markets.

In its role as resolution authority, the FMA has been given extensive powers. In detail this means that the FMA can make use of the following resolution instruments in particular: selling the institution, setting up a bridge bank, spinning off assets and bailing in creditors. The bail-in power in particular plays a key role. It will ensure that the government and taxpayers will no longer have to take over debt when banks face difficulties in future.

The Single Resolution Mechanism (SRM) Regulation additionally provides the BRRD with an institutional framework for the resolution of banks within Europe's Single Supervisory Mechanism. As of 1 January 2016, the Single Resolution Board (SRB) will take decisions, in response to ECB proposals, in specific cases regarding the resolution of banks that are supervised by the ECB or are active on a cross-border basis. When implementing such decisions, the SRB will work through the specific national resolution authority. In its role as national resolution authority, the FMA will thus participate in the European resolution regime from 1 January 2016 onwards. The FMA will additionally maintain responsibility for the resolution of the remaining banks where such do not require additional funds.

Your comprehensive expertise and your expert knowledge will play an essential role in all of these measures. On this occasion I wish to express my special appreciation to you, my dear colleagues at the Financial Market Authority. Thanks to your flexibility, dedication and professionalism, a great deal of progress could be achieved in 2014. Your contribution was key in achieving a safe and stable financial market, and in ensuring that we have an efficient supervisory system providing investors with the best possible protection.

With this in mind, I am pleased to have you at my side as a reliable partner and to consistently progress with you along our chosen course. The key to our success is to work together open-mindedly and constructively.

HANS JÖRG SCHELLING

## PREFACE BY THE EXECUTIVE BOARD OF THE FMA



The global financial crisis that erupted in 2008 is still not entirely behind us. Recovery is proving to be a slow, laborious process. Yet there is no mistaking the lessons learned from the crisis that took the world economy to the brink of collapse. These have been revealed in all their magnitude after in-depth analysis at global, European and national level. In our opinion it was during the year under review, 2014, that the key breakthrough was made in terms of implementing these lessons from a regulatory and supervisory perspective.

During the run-up to the introduction of the Single Supervisory Mechanism (SSM) within the euro area headed by the European Central Bank (ECB), the 130 most significant cross-border banking groups, among them six Austrian groups, were subjected to the most rigorous health checks in their history. And despite the highly demanding nature of these checks, the results were, generally speaking, satisfactory. There were certainly no nasty surprises. Since 4 November 2014 the ECB has been responsible for supervision of all of the banks in the euro area, within the context of the SSM. For Austria, this means that eight banking groups with around 150 independently licensed institutions are now directly supervised by the ECB. Operational supervision is carried out by Joint Supervisory Teams, involving close cooperation between the ECB and the national supervisory institutions. Around 80 to 90 per cent of the daily workload falls to the national supervisors. Meanwhile, approximately 550 regionally significant credit institutions continue to be supervised by the FMA and are only subject to indirect supervision from the ECB.

The introduction of the SSM means that the supervision of banks in the euro area in general and Austria in particular has been placed on an entirely new foundation. The financial industry, having grown increasingly international, is now subject to strong, transnational supervision in keeping with this international character. This is a genuine milestone in financial market reform.

Moreover, in 2014 the European policymakers also finally agreed on a new European recovery and resolution regime for banks. The first aim was to ensure that the supervisors did not have to wait until there was a real threat to an institution's continued existence before taking efficient, effective measures. Rather, they needed to be able to act as soon as the first signs of any threat emerged. The second aim was to create a system in which even systemically important banks could make a smooth exit from the market should they fail. In other words, the aim was to avoid a situation in which it is the state, and thus the taxpayers, who pick up the bill. Instead, attention would initially focus on the owners and creditors. This marks another genuine milestone in financial market reform.

With effect from 1 January 2015 the FMA assumed the function of Austria's national resolution authority and, as of 1 January 2016 when the Single Resolution Mechanism enters into force, will also form part of the European resolution system.

In addition, the European lawmakers also resolved in 2014 to adopt a new deposit guarantee scheme for Europe. This will involve gradually transferring the national deposit guarantee pots to a European fund.

Austria will be reforming its deposit guarantee scheme to comply with these changes during the first half of 2015. This is another area in which the FMA, at least according to the draft legislation, will assume a key function.

With the three pillars of the Single Supervisory Mechanism, the Single Resolution Mechanism and a uniform deposit guarantee scheme, together forming the European banking union, European monetary union has been given the strong regulatory and supervisory foundation that it needs.

We regard the fact that the Austrian lawmaker has transferred key responsibility in all of these areas to the FMA as recognition of the work performed by the FMA ever since it was created in the capacity of an integrated supervisory authority covering nearly all of Austria's financial market. Not least because the lawmaker has also entrusted the FMA, as of 1 January 2014, with responsibility for financial reporting enforcement, having already in previous years assigned the authority responsibility for supervision of corporate provision funds, capital market prospectuses, financial conglomerates, alternative investment fund managers, unauthorised business operations, proper compliance and governance, as well as responsibility for preventing money laundering and terrorist financing among the supervised companies.

As also clearly shown in its Report for the 2014 financial year, the FMA is putting its corporate claim of Competence, Control and Consistency into everyday practice.

The great importance that we attach to training our staff and providing them with CPD opportunities is reflected in our levels of competence, which are held in high regard by all. Ongoing efforts to make our analysis more in-depth and to step up our inspections are reflected in our close monitoring and timely controls. And our consistency is reflected in our approach to dealing with and sanctioning breaches of the rules, with an ensuing preventive effect.

The FMA pursues three objectives when performing its supervisory activities:

- to contribute towards the smooth functioning and stability of Austria as a financial market;
- to protect investors, creditors and consumers in accordance with the statutory provisions; and
- to have as preventive an impact as possible, while at the same time punishing breaches appropriately.

We are only going to provide a brief description here of how these objectives are being achieved, as the Annual Report already provides a broad range of detailed information.

One of our most important contributions to strengthening financial market stability lies in our work to improve the quality and quantity of the supervised institutions' capital resources. Our efforts in this regard, and our success, are a recurring theme throughout this Annual Report.

Moreover, the regulatory reforms prompted by the lessons learned from the financial crisis provide the supervisory authorities with many more tools for preventive action. These include the early intervention tools provided by the new European recovery and resolution regime for banks; Solvency II, the new risk-oriented supervision regime for insurance undertakings due to enter into force in 2016 but already having an impact; the European Market Infrastructure Regulation (EMIR), which is boosting transparency and stability on the securities and derivatives markets; supervision of alternative investment fund managers (AIFMs), for which the FMA assumed responsibility during the reporting year; preventive measures relating to the fight against money laundering and terrorist financing; and financial reporting enforcement, with regard to which the FMA is the authority responsible for ensuring that the financial information provided by listed companies is accurate, comparable and state of the art.

And although the FMA is not a consumer protection organisation, which means it cannot assist in civil claims for damages in individual cases, collective consumer protection is one of our foremost aims. To this end, we not only work to combat unlawful operations and investment fraud in as preventive a manner as possible but are also involved in a variety of initiatives designed to improve information on financial products and increase transparency and comparability, ensuring that well-informed consumers can make sound decisions. However, we also do not hesitate to tackle specific action in relation to individual financial products where we have a legal basis for such action. This is illustrated by just two examples, namely the de facto ban on new foreign currency lending and the diverse measures to limit the risks associated with any foreign currency loans that

are still outstanding, and the additional interest provision, now required by regulation, for classic life assurance, which helps to ensure that guarantees provided at the outset can in fact be honoured.

As you can see, the concept of an integrated supervisory authority covering Austria's entire financial market has a proven track record and is a successful model. It improves synergies in relation to costs and expertise, means that information on the entire financial market can be pooled under one roof and ensures that best practices in one area can be efficiently and effectively carried over to other areas too.

The global financial crisis has presented us all with huge challenges and continues to do so. The fact that the crisis management has worked so well, the fact that the lessons have been learned so consistently and the fact that the reforms could be implemented so efficiently can all be attributed to our supervisory partners, the Federal Ministry of Finance and Oesterreichische Nationalbank, as well as to the expertise and tireless dedication of our employees. It is therefore very important to us that we take this opportunity to thank both our partners and our staff. It is only by working together in a spirit of cooperation, as indeed we have done since the FMA was first established, that we can master the diverse challenges of the future.

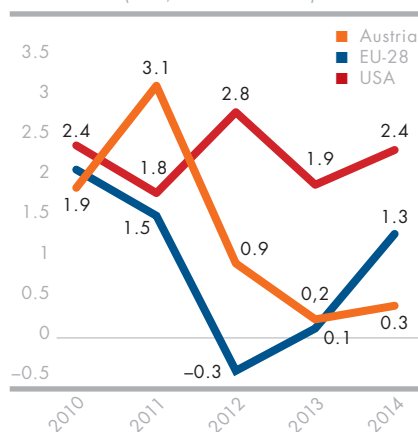
HELMUT Ettl, KLAUS KUMPFMÜLLER



## THE ECONOMIC ENVIRONMENT

**T**he pace of economic growth varied considerably across the different regions of the world in 2014. Global economic growth totalled 3.3%, which was on a par with the previous year. While the developed economies saw their growth levels rise by 0.5 percentage points to 1.8%, the emerging markets experienced a dip to 4.4%, down from 4.7% in 2013. The USA lent strong impetus to the world economy but this was countered by a marked weakening in economic growth in China. At the same time, performance levels in the emerging markets and within the euro area were very mixed. In the EU and euro area in particular, the state of the economy continued to deteriorate over the course of the year.

Chart 1: Real GDP growth rates, 2010–2014 (in %; source: Eurostat)



## EUROPE

The economic environment in the euro area was dominated by moderate growth and deflationary tendencies during 2014. Cumulative gross domestic product (GDP) rose by 0.8% in real terms year on year. Yet the picture varied greatly from one country to the next. While GDP in Germany was up by 1.3%, the French economy only expanded by 0.3%. In Italy, meanwhile, economic output was down 0.4% last year. The Benelux countries also recorded positive rates of growth. Total output in the Netherlands and Belgium grew by 0.9% in each case, with a real increase of as much as 3.0% in Luxembourg. Positive growth was also recorded in the peripheral countries of Spain (+1.2%), Portugal (+0.9%) and Greece (+0.6%), bringing to an

end the negative trend of the previous two years.

For their part, the other European economies clearly outperformed the euro area. Growth in the UK, Hungary and Poland reached nearly 3.0%, with the Baltic states also recording improvements. Lithuania, which in early 2015 became the 19th country to adopt the euro, posted a year-on-year growth figure of 2.7%. It was Ireland that recorded the biggest increase, however, enjoying growth of 4.6%. Cyprus continued its negative trend of the past two years, shrinking by 2.8% on a year-on-year basis.

Russia, where public revenues depend heavily on the price of oil, experienced turbulent currency developments as oil prices collapsed. The rouble shed more than 40% of its value against the US dollar during the second half of the year, prompting the Russian central bank to raise interest rates by 6.5 points in mid-December to 17% in a bid to halt the decline. GDP growth in Russia was a mere +0.6% for 2014.

Consumer prices rose only moderately in most economies with just a few exceptions. Prices in the euro area increased by 0.5% year on year. In contrast, Spain (-0.1%) and Greece (-1.0%) both saw prices fall. Above-average price increases were only recorded in Finland (+1.2%), Austria (+1.5%) and the UK (+1.5%).

With regard to government borrowing, a total of six countries now have debt levels in excess of 100% of their GDP. The highest levels of debt are found in Greece (175%), Italy (132%), Portugal (128%), Ireland (111%),

Cyprus (108%) and Belgium (106%). In Ireland's case, this equates to an increase of 68 percentage points since 2008, with the figures for Greece and Portugal rising by 65 and 56 percentage points respectively. It is the Baltic states that have the lowest levels of government debt, particularly Estonia, where public borrowing was less than 10% at the end of last year.

Most countries have seen an improvement in their budget deficits compared with the previous two years. Only Germany and Luxembourg were in the black (+0.2% in each case). Greece and Spain were able to make significant cuts to their deficits compared with earlier years. Whilst Greece's deficit was still in excess of 12% in 2013, this had been cut to 1.6% by 2014. The consolidation measures agreed by the troika of the European Central Bank (ECB), European Commission (EC) and International Monetary Fund (IMF) had a positive impact on Greece's public finances. The average budget deficit in the euro area in 2014 was 2.6% of GDP.

There were 18.4 million unemployed in the euro countries in 2014, which equates to a jobless rate of 11.6%. At national level, the situation in each of the individual labour markets differs greatly. Greece and Spain have the highest unemployment figures in the euro area, with rates of 25% and 24.5% of the working population respectively. The jobless figures are also above the European average in the other southern states such as Italy and Portugal, at 15.0% and 14.1% respectively. In contrast, Germany and Austria have the lowest unemployment rates, with a figure of just above the 5% mark in both countries.

## AUSTRIA

While the Austrian economy continued its positive growth trend of earlier years, GDP grew by a mere 0.3% year on year. Having continued to register a small level of growth in the first two quarters (+0.1% in each case), GDP then stagnated during the third quarter. Weak domestic demand as well as a lack of impetus from foreign trade contributed to this moderate growth. Household consumption grew by 0.2%, with public consumption up by 0.7%. At 5.3%, the unemployment rate was well below the European average. By the end of 2014 the jobless figures had reached 3.47 million. With regard to foreign trade, exports grew by 0.5%, with imports up by 0.9% year on year. At 3%, the budget deficit was twice as high as in 2013. The current account balance, in contrast, improved to 2.35%.

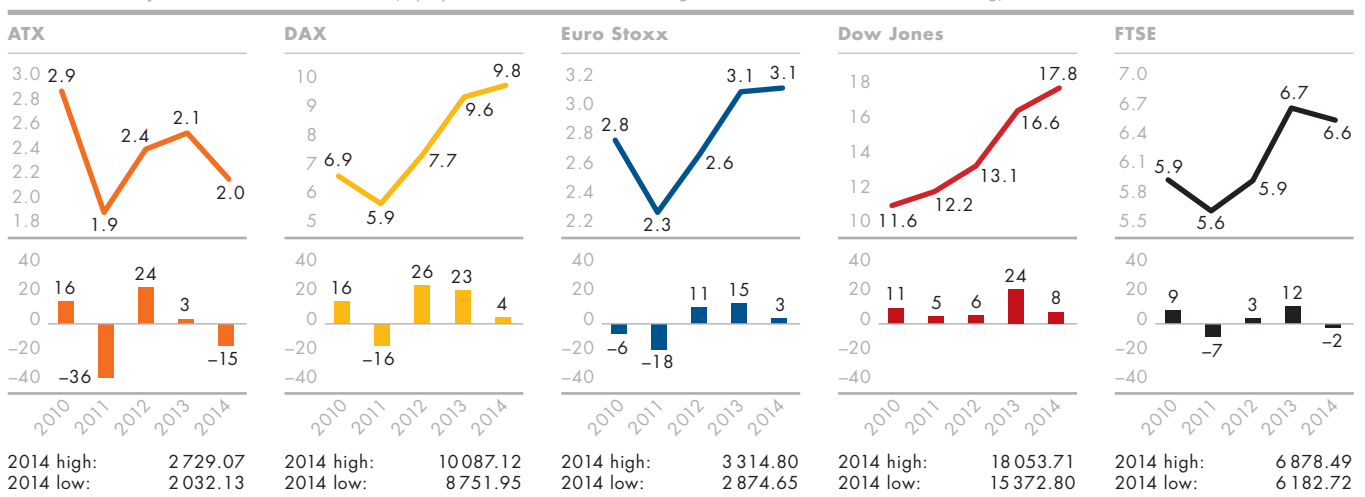
## THE INTERNATIONAL FINANCIAL MARKETS

**T**he year 2014 was another very challenging year on the global capital markets, be it for investors, intermediaries or regulators. It was only towards the end of the year that the major risk drivers emerged. Developments in the euro area were dominated during the second half of the year by the measures introduced by the ECB, after the Bank cut its main refinancing rate to 0.05% via two interest rate moves in June and September. The buying up of asset backed securities and covered bonds from October 2014 onwards lent further impetus to lending in the euro area, stimulating what had been weaker than expected economic growth up until that point. The results of the ECB’s asset quality review (AQR) and bank stress tests were published in late October, with the aim of building up confidence in Europe’s banking sector over the long term. Then, in early November, the Single Supervisory Mechanism (SSM), introducing joint banking supervision in the euro area headed by the ECB, entered into force.

### THE EQUITY MARKETS

The leading indices on Europe’s stock exchanges experienced very different fates in 2014. While gains were being made in the major euro states of Germany (DAX 30: +2.7%), France (CAC 40: +2.4%) and Italy (FTSE MIB: +3.0%), the markets in the individual peripheral countries were performing very differently. The Spanish market (IBEX 35) ended the year 8.5% up on its 2013 level, while the PSI 20 in Lisbon plummeted, down 24.9%. In Eastern Europe too, developments varied greatly. The Czech Republic (PX Index: -0.3%) and Poland (WIG 20: +0.4%) ended 2014 more or less back where they had started. Meanwhile, the markets in Bulgaria

Chart 2: **Index performance 2010–2014** (equity indices in thousands, changes in %, rounded; source: Bloomberg)





(SOFIX: +9.4%) and Romania (BET: +12.9%) grew substantially. In Athens, the stock market endured significant falls compared with the previous year, tumbling by 29.1%.

Within the financial sector it was banking stocks in particular that came under pressure. The EURO STOXX banking index shed 2.0% compared with 2013, a downward movement driven by Italian and Greek stocks in particular. Having made considerable gains in the first quarter, banking stocks fell back again during the third quarter and were unable to recover again by the year-end. Banks' low profit levels in Europe in the current low-interest environment were the main factor responsible. European insurance stocks, in contrast, recorded gains (EURO STOXX Insurance Index: +6.4%), as did other financial service providers (EURO STOXX Financial Services Index: +4.7%). The differing performances within Europe in 2014 are primarily attributable to idiosyncratic developments in the national economies. In Greece, a government borrowing rate of 175% of gross domestic product (GDP), coupled with a recession stretching back to 2008, continues to cripple the Greek market. The situation is different in Turkey, where the stock market recorded strong gains again in 2014 (BIST 30: +29.0%) after sharp falls in 2013 triggered by public protests and corruption scandals affecting members of the government.

## THE BOND MARKETS

Developments on the international bond markets were once again dominated by the monetary policy of the central banks in 2014. These policies have differed, however, from one side of the Atlantic to another. Whilst market participants expect interest rates to rise in the USA in 2015, the ECB has extended its asset purchase programme to include European government bonds. Between now and September 2016 the plan is for € 60 billion of liquidity to be injected into the financial system every month. Meanwhile, the Federal Reserve's quantitative easing programme came to an end in October 2014, with a final tranche worth USD 15 billion. Last year saw some benchmark bonds make significant gains. European bonds in particular recorded high increases. In Austria, the corresponding index was up 19.3% on the previous year, with rises of 17.4% and 16.1% recorded in Germany and the UK respectively. The Swiss and US benchmark index each grew by close to 12%, with a more moderate 5.2% increase in Japan.

Yields on ten-year government bonds fell continuously in all countries over the course of the year, ending the year at 0.60% in Germany, 0.76% in Austria, 1.75% in the UK, 0.31% in Switzerland and 2.2% in the USA. Yields also declined further in Japan, ending the year at 0.32% in the case of ten-year maturities. While yields also waned in the European peripheral countries of Portugal (2.65%) and Spain (0.86%), the yield curve in Greece was U-shaped. From a starting level of 5.5% in September, yields initially pushed upwards, coming close to the 9% mark, before ending the year at 9.41% after an erratic final quarter.

## DEVELOPMENTS IN THE RISK SITUATION

### VOLATILITY

The implicit volatility on the equity markets, a reflection of market participants' expectations regarding future price fluctuations, intensified in the euro area during the second half of the year in particular. The VSTOXX volatility index still featured downward movements during the first half of the year, falling to below 15%. The index then stabilised again, soaring to above 30% at times and ending the year at 22%. The VIX, which reflects the implicit volatilities on the US option markets, recorded a similar performance in terms of quality. The Chicago Board Options Exchange Market Volatility Index, or VIX, ended 2014 at a level of 14.4%, 2 percentage points higher than at the 2013 year-end, while, in Europe, the VSTOXX ended the year 6.3 percentage points up on the same figure for 2013, at 22.1%. Among the western industrialised nations, the USA had one of the best performing markets last year. The broadly based S&P 500 grew by 15.3% to finish the year on 2 058 points.

### RISK PREMIUMS

The premiums payable on the credit default swap (CDS) market developed very uniformly in the western indus-

Table 1: International financial market figures 2010–2014 (source: OeNB, Datastream)

|  | 2010  | 2011  | 2012  | 2013  | 2014<br>(prel.) |
|--|-------|-------|-------|-------|-----------------|
| <b>INTEREST AND CREDIT</b>                       |       |       |       |       |                 |
| Domestic credit to non-banks (changes in %)      | 3.2   | 2.7   | 0.0   | -0.4  | 0.1             |
| Credit to non-financial enterprises              | 2.4   | 2.7   | 0.9   | -0.5  | -3.5            |
| Credit to households                             | 5.9   | 2.6   | 0.7   | 0.2   | 2.1             |
| Three-month interbank rate (EURIBOR, average)    | 0.8   | 1.4   | 0.6   | 0.2   | 0.2             |
| 10-year reference government bond (average)      | 3.2   | 3.3   | 2.4   | 2.0   | 1.7             |
| <b>EXCHANGE RATES</b>                            |       |       |       |       |                 |
| Nominal effective exchange rate (period average) | 111.4 | 112.1 | 107.1 | 112.1 | 114.8           |
| Real effective exchange rate (period average)    | 98.1  | 97.6  | 92.9  | 96.2  | 97.0            |
| EUR/USD (average)                                | 1.33  | 1.39  | 1.29  | 1.33  | 1.33            |
| EUR/JPY (average)                                | 116.4 | 111.0 | 102.6 | 129.6 | 140.4           |
| EUR/CHF (average)                                | 1.38  | 1.23  | 1.21  | 1.23  | 1.21            |

trialised countries, with falls being recorded practically across the board. The premiums payable on five-year contracts in the USA were 11 basis points (bp) down on 2013 at the year-end. Spreads also narrowed in the major euro countries of Germany, France and Italy. In terms of average level, however, Europe was more of a mixed bag. While the average premiums in countries such as Germany (22 bp), the UK (23 bp) and the Netherlands (31 bp) were low, the comparable figures for the southern euro area countries were considerably higher: 97 bp in Spain, 201 bp in Portugal and 123 bp in Italy. The average spread in Austria's case was 33 bp, down 13 bp on 2013. Greece once again bucked the trend, with a year-on-year increase of almost 600 bp and spreads even soaring above 1 400 bp at their peak in 2014.

#### LIQUIDITY

Another trend to have emerged since the outbreak of the financial crisis is the decline in market liquidity, primarily on the global bond markets. There are many reasons for this decline. Firstly, there has been a sharp increase in the number of issued papers in recent years, mainly in the corporate bond segment, with these bonds being used as a cheaper form of financing at a time of low interest rates. Secondly, this paper is increasingly being held by major institutional investors, which have cut back on their trading activities.

The Bank for International Settlements (BIS) in Basel estimates that the twenty biggest asset managers alone hold USD 9.4 trillion of bonds in their securities accounts, which equates to an increase of USD 4 trillion between 2008 and 2012. In addition, many banks have gradually reduced their market making activity as new regulatory provisions have entered into force. Consequently, the government bond markets, which are viewed as very liquid, are also being affected. Not least due to their relaxed monetary policy and related quantitative easing, central banks including the Fed, ECB and Bank of England hold a significant proportion of the total outstanding volume.

#### FOREIGN EXCHANGE RATES

On the global currency markets the euro lost ground against nearly all of the world's major currencies. It fell 5.7% and 10.8% respectively against sterling and the US dollar, ending the year at 78 pence and 1.22 dollars. Given the Swiss National Bank's policy of placing a ceiling on the exchange rate between the Swiss franc and the euro, the latter fell by 2.3% and ended the year at the ceiling of 1.20 francs. It was only against the Japanese yen that the euro was able to make gains, rising by 2.4% and ending the year at a rate of 146.9 yen to the euro.

## THE AUSTRIAN FINANCIAL MARKET

**T**he Austrian ATX was also unable to escape the negative trend. The ATX closed the year down 15.2% year on year, ending on 2 160 points. Heavyweights in the financial and energy sectors placed a particularly negative burden on the index during 2014. Raiffeisen Bank International (RBI) shares fell by 48.9%, with Erste Group Bank down 24.6% and OMV AG down 35.73%, even though RBI implemented a capital increase

in February 2014 worth € 2.78 billion. While both banks were affected by the difficult developments in some of the states of Central, Eastern and South-Eastern Europe – above all Russia, Ukraine and Hungary – OMV was hit particularly hard by the collapse in oil prices. The picture with regard to Austrian insurance stocks was mixed. The Uniqa share was down 16.2% year on year, while Vienna Insurance Group put on 2.4%. The best performers in 2014 were Zumtobel Group, up 64.8%, and Lenzing AG with a rise of 26.7%. Schoeller-Bleckmann, another company hit hard by oil prices, shed 25.5%. Despite the negative environment overall, some individual stocks were nevertheless able to record exceptional gains: Porr AG +108.91%, Do&Co AG +67.91%, KTM AG +114.80%.

Three new stocks were listed on the market last year, namely the aircraft component manufacturer FACC, and two real estate stocks in the form of BUWOG and PIAG Immobilien, the latter forming part of the Porr Group. RBI, Porr, Telekom Austria and BKS all carried out capital increases in 2014, together accounting for more than € 4 billion. Century Casinos Inc. was delisted in September 2014.

Chart 3: **Development of the equitymarket.at segment of Wiener Börse 2010–2014**  
(quarter-end results; source: Wiener Börse AG)

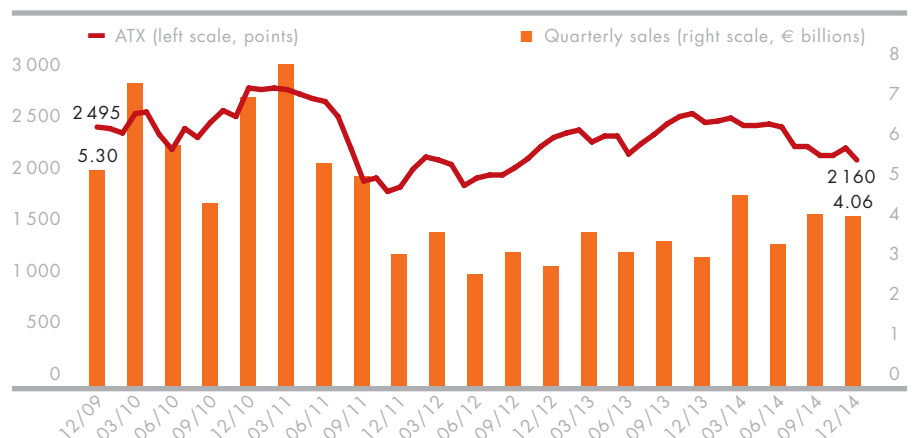


Table 2: **Trade statistics of equity market.at segment 2010–2014** (source: Wiener Börse AG)

|  | 2010     | 2011     | 2012     | 2013     | 2014     |
|--|----------|----------|----------|----------|----------|
| Capitalisation of domestic shares as at last trading day (in € billions) | 91       | 63.7     | 78.1     | 83       | 77.8     |
| Annual sales on equity market.at (in € billions)                         | 73.5     | 60.2     | 36.1     | 38.7     | 47.7     |
| Daily average sales (in € millions)                                      | 295.3    | 242.6    | 146.1    | 156.1    | 193.3    |
| ATX at year-end  | 2 904.47 | 1 891.68 | 2 401.21 | 2 546.54 | 2 160.08 |
| Performance ATX (in %)   | 16.39    | -34.87   | 26.94    | 6.05     | -15.18   |

The market capitalisation of the Austrian market, at € 76.1 billion, was € 6 billion less than in the previous year and thus even further off the all-time high of € 188 billion recorded in 2007. The trading volume in Austrian stocks, in contrast, was up 23.4% on the previous year's level, at € 47.4 billion. Daily average trading volumes were up by 24.0%, reaching a level of € 193.3 million.

Bond issues in 2014 totalled € 54.5 billion, which represents a year-on-year increase of 9.8%. More than 57% of these issues related to the public sector, 24.5% to the financial sector and 13.3% to corporate issuers. € 2.8 billion or 5.1% of the total volume related to performance linked bonds.

Trading in the bond market segment of the Vienna Stock Exchange was down by 9.2% however, contrasting with a clear rise in new corporate bond issues, with a total of 39 new listings by the year-end. Yields on Austrian federal government bonds on the primary market fell consistently over the course of the year, down from 1.77% in the first quarter of 2014 to 0.52% by the fourth quarter.

## BANKING<sup>1</sup>

The business volume of Austrian credit institutions totalled € 873.5 billion by the end of 2014 and had thus decreased by 2.8% compared with the previous year. Positive rates of growth were recorded by building societies (+7.4%), joint stock banks (+4.9%) and special-purpose banks (+1.9%). The biggest decrease was recorded by the mortgage bank sector (-23.2%), followed by the Volksbank cooperative sector (-15.1%). In terms of business volume, Raiffeisen cooperatives were able to slightly expand their market share by 0.2 percentage points to 31.5%. Joint stock banks continue to hold the second largest market share (29.6%), followed by savings banks (17.3%). The total market shares, including branches from EEA countries in Austria (Article 9 BWG) and corporate provision funds, are shown for the purposes of comparison in Chart Y.

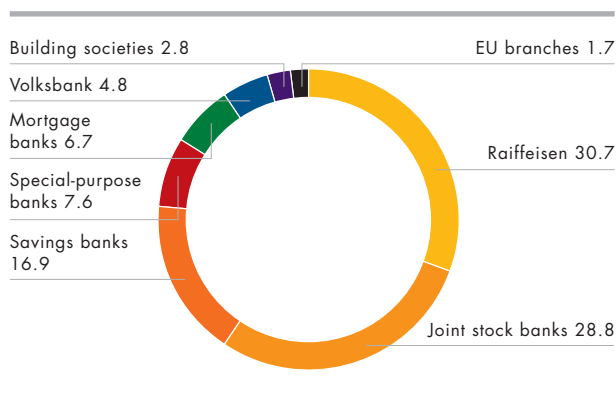
In spite of a decrease in volume of 1.5%, claims on non-banks continued to account for the largest share on the asset side of the Austrian banking sector in 2014, at 48.4%. Total assets decreased to a greater extent, with the result that the share of the balance sheet item attributed to claims on non-banks increased by 0.6 percentage points compared with 2013. Liabilities to non-banks increased both in terms of volume (+2.9%) and of share (+2.3 percentage points), and at 41.5% accounted for the largest share on the liability side. At 24.2%, claims on credit institutions accounted for the second-largest entry on the asset side of the balance sheet, while at 22.9% liabilities to credit institutions represented the second-largest item on the liability side. Both of these balance sheet items decreased in a year-on-year comparison, claims by 11% and liabilities by 9.6%.

A non-consolidated operating result of € 5.9 billion is expected for Austrian banks as at the end of 2014. This represents a decrease of 1% compared with the previous year. The background to this development includes an increase in operating expenses (+8.7%) coupled with a slightly smaller increase in operating income (+5.6%).

Net interest income fell considerably in 2012 (-8.4%), stagnated in 2013 (-0.5%) and then grew strongly again in 2014 (+6%). Net interest income is therefore at a level comparable to that in 2010 and 2011. At 47%, net interest income continues to account for a significant share of operating income.

While Austrian credit institutions finished the 2012 finan-

Chart 4: Market shares of banks 2014 including branches from EEA countries in Austria (Article 9 BWG) and corporate provision funds (included under special-purpose banks) (in %)



<sup>1</sup> The following data is based on that provided as part of credit institutions' financial statements for 2010 to 2013 and their quarterly reporting on asset, income and risk statements (on a non-consolidated basis) for 2014 as at the reporting date of 31 December 2014. In order to guarantee comparability of the values from the audited financial statements with those from the asset, income and risk statements, branches from EEA countries in Austria (Article 9 BWG), guarantee banks and corporate provision funds are not considered.

Table 3: **Market development of the Austrian banking sector 2010–2014**

(Source: OeNB, 2010–2013 financial statement figures, 2014 asset, income and risk statements)

|   | 2010    | 2011    | 2012    | 2013    | 2014<br>(prel.) |
|---|---------|---------|---------|---------|-----------------|
| <b>TOTAL ASSETS IN TERMS OF SECTORS (non-consolidated, in € millions)</b>                 |         |         |         |         |                 |
| Total assets non-consolidated (sum total) <sup>2</sup>                                    | 954 437 | 992 536 | 952 804 | 898 549 | 873 462         |
| Joint stock banks   | 244 732 | 257 415 | 258 681 | 246 483 | 258 618         |
| Savings banks   | 162 292 | 167 818 | 171 821 | 159 778 | 151 332         |
| Mortgage banks  | 91 959  | 88 646  | 84 141  | 78 145  | 60 022          |
| Raiffeisen cooperatives   | 281 015 | 309 043 | 292 316 | 281 222 | 275 343         |
| Volksbank cooperatives  | 71 825  | 70 791  | 57 307  | 50 554  | 42 936          |
| Building societies  | 21 466  | 21 935  | 22 382  | 22 730  | 24 411          |
| Special-purpose banks <sup>3</sup>  | 81 148  | 76 887  | 66 157  | 59 639  | 60 799          |
| <b>NET INCOME IN TERMS OF SECTORS (non-consolidated, in € millions)</b>                   |         |         |         |         |                 |
| Total assets non-consolidated (sum total) <sup>2</sup>                                    | 3 326   | 849     | 2 078   | -1 761  | -6 797          |
| Joint stock banks   | 438     | -189    | 246     | -1 047  | -1 429          |
| Savings banks   | 1 326   | 396     | 616     | 373     | -5 372          |
| Mortgage banks  | -445    | -133    | 5       | -2 567  | 113             |
| Raiffeisen cooperatives   | 1 531   | 2 509   | 1 433   | 1 532   | 164             |
| Volksbank cooperatives  | 76      | -1 394  | -104    | -210    | -664            |
| Building societies  | 78      | 71      | 79      | 66      | 119             |
| Special-purpose banks <sup>3</sup>  | 322     | -412    | -198    | 93      | 270             |
| <b>DEVELOPMENT OF ASSETS AND LIABILITIES (non-consolidated, in € millions)</b>            |         |         |         |         |                 |
| Total assets non-consolidated (sum total) <sup>3</sup>                                    | 954 437 | 992 536 | 952 804 | 898 549 | 873 462         |
| Claims on credit institutions   | 274 170 | 288 876 | 258 320 | 237 762 | 211 647         |
| Claims on non-banks   | 427 822 | 442 267 | 437 079 | 429 096 | 422 812         |
| Debt securities and other fixed-income securities   | 97 450  | 93 461  | 78 696  | 69 583  | 63 400          |
| Shares and other variable-yield securities  | 16 367  | 14 406  | 12 341  | 10 960  | 10 101          |
| Other asset items   | 138 628 | 153 526 | 166 368 | 151 149 | 165 502         |
| Liabilities to credit institutions  | 262 778 | 284 436 | 255 924 | 221 069 | 199 745         |
| Liabilities to non-banks  | 325 295 | 340 307 | 344 826 | 352 032 | 362 310         |
| Securitised liabilities   | 227 980 | 223 882 | 203 959 | 189 728 | 166 563         |
| Other liability items   | 138 384 | 143 910 | 148 096 | 135 721 | 144 843         |
| <b>EARNINGS (non-consolidated<sup>2</sup>, in € millions)</b>                             |         |         |         |         |                 |
| Net interest income   | 8 971   | 9 489   | 8 696   | 8 657   | 9 174           |
| Operating income  | 18 837  | 19 110  | 18 525  | 18 468  | 19 501          |
| Operating expenses  | 11 192  | 11 499  | 11 973  | 12 515  | 13 607          |
| Operating result  | 7 645   | 7 611   | 6 552   | 5 953   | 5 894           |
| Cost-income ratio (in %)  | 659.41  | 60.17   | 64.63   | 67.77   | 69.78           |
| <b>EARNINGS AND PROFITABILITY (non-consolidated, in %)</b>                                |         |         |         |         |                 |
| ROA   | 0.41    | 0.12    | 0.32    | -0.10   | -0.73           |
| Operating expenses to operating income  | 58.6    | 60.9    | 63.8    | 67.7    | 69.8            |
| Personnel expenses to non-interest expenses   | 50.2    | 51.2    | 51.2    | 50.7    | 52.9            |
| Balance from allocations to/release of value adjustments for credit risks (in € billions) | 2.8     | 2.4     | 1.5     | 3.4     | 2.1             |
| <b>LIQUIDITY (non-consolidated, in %)</b>   |         |         |         |         |                 |
| Cover ratio of liquid resources of the first degree                                       | 830.8   | 920.5   | 2368.8  | 2042.2  | 1783.5          |
| Cover ratio of liquid resources of the second degree                                      | 226.9   | 218.2   | 223.0   | 212.6   | 220.4           |
| <b>REGULATORY CAPITAL (consolidated)<sup>4</sup></b>                                      |         |         |         |         |                 |
| Tier 1 capital (in € billions)  | 67.2    | 68.8    | 69.8    | 70.6    | 66.6            |
| Total own funds (in € billions)   | 86.2    | 88.1    | 88.2    | 89.0    | 87.8            |
| Tier 1 capital ratio (in %, Tier I ratio)   | 10.0    | 10.3    | 11.0    | 11.9    | 11.8            |
| Solvency ratio (in %)   | 13.2    | 13.6    | 14.2    | 15.4    | 15.6            |

<sup>2</sup> Excluding branches from EEA countries in Austria (Article 9 BWG), credit guarantee banks and corporate provision funds.<sup>3</sup> Excluding credit guarantee banks as specified in Article 5 no. 3 KStG.<sup>4</sup> OeNB, secondary research: merged reporting data of banking groups and unconsolidated data reported by individual institutions.

## MARKET PRESENCE OF AUSTRIA'S MAJOR BANKS IN CENTRAL, EASTERN AND SOUTH-EASTERN EUROPE

Chart 5: Total assets of CESEE subsidiaries 2010-2014 (in € millions)

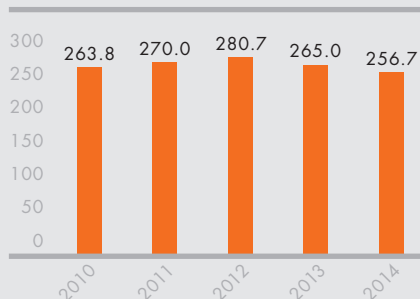
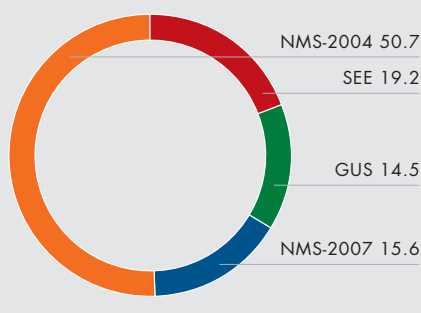


Chart 6: Share of 2014 total assets by regions (in %)



At the end of the fourth quarter of 2014, the 61 fully consolidated subsidiary banks in Central, Eastern and South-Eastern Europe (CESEE) reported aggregate total assets of € 257 billion. Almost half of this figure (50.7%) was accounted for by the Member States that acceded to the EU in 2004 (NMS-2004<sup>5</sup>), followed by the South-Eastern European countries (SEE<sup>6</sup>) at 19.2%, the Member States that joined the EU in 2007 (NMS-2007<sup>7</sup>) at 15.6%, and the countries in the Commonwealth of Independent States (CIS<sup>8</sup>) at 14.5%. For the second year in a row, growth among Austrian CESEE subsidiary banks in the 2014 financial year was negative, at -3.1%.

The return on assets of Austrian subsidiary banks in CESEE came to 0.5% in 2014 (2013: 0.9%), and the return on equity fell to 0.8% (2013: 6.9%). The cost-income ratio increased to 54.1% (2013: 50.1%).

It is noticeable that a good two thirds of Austrian banks' exposure to the markets of CESEE relate to EU Member States.

cial year at a very positive level with net income of € 2.1 billion, net income for 2013 was minus € 1.8 billion. The final figures for 2014 are not yet available, but a larger loss of approximately € 6.8 billion is forecast. Mortgage banks, the Raiffeisen cooperatives, building societies and special-purpose banks are anticipating slightly positive results for 2014. The mortgage banks are expecting a slight profit for the year of € 0.1 billion (2013: -€ 2.6 billion), the Raiffeisen cooperatives are forecasting a small profit of € 0.2 billion for 2014 (2013: +€ 1.5 billion). Similarly, the building societies are expecting a slight increase to net income of € 0.1 billion, with the special-purpose banks expecting a rise of € 0.3 billion. The biggest loss for 2014 looks set to be recorded by the savings banks, at € 5.4 billion, which compares with positive net income of € 0.4 billion in 2013. The joint stock banks are also expecting to be in the red, with a loss of € 1.4 billion (2013: -€ 1 billion), while the Volksbank cooperative sector has posted a loss of € 0.7 billion. With regard to the provisions for risk (value adjustments), Austrian credit institutions are expecting a small reduction to € 6 billion for 2014 (compared with risk provisions of € 7.4 billion in 2013).

### CORPORATE PROVISION FUNDS

The corporate provision fund market grew strongly again in 2014. As at the reporting date of 31 December 2014, the number of membership contracts, measured on the basis of employer account numbers, had

<sup>5</sup> NMS-2004: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia.

<sup>6</sup> SEE: Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia, Turkey.

<sup>7</sup> NMS-2007: Bulgaria, Romania.

<sup>8</sup> CIS: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan.

increased by 6.89% from 1 078 551 to 1 152 870 (see Table 4). Provision for employees grew by 5.83% during the year under review (from 542 014 to 573 631 contracts), while provision for the self-employed rose by 7.96% (from 536 537 to 579 239 contracts).

Measured in terms of current contributions, the corporate provision funds received a total of € 1.2 billion in 2014, of which € 1.10 billion related to provision for employees and € 99.17 million to self-employed provision. This compares with a total of € 1.12 billion during 2013 (of which € 1.02 billion in contributions for employees and € 99.01 million for the self-employed). Overall, this equates to an increase of 7.14%, with employee provision growing by 7.84% and provision for the self-employed up by 0.16%.

The total assets managed in 2014 by all of the corporate provision funds rose from € 6.22 billion to € 7.32 billion, a jump of € 1.10 billion or 17.75% (see Chart 7).

During the period from the system's introduction on 1 January 2004 until the end of 2014, a total of € 1.81 billion has been paid out to 2 284 715 beneficiaries (entitled). Over the same period, 94 053 beneficiaries (entitled) have taken advantage of the legal option of transferring their pension expectancies to another corporate provision fund, moving a total of € 75.66 million. Additionally, as many as 849 individuals have transferred a total of € 2.75 million to a *Pensionskasse* or supplementary pension insurance scheme. As in the previous year, most severance pay expectancies were paid out by the corporate provision funds in the form of a capital sum.

The corporate provision funds are required to guarantee their beneficiaries (entitled) a minimum claim. This encompasses the total accrued severance pay funds and any transferred existing severance pay expectancy, as well as any severance pay expectancies transferred from another staff provision fund. It is also referred to as a capital guarantee. As a result of this statutory capital guarantee, the corporate provision funds invest very conservatively, mainly investing in bonds either directly or indirectly via investment funds (see Chart 8).

During the reporting year the corporate provision funds recorded an investment result of 3.94%, which was considerably higher than the result recorded for 2013 (+2.82%) (previous figures are 2009: +3.65%, 2010: +2.58%, 2011: +0.2%, 2012: +4.28%).

Chart 7: Total assets of corporate provision funds 2010-2014 (in € billions)

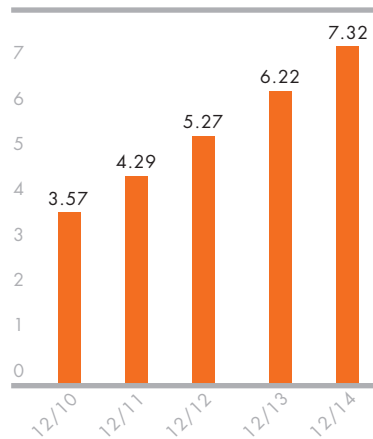


Chart 8: Investment instruments of corporate provision funds 2014 (in %)

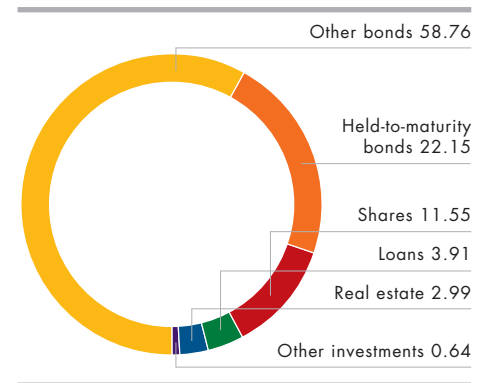


Table 4: Market development of corporate provision funds 2010-2014 (source: Association of Occupational Provision Funds)

|   | 2010          | 2011          | 2012          | 2013          | 2014          |
|---|---------------|---------------|---------------|---------------|---------------|
| <b>GENERAL DATA</b>                                 |               |               |               |               |               |
| Number of membership contracts                      | 834 966       | 926 341       | 997 691       | 1 078 551     | 1 152 870     |
| Assets of corporate provision funds (in € millions) | 3 570         | 4 286         | 5 274         | 6 220         | 7 324         |
| Current contributions (in € millions)               | 853           | 944           | 1 043         | 1 123         | 1 200         |
| Payouts (in € millions)                             | 197           | 229           | 296           | 314           | 351           |
| Performance of corporate provision funds (in %)     | 2.58          | 0.20          | 4.28          | 2.82          | 3.94          |
| <b>DISPOSAL OPTIONS (in € millions)</b>             |               |               |               |               |               |
| Payouts   | 197.11        | 229.08        | 295.99        | 314.11        | 351.27        |
| Transfer to another corporate provision fund        | 8.00          | 9.59          | 11.00         | 15.42         | 14.59         |
| Transfer to a <i>Pensionskasse</i>                  | 0.41          | 0.39          | 0.37          | 0.47          | 1.11          |
| <b>Total</b>  | <b>205.52</b> | <b>239.06</b> | <b>307.36</b> | <b>330.00</b> | <b>366.97</b> |

## PENSIONSKASSEN

The Austrian pension company market continues to grow strongly. As at 31 December 2014, the sector was managing assets of approximately € 19 billion, which represents a year-on-year increase of 9.4%. This increase is predominantly derived from contributions, pension benefits, inflows of funds from first-time pension company contracts and the investment result.

With single-employer *Pensionskassen* being discontinued, the total number of *Pensionskassen* has fallen from 16 to 14 over the past six years. The investment and risk sharing groups (IRGs) for these single-employer *Pensionskassen* have been transferred to existing multi-employer *Pensionskassen*. Nevertheless, the number of IRGs has fallen due to the amendment to the *Pensionskassen Act* (PKG; *Pensionskassengesetz*) that entered into force on 1 January 2013 (Federal Law Gazette I No. 54/2012) enabling beneficiaries (entitled) to change their investment strategy on up to three occasions. Consequently, as at the 2014 year-end, there were 118 IRGs, 5 security-oriented IRGs and 23 sub-IGs.

Moreover, the pension company market is heavily concentrated in terms of providers. The three largest providers, namely VBV Pensionskasse AG, Valida Pension AG and APK Pensionskasse AG, combine to account for a 76.8% share of the market, measured in terms of assets under management. This share has risen further on the previous year, up by 3.8 percentage points. Measured within the market overall, single-employer *Pensionskassen* account for around 10.1% of the assets under management. This share has decreased by about 1.7% year on year, a development that can be attributed to the transfer of IRGs from single-employer to multi-employer *Pensionskassen*.

The occupational group insurance schemes offered by insurance undertakings are a form of company old-age provision that is very similar in structure to the *Pensionskassen*. The assets managed in this sector increased by

Table 5: Market development of *Pensionskassen* 2010–2014 (source: FMA, unless indicated otherwise)

|  | 2010    | 2011    | 2012    | 2013    | 2014    |
|--|---------|---------|---------|---------|---------|
| ASSETS MANAGED IN THE PENSION COMPANY MARKET   |         |         |         |         |         |
| Assets managed by <i>Pensionskassen</i> (total)  | 14 912  | 14 764  | 16 278  | 17 385  | 19 011  |
| Single-employer  | 1 806   | 1 805   | 2 077   | 1 953   | 1 921   |
| Multi-employer   | 13 106  | 12 959  | 14 201  | 15 431  | 17 090  |
| Market share of the three largest <i>Pensionskassen</i> (as a % of total)                    | 71.39   | 71.54   | 71.32   | 73.03   | 76.81   |
| NUMBER OF BENEFICIARIES IN THE PENSION COMPANY SYSTEM  |         |         |         |         |         |
| Number of beneficiaries (total)  | 761 831 | 791 971 | 820 109 | 835 128 | 858 433 |
| Single-employer  | 241 837 | 244 313 | 250 158 | 252 474 | 256 087 |
| Multi-employer   | 519 994 | 547 658 | 569 951 | 582 654 | 602 346 |
| Beneficiaries (entitled)   | 695 671 | 720 649 | 743 612 | 754 571 | 772 835 |
| Beneficiaries (recipients)   | 66 160  | 71 322  | 76 497  | 80 557  | 85 598  |
| Beneficiaries (recipients) (as a % of total)   | 8.68    | 9.01    | 9.33    | 9.65    | 9.97    |
| Beneficiaries (entitled)<br>(as a % of dependently employed persons in Austria) <sup>9</sup> | 19.44   | 19.83   | 19.57   | 20.52   | 20.96   |
| NUMBER OF PENSIONSKASSEN AND IRGs  |         |         |         |         |         |
| Number of <i>Pensionskassen</i>  | 17      | 17      | 17      | 16      | 14      |
| Number of investment and risk sharing groups   | 142     | 142     | 140     | 124     | 118     |
| Number of security-oriented IRGs <sup>10</sup>   | –       | –       | –       | 5       | 5       |
| Number of sub-IGs  | –       | –       | –       | 16      | 23      |
| INVESTMENT PERFORMANCE (in %) <sup>11</sup>  |         |         |         |         |         |
| Investment performance (total)   | 6.48    | –2.96   | 8.40    | 5.10    | 7.82    |
| Single-employer  | 5.84    | –0.47   | 9.23    | 3.90    | 8.27    |
| Multi-employer   | 6.57    | –3.30   | 8.28    | 5.30    | 7.77    |

<sup>9</sup> Number of dependently employed persons: Statistics Austria. The annual average was used for the years from 2010 to 2013. Instead of the annual average, the Q2 2014 figures collated by Statistics Austria were used for the year 2014 due to the data not yet being available.

<sup>10</sup> Number of security-oriented investment and risk sharing groups and number of sub-investment groups collated for the first time in 2013.

<sup>11</sup> Source: OeKB.



around 29% on the previous year to € 828.9 million. By way of comparison, this equates to some 4.4% of all assets managed by *Pensionskassen*.

Thus, the sum of the assets managed within these two types of company old-age pension provision amounted to approximately 5.9% of Austria's gross domestic product at the 2014 year-end.<sup>12</sup>

There were about 858 000 beneficiaries at the end of 2014, representing a year-on-year increase of approximately 2.8%, 10% of whom are already drawing pension benefits. In 2014

around 21% of all dependently employed persons<sup>13</sup> in Austria held an entitlement to a pension from a *Pensionskasse*.

All *Pensionskassen* taken together achieved an average investment result of 7.8% in 2014. The results for the individual investment and risk sharing groups range from +2.3% to +12.7%. The average performance recorded by the *Pensionskassen* is 7.1% per year for the past three years, 4.9% during the past five years and 3.9% for the last ten years. However, it should be noted that performance does not have an automatic bearing on the monthly pension benefit as other factors also play a role, including the technical account balance, the amount of the volatility reserve and any deficits arising from changes in mortality charts.

## INSURANCE UNDERTAKINGS

Austria's insurance undertakings recorded a slight increase in premiums for the 2014 financial year, with a rise of 2.6%. This increase can be attributed to gains of 3.8% in the life assurance sector, 3.3% in health insurance and 2% in non-life/accident insurance. The volume of premiums written (direct gross amount) rose by 12% in 2014 compared with the previous year (2013: +1.6%) and totalled € 17.1 billion (see chart 11). With regard to the life assurance balance sheet group, premiums were up by 3.7% from € 6.42 billion in 2013 to € 6.67 billion in 2014. The proportion of premiums from unit-linked and index-linked life assurance fell once again and amounted to 22.9% as at the 2014 year-end (2013: 28.4%). Totalling € 7.08 billion, payments for claims were up by 12% in 2014. The equivalent figure for 2013 was € 6.31 billion. The balance sheet group of non-life and accident insurance showed an increase over the previous year, with premiums written rising by 2% to a total of € 8.53 billion. Claims payments fell to € 5.13 billion, a decrease of 2.4%. With premiums written totalling close to € 1.9 billion in 2014, the health insurance balance sheet group achieved an increase of 3.25% on the previous year. Premiums have continuously increased in the long term. Totalling € 1.25 billion, payments for claims were up by around 3% in this group.

The technical account balance totalled € 477 million in 2014 (2013: € 592 million). Predominantly as a result of lower income from investments and interest, the financial result fell by 3.9% in 2014, from € 3.3 billion to € 3.2 bil-

Chart 9: Total assets of all *Pensionskassen* 2010–2014 (in € billions)



Chart 10: Investment performance of *Pensionskassen* 2010–2014 (in %)

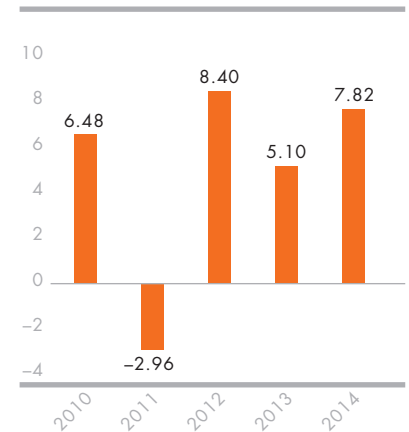
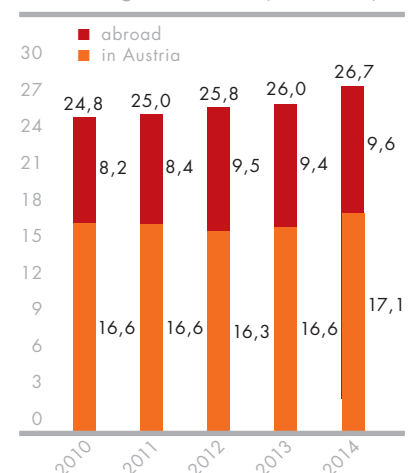


Chart 11: Premiums written by insurance undertakings 2010–2014 (in € billions)



<sup>12</sup> Austrian gross domestic product 2013: € 322.6 billion (source: Statistics Austria).

<sup>13</sup> Number of dependently employed persons: Statistics Austria. The annual average was used for the years from 2010 to 2013.

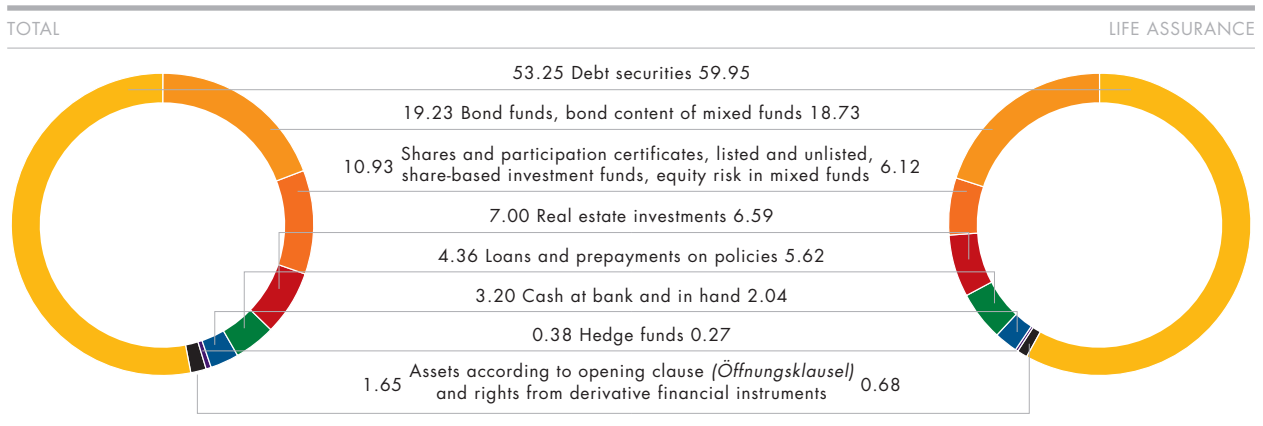
Table 6: **Market development of Austrian insurance undertakings 2010–2014**

(Source: FMA, Statistics Austria, CEA, www.economic-growth.eu)

|   | 2010          | 2011          | 2012          | 2013          | 2014          |
|---|---------------|---------------|---------------|---------------|---------------|
| PREMIUMS WRITTEN IN AUSTRIA (in € millions, direct gross amount)  |               |               |               |               |               |
| Life assurance  | 7 438         | 6 899         | 6 434         | 6 420         | 6 663         |
| Unit-linked life assurance  | 1 895         | 1 766         | 1 537         | 1 638         | 1 400         |
| Index-linked life assurance   | 965           | 489           | 309           | 184           | 129           |
| Health insurance  | 1 638         | 1 697         | 1 754         | 1 821         | 1 880         |
| Non-life and accident insurance   | 7 576         | 7 940         | 8 152         | 8 367         | 8 534         |
| <b>Total premiums written in Austria</b>  | <b>16 652</b> | <b>16 536</b> | <b>16 340</b> | <b>16 608</b> | <b>18 605</b> |
| PREMIUMS WRITTEN IN CLAIMS (in € millions)  |               |               |               |               |               |
| Life assurance  | 5 819         | 6 624         | 6 328         | 6 315         | 7 081         |
| Health insurance  | 1 115         | 1 134         | 1 129         | 1 217         | 1 254         |
| Non-life and accident insurance   | 4 939         | 4 749         | 4 975         | 5 258         | 5 131         |
| PREMIUMS WRITTEN IN OTHER COUNTRIES (groups, in € millions)   |               |               |               |               |               |
| Western Europe  | 1 793         | 1 834         | 1 660         | 2 150         | 2 519         |
| CESEE – EEA   | 5 347         | 5 857         | 6 845         | 6 465         | 6 320         |
| CESEE – NON EEA   | 1 052         | 753           | 941           | 794           | 714           |
| <b>Total premiums written in other countries</b>  | <b>8 192</b>  | <b>8 444</b>  | <b>9 446</b>  | <b>9 409</b>  | <b>9 553</b>  |
| <b>Percentage in other countries</b> (groups, in %)   | <b>43.62</b>  | <b>44.05</b>  | <b>46.10</b>  | <b>49.08</b>  | <b>49.01</b>  |
| EARNINGS AND PROFITABILITY  |               |               |               |               |               |
| <b>Technical account balance</b> (in € millions)  | <b>524</b>    | <b>295</b>    | <b>455</b>    | <b>592</b>    | <b>477</b>    |
| <b>Financial result</b> (in € millions)   | <b>3 203</b>  | <b>2 964</b>  | <b>3 403</b>  | <b>3 339</b>  | <b>3 211</b>  |
| <b>Result from ordinary activities</b> (in € millions)  | <b>1 101</b>  | <b>1 162</b>  | <b>1 395</b>  | <b>1 574</b>  | <b>1 421</b>  |
| DECKUNGSSTOCK AND COVERING ASSETS (carrying amounts; in € millions)   |               |               |               |               |               |
| Debt securities   | 37 474        | 37 168        | 36 967        | 38 574        | 40 939        |
| Shares and participation certificates, listed and unlisted,<br>share-based investment funds, equity risk in mixed funds | 8 589         | 7 923         | 8 224         | 8 083         | 8 402         |
| Bond funds, bond content of mixed funds   | 13 895        | 14 442        | 15 960        | 15 942        | 14 782        |
| Loans and prepayments on policies   | 3 623         | 3 758         | 3 481         | 3 189         | 3 352         |
| Real estate investments   | 4 822         | 4 816         | 4 926         | 5 223         | 5 384         |
| Hedge funds   | 664           | 581           | 444           | 239           | 294           |
| Cash at bank and in hand  | 1 852         | 2 368         | 2 217         | 2 308         | 2 458         |
| Assets according to opening clause ( <i>Öffnungsklausel</i> )<br>and rights from derivative financial instruments       | 1 509         | 1 551         | 1 690         | 1 499         | 1 270         |
| <b>Total</b>  | <b>72 427</b> | <b>72 606</b> | <b>73 909</b> | <b>75 058</b> | <b>76 881</b> |
| DECKUNGSSTOCK AND COVERING ASSETS CLASSIC LIFE ASSURANCE (in € millions)  |               |               |               |               |               |
| Debt securities   | 29 041        | 28 429        | 28 034        | 28 695        | 29 513        |
| Shares and participation certificates, listed and unlisted,<br>share-based investment funds, equity risk in mixed funds | 3 869         | 3 140         | 3 174         | 3 017         | 3 011         |
| Bond funds, bond content of mixed funds   | 8 992         | 9 217         | 9 856         | 9 749         | 9 221         |
| Loans and prepayments on policies   | 2 874         | 3 057         | 2 836         | 2 626         | 2 768         |
| Real estate investments   | 3 081         | 3 001         | 3 098         | 3 312         | 3 247         |
| Hedge funds   | 474           | 298           | 222           | 131           | 133           |
| Cash at bank and in hand  | 824           | 1 031         | 1 101         | 1 129         | 1 003         |
| Assets according to opening clause ( <i>Öffnungsklausel</i> )<br>and rights from derivative financial instruments       | 519           | 838           | 662           | 542           | 336           |
| <b>Total</b>  | <b>49 674</b> | <b>49 011</b> | <b>48 983</b> | <b>49 200</b> | <b>49 233</b> |

lion. Overall, the result from ordinary activities was € 1.42 billion in 2014, marking a decrease of 9.7% compared with the previous year (2013: € 1.57 billion).

As at the end of December 2014, assets totalled € 85.6 billion (excluding deposits retained, investments in relation to unit-linked and index-linked life assurance and pro rata interest), which corresponds to a rise of 1% compared with the previous year.

Chart 12: *Deckungsstock and covering assets 2014* (carrying amounts, in %)

*Deckungsstock*<sup>14</sup> and covering assets account for by far the largest share of investments. They are used to cover technical provisions and thereby secure the obligations of the insurance undertaking towards the insured parties. At the 2014 year-end, including unit-linked and index-linked life assurance and state-sponsored retirement provision plans, they totalled € 98.7 billion, which represents an increase of 1.92% compared with the previous year.

The biggest share, at € 40.9 billion, relates to debt securities, which marks an increase of 6.1% compared with 2013. At 44%, the percentage of government bonds in the debt securities segment remains high. The core share ratio (listed shares, share-based investment funds, equity risk in mixed funds), which had been falling ever since 2006, grew slightly in 2013 and ended 2014 back at 4.3%. The extended share ratio (listed shares, unlisted shares, share-based investment funds, equity risk in mixed funds, structured debt securities without capital guarantee, structured loans without capital guarantee) rose from 15.4% in 2013 to 17.7% in 2014.

The sum of all assets secured as special funds in the life assurance sector (excluding unit-linked and index-linked life assurance) amounted to € 49.23 billion as at the end of 2014, marking a marginal increase of

#### AUSTRIA'S INSURANCE INDUSTRY BY INTERNATIONAL STANDARDS

The state of development of a country's insurance industry can be evaluated statistically in terms of insurance density and insurance penetration. Insurance density specifically refers to the ratio of premium revenues to total population. In the area of life assurance, insurance density increased compared with 2013, rising from € 762 to € 786. Meanwhile, in the non-life sector, there was an increase of 1.6% to € 1 229. These results continue to place Austria in a mid-table position compared with the rest of Europe. In 2013 premium revenues per person within the EU averaged € 1 124 for life assurance and € 759 for non-life, of which € 196 related to health insurance. Insurance penetration is defined as the ratio of premiums to gross domestic product. In Austria insurance penetration in 2014, at 5.29%, was almost identical to 2013 (5.24%). In terms of the European average, there was a slight year-on-year increase to 7.68% in 2013.<sup>15</sup>

<sup>14</sup> Translator's note: The *Deckungsstock* is a fund which is administered separately from the other assets of the insurance undertakings. It is exempt from creditors' attachment and designed to satisfy the claims of the policyholders in the event of an insolvency of the insurance undertaking.

<sup>15</sup> Source: CEA Statistics No. 50, European Insurance in Figures, December 2014, page 16 et seq.; figures for 2014 were not yet available at the time of this report being prepared.

0.07% on the previous year. Accounting for almost 60%, debt securities made up more than half of the investments in life assurance *Deckungsstock*. There was a rise in the proportion of government bonds in total life assurance assets, from 24.2% in 2013 to 26% in 2014. During the same period the share ratio also rose slightly, up from 4.2% to 4.4%. The extended share ratio grew from 6.9% at the 2013 year-end to 9.9% by the end of 2014.

## FOREIGN BUSINESS

Of the 108 foreign holdings of Austrian insurance groups in 2014 (2013: 107 foreign holdings), 98 (2013: 95) are located in Central, Eastern and South-Eastern Europe (CESEE). Austrian insurance groups recorded € 9.55 billion of premiums written abroad in 2014 (2013: € 9.41 billion), € 7.03 billion of which was attributable to CESEE countries (2013: € 7.26 billion). This meant that 74% (2013: 77%) of premiums written abroad by Austrian insurance groups was achieved through holdings in CESEE. From the perspective of Austrian insurance groups, the Czech Republic, Poland and the Slovak Republic are vitally important markets, accounting for more than two thirds of the total CESEE premiums generated.

The share of premiums from abroad relative to the total premium volume of Austrian insurance groups has increased constantly since 2006. While this figure was 32.31% in 2006, it had reached 49% by the 2014 year-end.

## INVESTMENT FUNDS

The total fund assets managed by the 24 Austrian investment fund management companies (excluding fund assets managed by real estate investment fund management companies) increased from € 145.29 billion as at 31 December 2013 to € 157.77 billion as at 31 December 2014. This equates to an increase of € 12.48 billion or 8.59%. By way of comparison, the total fund assets as at 31 December 2010 were € 145.18 billion (see Chart 13). That total for 2009 was € 136.67 billion.

Overall, there was a huge inflow of funds during 2014, with a total net amount of € 4.17 billion. By way of comparison, there was a net outflow of funds of € 825.09 million in 2013. Mixed funds, which recorded the highest outflow of funds in 2013, recorded the most inflows in 2014. In contrast, net outflows were recorded in relation to money market funds (–€ 27.36 million), share-based investment funds (–€ 662.65 million) and hedge funds of funds (–€ 41.04 million) (see Chart 14).

Given the marked level of net inflows into mixed funds over the course of 2014, this category had the highest fund volume as at 31 December 2014 (€ 64.27 billion or 40.73%), closely followed by bond funds (€ 62.52 billion or 39.63%). At the 2014 year-end, there were fewer fund assets invested in the asset classes of money market funds (€ 156.12 million), short-term bond funds (€ 7.78 billion), share-based investment funds (€ 22.37 billion), hedge funds of funds (€ 413.36 million) and derivative funds (€ 262.53 million) (see Chart 15). When broken down by target group, 46.43% of investors held retail funds, 46.39% special funds and 7.18% retail funds for large-scale investors as at the end of 2014.

These figures also include alternative investment funds (AIFs) as defined in the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*).

As at the 2014 year-end, the five Austrian real estate investment management companies were managing a total fund volume of € 4.74 billion, which equates to an increase of 15.22% (2013: € 4.12 billion) in the assets under management. This marks a continuation of a five-year trend of constant growth in the assets under management in real estate funds.

Two factors in particular have been conducive to this trend: investing in real estate offers a high level of security, and at a time of persistently low interest rates an attractive rate of return. As a result, the volume of real estate transactions grew by more than 60% in 2014, with most buyers coming from abroad. Office properties remain particularly attractive, while the hotel sector, which has recently enjoyed major expansion, appears to

Chart 13: Fund assets of investment funds 2010-2014 (in € billions)

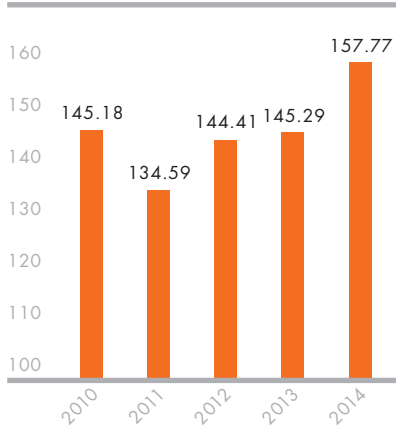


Chart 14: Net growth/decrease by fund category (in € millions)

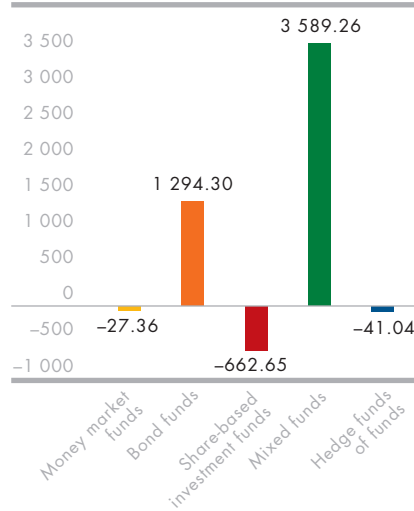
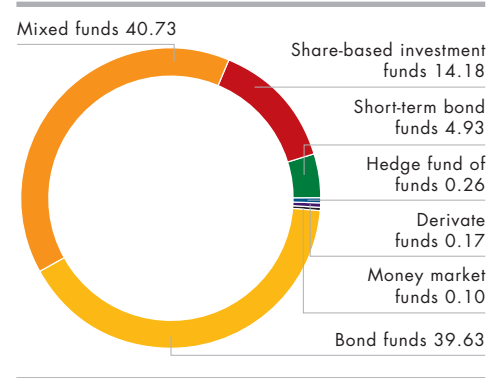


Chart 15: Fund volumes by fund category (as at 31 Dec. 2014; in %)



be saturated for now. In the residential sector, meanwhile, price increases have flattened out. Currently, it is only in the medium price segment that prices are still rising.

### INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

The market for investment firms and investment service providers licensed in accordance with the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*) went through a period of consolidation last year despite the drop in the number of licences and customers. The ongoing decline in the volumes of assets under management in the area of brokered investment products contrasted with significant increases in relation to investment advice and portfolio management services.

Key factors in the ongoing trend towards restructuring and the realignment of business activities were the changes to the legal provisions governing cooperation with sales staff, and the newly introduced option of also being able to offer investment services in the capacity of an alternative investment fund manager (AIFM) with the appropriate additional licence. Since 31 August 2014, investment firms and investment service providers have been required under Austrian law to make exclusive use of securities brokers, a registered trade qualification, for the provision of their investment services. Financial services assistants, previously a free profession, may no longer be used to sell their products. In addition, investment firms may continue to work with tied agents as governed by European law.

It was in this area that the most noticeable change occurred compared with the previous year. The number of securities brokers registered with the FMA rose by 18%, the number of tied agents registered by investment firms was more or less the same at +1.15%, and the number of employees dropped by more than 15%. Closer consideration of the tied agent figures reveals that there were 192 legal persons registered by investment firms as tied agents in the FMA's register in 2013, backed by

Chart 16: Number of customers 2010-2014 (in thousands)

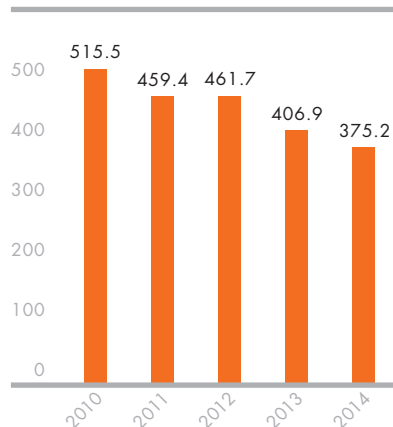


Chart 17: Customer assets under management 2013-2014 (in € billions)

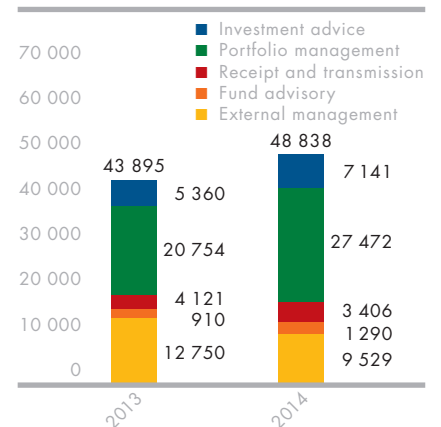


Table 7: **Key figures for Austrian investment firms, investment service providers and alternative investment fund managers with additional licence 2010-2014** (source: FMA licence database as specified in Article 92 para. 12 WAG 2007, FMA register as specified in Article 28 para. 6 WAG 2007, 2014 analysis survey)

|   | 2010       | 2011       | 2012       | 2013       | 2014       |
|---|------------|------------|------------|------------|------------|
| <b>All companies</b>  | <b>193</b> | <b>175</b> | <b>167</b> | <b>152</b> | <b>141</b> |
| <b>LICENCES</b>   |            |            |            |            |            |
| Investment firms  | 99         | 92         | 88         | 82         | 74         |
| Investment service providers                                      | 94         | 83         | 79         | 70         | 65         |
| AIFMs with additional licence                                     | 0          | 0          | 0          | 0          | 2          |
| Investment advice   | 193        | 175        | 167        | 152        | 141        |
| Portfolio management  | 62         | 58         | 54         | 51         | 50         |
| Receipt and transmission of orders                                | 191        | 169        | 161        | 146        | 136        |
| Multilateral trading system                                       | 0          | 0          | 0          | 0          | 0          |
| European Passport for services                                    | 55         | 53         | 54         | 54         | 46         |
| European Passport for branches                                    | 10         | 7          | 7          | 6          | 4          |
| Cooperation with financial services assistants/securities brokers | 118        | 105        | 98         | 91         | 82         |
| <b>LEGAL FORM</b>   |            |            |            |            |            |
| Joint stock company (AG)  | 23         | 19         | 18         | 16         | 14         |
| Limited liability company (GmbH)                                  | 129        | 121        | 117        | 108        | 103        |
| Partnerships  | 7          | 5          | 5          | 5          | 3          |
| Sole proprietorships  | 34         | 30         | 27         | 23         | 21         |
| <b>BUSINESS ACTIVITY</b>  |            |            |            |            |            |
| Investment advice   | 115        | 112        | 99         | 94         | 79         |
| Portfolio management  | 47         | 48         | 42         | 42         | 37         |
| Receipt and transmission of orders                                | 123        | 111        | 106        | 95         | 89         |
| Investment funds advisory   | 31         | 27         | 23         | 22         | –          |
| – UCITS advisory  |            |            |            |            | 20         |
| – AIF advisory  |            |            |            |            | 6          |
| External management of investment funds                           | 32         | 32         | 29         | 29         | –          |
| – UCITS management  |            |            |            |            | 24         |
| – AIF management  |            |            |            |            | 14         |
| Appointment of tied agents  | 30         | 28         | 27         | 25         | 27         |
| Cooperation with financial services assistants                    | 63         | 54         | 48         | 37         | 0          |
| Cooperation with securities brokers                               | –          | –          | 23         | 31         | 38         |
| Sale of own products  | 58         | 62         | 59         | 55         | 58         |
| Key account customer service                                      | 50         | 49         | 43         | 34         | 33         |

499 natural persons. By 2014 there were 212 legal persons in total (+10%) but backed by only 427 natural persons (–14%).

The rise in the number of tied agents acting in the capacity of a legal person for licensed companies is partly due to the fall in the number of investment firms and investment service providers that are themselves licensed in accordance with the WAG 2007. These companies as a rule do not drop out of the market completely; they often continue their investment service activities as tied agents for another licensed company. It became apparent for the first time in 2014 that this connection also applies to EEA investment firms. Such tied agents are then equivalent to a branch of an EEA investment firm and continue to be subject to conduct supervision by the FMA.

Compared with 2013, the number of customers being served in the area of investment services fell further by almost 8% to 375 249. The market appears to be continuing to focus on business dealings with affluent retail customers and professional clients. The number of licensed companies looking after fewer than 1,000 customers was down in 2014.

The customer assets under management in the area of individual portfolio management rose by 32% year on year to € 27.47 billion in 2014, which equates to approximately 56% of all customer assets in the investment services sector and is 9% higher than in 2013. This is supplemented by € 9.52 billion of assets which are

being collectively managed through so-called external management for investment fund companies and AIFMs. A striking detail is that, at € 7.14 billion (or roughly 15% of assets), the figure for customer assets managed by providing investment advice rose by a considerable 33% compared with the previous year, while only € 3.41 billion of assets (-17%) is managed through the brokering of financial instruments.







## THE INTEGRATED SUPERVISORY MODEL

**T**he FMA is the independent, autonomous and integrated supervisory authority covering nearly all of Austria's financial market. In accordance with its statutory remit, it is responsible for supervising credit institutions, payment institutions, insurance undertakings, *Pensionskassen* (pension companies), corporate provision funds, investment funds, licensed investment service providers, credit rating agencies and stock exchanges, as well as for capital market prospectuses. The FMA is also responsible for monitoring trading in listed securities to ensure that it is carried out properly and for monitoring issuers' compliance with information and organisation obligations. Further tasks include combating the unauthorised provision of financial services and taking preventive action against money laundering and terrorist financing. Pursuant to the EU Transparency Directive, the FMA is also the authority responsible for financial reporting enforcement in Austria.

In figures, the FMA therefore supervised a total of 1 012 undertakings with assets totalling € 1 307.4 billion during the year under review. These included in particular:

- 764 credit institutions with total assets of € 896.4 billion;
- 10 corporate provision funds with assets under management of € 7.33 billion;
- 95 insurance undertakings with assets under management of € 107.4 billion;
- 14 *Pensionskassen* encompassing 118 investment and risk sharing groups and assets under management of € 19.01 billion;
- 74 investment firms and 65 investment service providers with customer assets under management totalling approximately € 37 billion;
- 2 152 domestic investment funds managed by 24 investment fund management companies with a managed fund volume of € 157.8 billion, as well as 6 382 foreign funds sold in Austria;
- 5 real estate investment fund management companies with fund assets under management of € 4.74 billion;
- 367 issuers with 9 136 listed securities and 33.74 million reported transactions.

### AIMS OF THE FMA

In line with its statutory remit, the FMA must comply with the following overriding goals as it carries out its supervisory activity:

1. contributing to the stability of Austria's financial market and strengthening confidence in its functioning;
2. protecting investors, creditors and consumers as prescribed by law;
3. taking preventive action in relation to compliance with supervisory standards while consistently punishing any violations of these standards.

Some examples of specific measures taken by the FMA to realise these aims are given below.

### FINANCIAL MARKET STABILITY

#### BANK'S CAPITAL POSITIONS

The global financial crisis demonstrated in dramatic fashion the extent to which the quality and quantity of

Chart 18: **Changes in Tier 1 capital ratio 2010-2014** (unweighted, in %)

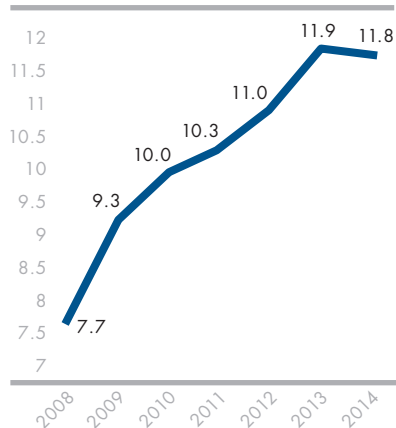


Chart 19: **Loan deposit ratio 2010-2014** (in %)

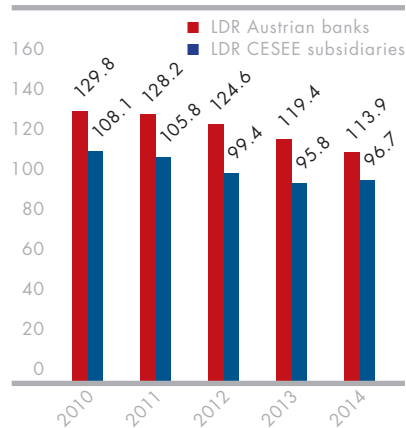
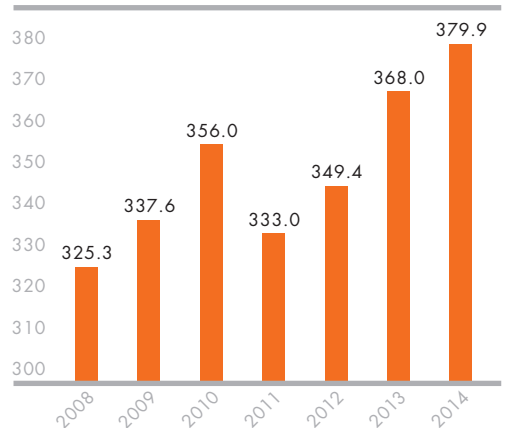


Chart 20: **Changes in average solvency ratio 2008-2014** (unweighted, in %)



bank's capital resources impact on their risk-bearing capacity and stability. Consequently, the FMA has introduced comprehensive measures designed to improve the quality and increase the quantity of Austrian banks' capital bases. Strict benchmarks have been set in relation to the risk-bearing capacity of certain capital components, and defined in the form of circular letters, minimum standards and regulations. Through brief inspections and on-site inspections, compliance with these rules has been monitored, while the FMA has also used management talks as an opportunity to reiterate the importance of improving equity ratios and capital structures. Indeed, these measures have generated success. The Common Equity Tier 1 capital ratio of Austrian banks has increased from 7.7% to 11.8% during the period from 2008 to 2014 (see Chart 18), with the solvency ratio improving from 11% to 15.6%.

#### SUSTAINABILITY PACKAGE FOR BANKS

Another measure designed to strengthen financial market stability has been the sustainability package made available to the major Austrian banks with particular exposure to Central, Eastern and South-Eastern Europe (CESEE). The main aim is to stem excessive growth through the transfer of capital from the parent company to subsidiaries. With this in mind, the FMA has introduced a rule to the effect that lending may only advance at the same pace as deposits from the regional market, with a target loan-to-local stable funding ratio (LLSFR) of 110% for the CESEE subsidiaries of Austrian banks. In this context, the loan deposit ratio during the period from 2008 to 2014 fell from 117.3% to 96.7% (see Chart 19).

#### SOLVENCY OF INSURANCE UNDERTAKINGS

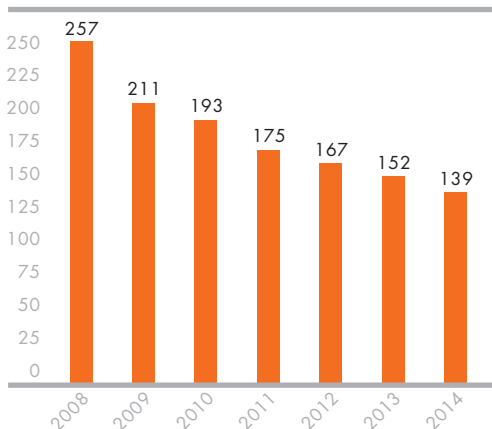
In terms of the Austrian insurance industry, the FMA's measures to strengthen risk-bearing capacity are reflected in an improvement in the solvency ratio, up from 325.3% in 2008 to 379.9% by 2014 (see Chart 20).

#### MARKET CONSOLIDATION OF INVESTMENT FIRMS

On the investment service provider market, the FMA has been successful in improving the quality of investment firms and investment service providers and in making advisory and settlement services more professional. The strict requirements in terms of organisational structure and capital backing of licensed undertakings have resulted in a huge market shakeout and have made licensed market participants more professional. As a result, their number has fallen from as high as 257 in 2008 to 139 by 2014 (see Chart 21 on the following page).

Previously, investment service providers, which are required to fulfil less stringent statutory requirements, dominated their sector, outnumbering investment firms, which must comply with significantly stricter conditions. However, this situation has now been reversed. The improvement in advisory services is based, firstly, on

Chart 21: **Market consolidation of investment firms and investment service providers 2008–2014** (unweighted, in %)



year, the number of company visits has risen from 18 to 30, and the number of on-site inspections has been raised from 8 to 24. Through these targeted measures, the preventive work to raise market participants' awareness of this issue has been further improved in the year under review.

#### HEDGE FUNDS

In 2014 the FMA was also given official responsibility for supervision of alternative investment fund managers (AIFMs). As of 30 June 2014, when the transitional provision ceased to apply, all AIFMs require a licence or, in some specific circumstances, simply need to be registered. In order to ensure that the new supervisory regime got off to a smooth start, the FMA carried out prior checks of more than 50 structures and companies to determine whether or not they were covered by the terms of the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*).

#### SOLVENCY II

With effect from 1 January 2016, the new supervisory regime for insurance undertakings, known as Solvency II will enter into force. To ensure that the new rules can be applied in a market-based manner and in a way that takes Austria's economic structure into account, the FMA has been carrying out six Quantitative Impact Studies (QIS) in advance of introduction, analysing the impact and calibration for Austrian providers, as well as discussing these during intensive talks with the companies concerned. In this way, the Austrian insurance industry has been optimally prepared for the launch of the new supervisory regime.

### INVESTOR, SAVER AND CONSUMER PROTECTION

#### FOREIGN CURRENCY LOANS

Ever since it was first established, the FMA has warned of the cumulative risks associated with foreign currency loans. It has also set minimum standards for the lending industry governing the granting and management of foreign currency loans and of bullet loans with repayment vehicles. These standards have been tightened up and extended several times. Additionally, together with the Oesterreichische Nationalbank (OeNB) and the Austrian Federal Economic Chamber (WKO), the FMA has produced an information folder detailing the risks associated with foreign currency loans. Finally, in autumn 2008, the FMA imposed a de facto ban on the issue of new foreign currency loans to Austrian households as this type of credit was jeopardising financial market stability. The FMA also subsequently agreed with the Austrian banks that the latter would closely monitor the risk associated with each individual foreign currency loan and, in the event of any major

stricter regulatory requirements and, secondly, in a huge tightening-up of the training and continuing professional development requirements made of companies' employees and partners (particular mention should be made of the now abolished position of financial services assistant, which involved an inadequate level of training).

### PREVENTION

#### COMBATING MONEY LAUNDERING

In the fight against money laundering and terrorist financing, it has been the FMA's role since 2011 to monitor whether the supervised companies have appropriate preventive systems in place and are applying these to avoid any such abuse of the Austrian financial system. Since then, the FMA has massively stepped up its information and inspection activities. The number of target group-based information events and presentations has been increased from 6 to 50 per

change in that level of risk, engage in discussions with the customer in order to use attractive alternatives to arrive jointly at a strategy to limit the risk. Through this package of measures, the outstanding volume of foreign currency loans has been cut by 47.5% (allowing for exchange rate fluctuations). Today, more than 120 000 Austrian households can rest easy, safe in the knowledge that they are no longer exposed to any foreign exchange risk.

#### ADDITIONAL INTEREST PROVISION

With interest rates remaining persistently low, there is a risk that providers of classic life assurance products will no longer be able to generate the minimum rates of return for this old-age provision product that were guaranteed during periods of high interest rates. Consequently, the FMA took timely action, introducing a regulation back in 2013. This Regulation on Additional Interest Provisions (*Zinszusatzrückstellungs-Verordnung*) forces insurance undertakings to create provisions from their own profits as a means of ensuring that they can pay the guaranteed returns when the promised payments fall due, even in a low interest rate environment.

#### TRANSPARENCY

As part of its transparency initiative, the FMA has introduced various minimum standards governing the information requirements relating to certain old-age provision products (e.g. life assurance, *Pensionskassen*, corporate provision funds). These standards ensure that consumers are provided with comprehensive, impartial and comparable information prior to concluding contracts, during their term and upon payout. The information tools now implemented in accordance with an EU initiative (e.g. key investor information document – KIID, packaged retail investment products – PRIIPs) are also helping to improve the comprehensibility, transparency and comparability of investment products.

#### UNAUTHORISED CONDUCT OF BUSINESS/INVESTMENT FRAUD

To protect investors and consumers from shady or fraudulent providers of financial services, the FMA publishes warning notices as soon as it learns of anyone offering financial services that require a licence on the Austrian market without complying with the statutory requirements. These warning notices can be consulted on the FMA website at any time, sorted both alphabetically and chronologically. The FMA has also made it possible for interested parties to access warnings issued by its partner authorities in other countries via its website. This database has proven its worth and should always be consulted before investing with a new provider that was previously unknown to the investor. Moreover, the FMA's database of providers that it has licensed and therefore supervises can also be accessed via the FMA website.

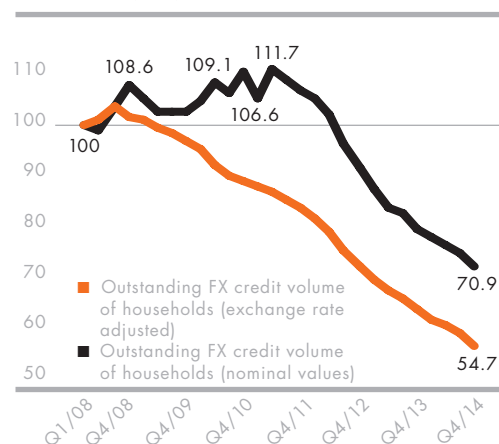
### COMPETENCE – CONTROL – CONSISTENCY

In order to achieve its supervisory goals, the FMA bases its supervisory concept on three pillars, which are summed up by the three principles of competence, control and consistency as enshrined in its corporate claim.

#### COMPETENCE

In its capacity as an expert organisation, the FMA prioritises training and continuing professional development for its employees. Around three quarters of all FMA employees have a degree, with one in three employees

Chart 22: Limitation of FX loan risk  
2008–2014 (in %)



holding an additional qualification such as a second degree, MBA or professional qualification in law or auditing. FMA employees speak a total of 30 different languages. 52 FMA employees have already graduated from the two-year postgraduate, vocational university programme in Financial Market Supervision, developed jointly by the FMA, OeNB and Vienna University of Economics and Business (WU). Additionally, FMA staff attended 554 specialist CPD events in 2014. During the year under review the FMA invested an average of € 3 500 per employee in CPD measures.

**CONTROL**

A comprehensive reporting system for the relevant key figures is at the heart of any efficient and effective supervision, providing the foundation for high-quality, off-site analyses. However, in order to be able to monitor the quality of the reporting data and key figures and of the underlying processes at any time, an appropriate on-site presence at the supervised companies is of particular importance.

Chart 23: On-site inspections 2010–2014 (source: FMA)

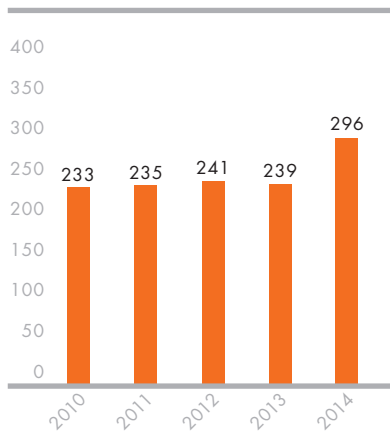
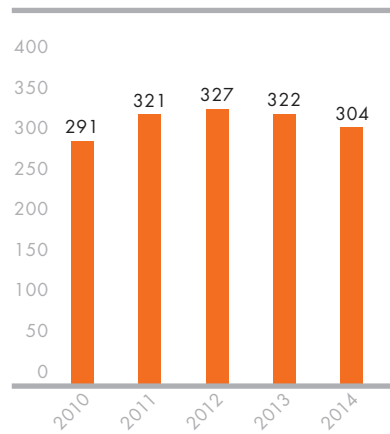


Chart 24: Management talks 2010–2014 (source: FMA)



appropriate on-site presence at the supervised companies is of particular importance.

In its 2007 review of financial market supervision, which analysed and evaluated the early years of the FMA, the Austrian Court of Audit rightly established that the resources available for on-site inspections were insufficient. One striking example was used to back up this criticism: purely statistically, an investment service provider could expect to be subjected to an on-site inspection roughly once every 38 years.

The findings of this Court of Audit report, together with the 2008 findings of the parliamentary banking enquiry committee, resulted in supervisory reform that cleared the way for the provision of appropriate resources, eliminating as it did frictional losses and redundancies. Correspondingly, the FMA was able to arrange 296 on-site inspections during the 2014 reporting year (see Chart 23). This means that 25% of all supervised companies are now inspected on site every year. In statistical terms, it means that every supervised company must now expect to have an inspection at least once every four years. Systemically important institutions are now inspected annually.

The findings of this Court of Audit

**CONSISTENCY**

The FMA’s objective is to take preventive action with regard to compliance with the statutory rules included in its supervisory remit. To this end, it engages in proactive dialogue with the supervised companies, publishes circular letters and minimum standards, and issues regulations as a means of presenting and communicating the interpretation of the law and supervisory practice in a transparent manner. While the consistent punishment of breaches of supervisory rules during the period from 2009 to 2011 generated a huge increase in the number of administrative penal proceedings being launched by the FMA, namely from 196 in 2008 to a high of 569 in 2011, this number has consistently fallen since then, more or less halving to 279 by 2014. This is firstly due to the preventive effect the penalties had, improving compliance with the statutory reporting and information obligations towards the supervisor. Secondly, the legal option of voluntary self-disclosure to avoid penalty, introduced on the FMA’s initiative, created a positive incentive for the supervised companies to submit their late notifications and reports without further delay. Furthermore, the consistent penalisation of breaches

has generated a significant improvement in compliance with the information rules set out in the Capital Market Act (KMG; *Kapitalmarktgesetz*) regarding risk information and reference to the capital market prospectus.

The integrated supervisory model, encompassing nearly the entire financial market and bringing nearly all of the tasks under a single roof, has a proven track record as the most efficient and most effective model for Austria. It has improved synergies in terms of expertise extending across different sectors and, in particular, has cut costs.

However, it is with regard to crisis management when dealing with the turmoil of the global financial crisis that the integrated model has truly proven its value. Information on every area of the market and every financial institution is forwarded to one single authority, and this single authority is responsible for all of these market areas. The FMA's expertise in securities supervision, for example, has avoided a situation in which financial instruments are subject to short selling, manipulating the market and placing the banks under additional pressure. In turn, the pooling of expertise on banking supervision and insurance supervision helps to avoid any potential contagion effects. And as the crisis revealed, the integrated supervisory model proved to be an important tool in the fight against supervisory arbitrage and evading regulation, while at the same time guaranteeing a level playing field across all sectors, industries and market frontiers. The criteria and tests used to determine whether a management or supervisory board member or an owner is a suitable person for the prudent and sustainable development of a financial institution (fit and proper tests) can therefore be largely harmonised. This similarly applies to the requirements regarding advice when selling financial products and to the harmonisation of incentive, commission and bonus systems, as well as to appropriate measures for combating money laundering and terrorist financing.

The fact that the Austrian policymaker holds the work of the FMA as an integrated supervisory authority in high regard is clear from the simple fact that many additional tasks have been conferred on the authority since it was originally established in 2002, namely supervision of staff provision funds/corporate provision funds (2002), of financial conglomerates (2004) and of measures to combat unauthorised business operations (2005), prospectus supervision (2005), prevention of money laundering and terrorist financing (2011), financial reporting enforcement (2013), supervision of hedge funds and alternative investments (2013), and the role of the national resolution authority in the context of the new European bank recovery and resolution regime (2015).

## SUPERVISION OF BANKS

### REORGANISATION OF BANKING SUPERVISION

In 2014 the most fundamental change in the supervision of the banking sector took place since the FMA assumed responsibility for this area in 2002. An imbalance had previously existed between multinational banking groups, with their highly complex corporate structures straddling national boundaries, and supervisory authorities active at the national level. To compensate, a Single Supervisory Mechanism (SSM) was established for the euro area countries. When the SSM became operational on 4 November 2014, responsibility for supervising all euro area banks was transferred to the European Central Bank (ECB). Since then, banks in the participating Member States have been supervised within the framework of the SSM under a decentralised system, in close cooperation between the ECB and the national competent authorities (NCAs). Please refer to the FMA publication “Facts and figures, trends and strategies 2015” („Fakten, Trends und Strategien 2015”) for a detailed description of the structure of the SSM and of the division of specific tasks between the FMA and the ECB.

With the launch of the SSM, the eight Austrian banking groups listed below were classified as “significant

Figure 1: Distribution of tasks within the SSM



<sup>1</sup> The SSM basically covers the Member States in the euro area, i.e. those that have adopted the euro as their currency. This included 18 Member States in 2014. EU Member States that have a currency other than the euro may participate voluntarily in the new European banking supervision system. In such cases, the ECB and the national competent authorities of the particular Member States agree to close cooperation; in this way Member States become “participating Member States”.



institutions" (SIs) and, along with a total of some 150 independent credit institutions within the groups, placed under direct supervision by the ECB: Raiffeisen Zentralbank Österreich AG, Erste Group Bank AG, BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG, Österreichische Volksbanken AG, Raiffeisen-Holding Niederösterreich-Wien reg. Gen.m.b.H., Raiffeisenlandesbank Oberösterreich AG, Sberbank Europe AG and VTB Bank (Austria) AG.

All others, referred to as "less significant institutions" (LSIs) are subject to only indirect supervision by the ECB and remain under the FMA's direct supervision, with the uniform regulations and specifications issued by the ECB applying throughout the SSM. The FMA thus continues to have the main responsibility for supervising about 550 of these credit institutions with regional significance.

The data and facts on the FMA's supervisory activities that are presented below relate in part to subject matter that in future will fall within the ECB's scope of competence. For the interim period, the ECB and the FMA have agreed that the FMA will complete the large majority of cases in which the Austrian regulator initiated proceedings, with the ECB being informed and involved in an ongoing way as a matter of course. The ECB has directly taken over proceedings in some isolated cases only.

Yet, even within the SSM, by far the main share of the work entailed in banking supervision remains with the national competent authorities. The reasons are two-fold: on the one hand, the Joint Supervisory Teams (JSTs), which are responsible for the banks under direct supervision by the ECB, comprise to a large degree (i.e. 75% to 90%) staff members of the national supervisors; and, specifically in Austria, the number of institutions under only indirect ECB supervision and still directly supervised by the FMA is especially high when compared

#### COMPREHENSIVE ASSESSMENT – A HIGHLY COMPREHENSIVE AND IN-DEPTH RISK ANALYSIS OF THE EURO AREA'S MOST SIGNIFICANT BANKING GROUPS

The Single Supervisory Mechanism (SSM) signifies the reorganisation of banking supervision in the euro area under the leadership of the European Central Bank (ECB). In preparation for the launch on 4 November 2014, the 130 most important groups of credit institutions active on a cross-border basis were subjected to an extensive audit and analysis, referred to as the comprehensive assessment (CA), between November 2013 and October 2014. The most in-depth and comprehensive analysis of Europe's major banking groups to date was performed by the ECB together with national supervisors and independent experts.

The comprehensive assessment comprised three components: a risk assessment, an asset quality review (AQR) and a stress test based on the latter. The risk assessment entailed an analysis of each bank to reveal the portfolios and markets entailing special risks. The AQR involved a review of the asset side of the banks' balance sheets, focusing on credit portfolios as well as on investments, to determine the values based on uniform European standards. During the stress test, which was conducted jointly with the European Banking Authority (EBA), the banks' capability of withstanding crisis situations was evaluated by first assuming normal macroeconomic conditions (baseline scenario) and then a highly negative development (adverse scenario). The impact on the banks' capital base was analysed under both scenarios. For the first time, a stress test was performed using the results from an AQR.

For the six Austrian credit institution groups participating, the results of the stress test were as expected. Erste Group Bank, Raiffeisen Zentralbank, BAWAG P.S.K., RLB OOE and RLB NOE-W performed well on the test, displaying adequate capital buffers even under the most demanding stress scenario. In the case of ÖVAG, which was known to be in the midst of a radical restructuring process, the stress test confirmed the previous analysis by the national supervisor, revealing a capital gap of € 865 million in 2016 in the absence of restructuring measures. ►

Table 8: **Baseline and adverse scenario**

| BASELINE SCENARIO            | CET1R 2013   | Basis point change | AQR adjusted CET1R | Basis point change | Stress test CET1R baseline |
|------------------------------|--------------|--------------------|--------------------|--------------------|----------------------------|
| Erste Bank Group             | 11.2%        | -117               | 10.0%              | 117                | 11.2%                      |
| Raiffeisen Zentralbank       | 10.4%        | -65                | 9.7%               | -22                | 9.5%                       |
| BAWAG P-S.K.                 | 14.5%        | -21                | 14.3%              | -244               | 11.9%                      |
| OeVAG                        | 11.5%        | -115               | 10.3%              | -308               | 7.2%                       |
| RLB OOE                      | 11.4%        | -112               | 10.3%              | 101                | 11.3%                      |
| RLB NOE-W                    | 17.5%        | -67                | 16.9%              | 26                 | 17.2%                      |
| <b>Risk weighted average</b> | <b>11.5%</b> | <b>-91</b>         | <b>10.5%</b>       | <b>4</b>           | <b>10.6%</b>               |
| ADVERSE SCENARIO             | CET1R 2013   | Basis point change | AQR adjusted CET1R | Basis point change | Stress test CET1R adverse  |
| Erste Bank Group             | 11.2%        | -117               | 10.0%              | -242               | 7.6%                       |
| Raiffeisen Zentralbank       | 10.4%        | -65                | 9.7%               | -193               | 7.8%                       |
| BAWAG P-S.K.                 | 14.5%        | -21                | 14.3%              | -576               | 8.5%                       |
| OeVAG                        | 11.5%        | -115               | 10.3%              | -824               | 2.1%                       |
| RLB OOE                      | 11.4%        | -112               | 10.3%              | -237               | 7.9%                       |
| RLB NOE-W                    | 17.5%        | -67                | 16.9%              | -509               | 11.8%                      |
| <b>Risk weighted average</b> | <b>11.5%</b> | <b>-91</b>         | <b>10.5%</b>       | <b>-310</b>        | <b>7,4%</b>                |

CET1R=Common Equity Tier 1 ratio. The initial level in each case are the CET1 ratios as of 31 December 2013 (first column). AQR adjusted CET1R (third column) is the Common Equity Tier 1 ratio achieved after the AQR in each case. Here the hurdle rate was set at 8%. Column five lists the Common Equity Tier 1 ratios for the stress scenario. CET1 ratios of 8% and 5.5% had to be reached for the baseline scenario and the adverse scenario respectively.

The table shows all Austrian banking groups to have achieved the 8% CET1 hurdle following the AQR. In the stress test, five banking groups met the required capital ratio of 8% CET1 under the baseline scenario and 5.5% under the adverse scenario. All calculations are based on the 2013 balance sheet, meaning that no consideration is taken of any later capital measures, such as capital increases or redeeming a portion of the participation capital subscribed by the state.

The results presented here, and in particular the comparatively low initial levels of capital, show the Austrian banks as being somewhat below the average for the euro area. Yet the results also indicate the importance of the measures taken by the FMA, aimed at improving the quality and quantity of capital held by Austrian banks. The banks must nonetheless take further steps to strengthen their capital base as well as their profitability. Priority needs to be given to consistently moving forward and completing the restructuring of the ÖVAG group and the reorganisation of the Volksbank cooperatives.

Both in terms of intensity and scope, the comprehensive assessment was an auditing challenge beyond compare for the ECB and the national competent authorities – which in Austria are the OeNB and the FMA. Just for the Austrian credit institutions, more than 8 000 cases of loans, representing a total credit volume of € 57 billion, were reviewed in Austria and seven other countries in Central and Eastern Europe. Alongside the OeNB’s teams of auditors, who were primarily responsible for monitoring quality assurance, four international auditing firms were commissioned to perform audits and analyses. More than 300 auditors and analysts were at work during peak periods.

The details for each individual institution can be viewed at the websites of the ECB ([www.bankingsupervision.europa.eu/banking/comprehensive/html/index.en.html](http://www.bankingsupervision.europa.eu/banking/comprehensive/html/index.en.html)) and the EBA ([www.eba.europa.eu/risk-analysis-and-data/eu-wide-stress-testing/2014/results](http://www.eba.europa.eu/risk-analysis-and-data/eu-wide-stress-testing/2014/results)).

with the rest of the EU. Furthermore, the tasks of preparing cases, some communication with the particular institution and managing procedures continue to remain the de facto responsibility of the competent staff of the FMA even with regard to institutions subject to direct ECB supervision.

## OFFICIAL TASKS

### SUPERVISED COMPANIES

As at 31 December 2014, there were 734 credit institutions in Austria as well as 30 branches of credit institutions which pursue activities in Austria as specified in Article 9 of the Austrian Banking Act (BWG; *Bankwesengesetz*) under the European Union's freedom of establishment. To be categorised as a "credit institution" within the meaning of the BWG, a legal entity must hold a licence to carry out at least one banking transaction pursuant to Article 1 para. 1 BWG. The total number of credit institutions fell and was down by 24 from 2013, marking the continuation of a trend in evidence for years now. Further consolidation affected the decentralised sectors (Raiffeisen and Volksbank cooperatives, savings banks) in particular, with a drop in the number of credit institutions from 619 to 600.

### PAYMENT INSTITUTIONS

Payment institutions are legal entities that are entitled to commercially provide payment services. Examples of such services include credit transfers and the issuing of payment instruments. Three payment service providers were licensed in Austria as at 31 December 2014. In addition, there were four branches of payment institutions active in Austria under the EU's freedom of establishment.

### LICENSING PROCESSES

As of the launch of the SSM, the granting of licences to institutions subject to the Capital Requirements Regulation (CRR) falls exclusively within the competence of the ECB. Such CRR institutions are banks that both receive funds from the public and issue loans. Yet applications for initiating the process still have to be submitted to the FMA. The FMA is responsible for subsequently forwarding the application, along with a draft decision and the relevant documents, to the ECB for a decision. The FMA continues to be the competent authority in future for the licensing of all credit institutions not under the SSM, i.e. institutions as referred to in Article 1a para. 2 BWG.

Two new licences pursuant to the BWG and the ZaDiG were granted in 2014. There was a decrease in the number of approved licence extensions, from nine in 2013 to zero in 2014. A total of 28 licences were

Table 9: **Number of credit institutions 2010–2014**

|                                       | 2010       | 2011       | 2012       | 2013       | 2014       |
|---------------------------------------|------------|------------|------------|------------|------------|
| Joint stock and special-purpose banks | 91         | 89         | 87         | 84         | 77*        |
| Savings banks                         | 54         | 51         | 51         | 49         | 49         |
| Raiffeisen cooperatives               | 539        | 530        | 520        | 509        | 498        |
| Volksbank cooperatives                | 67         | 67         | 64         | 61         | 53         |
| Mortgage banks                        | 11         | 11         | 11         | 11         | 11         |
| Building societies                    | 4          | 4          | 4          | 4          | 4          |
| Investment fund management companies  | 30         | 29         | 29         | 29         | 29         |
| Corporate provision funds             | 10         | 10         | 10         | 10         | 10         |
| Exchange offices/remittance services  | 7          | 3          | 3          | 3          | 3          |
| EU branches                           | 30         | 30         | 29         | 30         | 30         |
| <b>Total</b>                          | <b>843</b> | <b>824</b> | <b>808</b> | <b>790</b> | <b>764</b> |

\*Article 1 para. 1 nos. 22 and 23 BWG entered into force on 1 January 2004.

Table 10: **Number of payment institutions 2010–2014**

|   | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|------|------|------|------|------|
| Licensed payment institutions                 | 0    | 3    | 4    | 3    | 3    |
| Licensing processes pending as at 31 December | 8    | 3    | 1    | 0    | 1    |
| Passive notifications                         | 31   | 53   | 34   | 66   | 100  |

Table 11: **Licensing processes 2010–2014**

|   | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|------|------|------|------|------|
| Valid licences*   | 813  | 794  | 779  | 760  | 734  |
| Licences granted (new licences incl. ZaDiG)                 | 1    | 3    | 3    | 0    | 2    |
| Licences extended   | 7    | 10   | 3    | 9    | 0    |
| License refused pursuant to Article 5 para. 1 BWG           | 1    | 2    | 1    | 0    | 0    |
| Licences revoked or lapsed pursuant to Articles 6 and 7 BWG | 4    | 9    | 5    | 18   | 28   |

#### FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT

|  |    |    |    |    |    |
|--|----|----|----|----|----|
| Passive notifications pursuant to Art. 9 BWG | 36 | 30 | 25 | 33 | 40 |
| Active notifications pursuant to Art. 10 BWG | 25 | 8  | 21 | 53 | 32 |

\*Number of credit institutions licensed in Austria (excl. branches from EEA/non-EEA countries)

declared expired or revoked in the year under review. As at 31 December 2014, one licence extension process pursuant to the BWG was still pending.

No licence is required by credit institutions and financial institutions that are licensed in another Member State of the EEA. Such institutions may, on the basis of the fundamental freedoms applicable in the EEA, also offer their services in Austria. This may be done either under the freedom of establishment by setting up a branch or under the freedom to provide services through direct cross-border operations. The only procedure required is what is referred to as a notification, whereby the competent home country supervisory authority informs the FMA that the institution concerned has a licence and details the banking transactions covered by that licence. At the same time, the home country authority confirms that the institution for which notification is provided is subject to supervision by the relevant home supervisor<sup>2</sup>.

In the period under review, 40 credit institutions and 100 payment institutions from other Member States provided notification of taking up activities in Austria ("passive notification"). A total of 32 Austrian credit institutions provided notification via the FMA to the supervisory authorities in other Member States of their plans to make use of the freedom of establishment or the freedom to provide services ("active notification"). These figures include new notifications and changes to existing notifications in 2014.

## SOURCES OF INFORMATION FOR SUPERVISION

### CREDIT INSTITUTIONS AND PAYMENT INSTITUTIONS: REPORTING, NOTIFICATION AND INFORMATION OBLIGATIONS

Banking supervision in Austria is based on a system of control bodies at different levels. The first control level comprises the managing directors, the internal audit unit and the supervisory board of a credit institution (internal control). The next level is that of external control by bank auditors. Actual state supervision begins only at the next level, by the state commissioner, the FMA and the OeNB. In line with the intention of this hierarchy of supervision, the primary and most important source of information for supervision purposes is the credit institutions themselves, being required to comply with comprehensive reporting, notification and information obligations.

The most important reporting requirements applying to credit institutions are found in Article 74 BWG and in Implementing Regulation (EU) No 680/2014 (ITS on supervisory reporting, specifying standards for reports based on the CRR), while similar provisions for payment institutions are contained in Article 20 ZaDiG. According to those provisions, credit institutions are obliged to provide the supervisory authority with key economic figures at periodic intervals. The annual asset, income and risk statement (VERA) contains the figures required to be submitted to the supervisory authority to enable an assessment of the institution's economic situation and of its compliance with risk-specific due diligence obligations. Reports based on the CRR (including common solvency ratio reporting or COREP and financial reporting or FINREP) provide an overview as to whether the credit institutions are complying with essential provisions of supervisory law, particularly with regard to own funds requirements and limits on large exposures. Further reporting obligations apply to real estate losses, the encumbrance of assets, liquidity, foreign currency risks, the positions of the trading book and the credit institutions' master data. Notification obligations as set out in Articles 20 and 73 BWG relate mainly to the following items:

- actions planned or taken, such as amendments to the articles of association, any change of managing director or member of the supervisory board, withdrawal from a protection scheme, and similar items; or
- facts that reveal a direct risk such as e.g. the occurrence of insolvency or over-indebtedness.

In 2014 the FMA received notification of a change in managing director in 198 cases and of a change in supervisory board chairperson in 168 cases. In each of these cases the FMA is required to verify that the individual holding the new position is personally and professionally qualified (fit and proper) to meet the responsibilities.

<sup>2</sup> The SSM will affect the passporting regime in some cases, since the official notification process is no longer necessary in several Member States where the ECB is the competent authority. Related matters will from now on be discussed in the Joint Supervisory Teams.

Table 12: Sources of information 2010–2014

|  | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|------|------|------|------|------|
| Notification of changes in the persons appointed as directors pursuant to Article 73 para. 1 no. 3 BWG   | 219  | 149  | 166  | 191  | 198  |
| Notification of the election of a new chairperson of the supervisory board pursuant to Article 28a para. 4 BWG   | 52   | 34   | 24   | 33   | 168* |
| Notification by the director of danger to creditors, possible insolvency or over-indebtedness pursuant to Article 73 para. 1 nos. 5 or 6 BWG or Article 11 para. 1 nos. 5 or 6 ZaDiG | 1    | 1    | 0    | 2    | 3    |
| Information obtained from or inspection at credit institution pursuant to Article 70 para. 1 no. 1 BWG   | 382  | 384  | 402  | 433  | 401  |
| Information obtained from bank auditor, protection scheme or government commissioner pursuant to Article 70 para. 1 no. 2 BWG  | 30   | 13   | 29   | 19   | 19   |
| Notification of facts required to be reported by bank auditors pursuant to Article 63 para. 3 BWG  | 31   | 42   | 39   | 29   | 14   |
| Bank auditor/early recognition meetings  | 47   | 52   | 43   | 40   | 46   |
| Management talks   | 73   | 63   | 61   | 62   | 54   |

\* The marked increase in the number compared with previous periods is a result of the transition to the Basel III regulations. As of 1 January 2014 the previous requirement to notify chairpersons was extended to include all members of the supervisory board. In addition, until August 2014 a reappointment had to be notified.

During the year under review, the Fit and Proper Circular (available in German) was modified to reflect current legal requirements arising from the implementation of Directive 2013/36/EU (CRD IV) and from the entry into force of Regulation (EU) No 575/2013 (CRR). One of the items was a detailed description of the limits to the number of offices that can be held in management bodies.

Apart from deriving information through reporting and notification obligations, the FMA may also actively approach the supervised institutions. Pursuant to Article 70 para. 1 no. 1 BWG and Article 63 para. 2 no. 2 ZaDiG, the FMA may request information at any time from the supervised credit institutions and payment institutions and inspect their business documents. There were 401 instances of information being obtained or of documentation being inspected in 2014. Furthermore, the FMA may also obtain information from bank auditors and auditing associations, from protection schemes as well as from government commissioners. The FMA issued 19 such requests for information in 2014.

#### BANK AUDITORS AND STATE COMMISSIONERS

The financial statements of each credit institution and payment institution as well as the consolidated financial statements of each group of credit institutions pursuant to Article 59 para. 1 BWG, including the accounting and the management report as well as the consolidated report, where applicable, are to be examined by the bank or statutory auditors to verify their compliance with the law. Among other things this involves verifying the substantive correctness of the measurement, including compliance with the regulatory provisions as well as the allocation of items in the trading book. This step is specified in Article 63 para. 4 BWG. The result of this audit is included in an annex to the audit report. This annex must be submitted to the management and the supervisory body under company law, together with the audit report on the financial statements. The FMA – and as of 4 November 2014 the ECB – must be immediately notified of any relevant facts of particular significance that auditors identify in the course of their activities.

The FMA holds regular discussions with all the bank auditors of Austrian credit institutions. Of particular relevance in this regard are the meetings with the auditing associations of the decentralised sectors, held at regular intervals, as well as the meetings with the auditors, held at least once every quarter. The FMA holds such meetings, referred to as early recognition meetings, with representatives of the protection schemes of each of the sectors. In the course of 2014, 46 such bank auditor and early recognition meetings were held in total.

The Federal Minister of Finance must appoint state commissioners for all credit institutions with total assets of € 1 billion upwards. These officials are entitled to attend all AGMs or general meetings and supervisory board meetings and sit on all supervisory board committees that adopt resolutions. The state commissioner must immediately inform the FMA of any threat to the credit institution that becomes known to them in the

course of their activities. State commissioners are obliged to raise objections against resolutions by the above-mentioned bodies that they consider to violate banking supervision requirements. They are also required to report to the FMA on their activities.

MANAGEMENT TALKS

The FMA conducts regular structured talks with the management of the credit institutions. Such talks represent a valuable source of supplementary information. In this way, management talks held at major banks according to a set schedule play a significant role in routine analysis. One of the purposes of the meetings is to maintain contact with the management of credit institutions and to examine in greater detail their risk assessment and strategy. Depending on the issue focused on, a distinction is made in this context between management talks, risk talks and CESEE talks. In the period under review, 54 such meetings were held.

Austrian credit institutions are prominent in Central and Eastern Europe, and thus great significance is associated with this region for the business development of Austria’s major credit institutions. Correspondingly, priority is given to discussing the risk situation in Central, Eastern and South-Eastern Europe (CESEE) in the context of management talks involving the major banking groups with a strong CESEE commitment. The purpose of the talks is to develop a clearer view of the structure and business activities of CESEE subsidiaries as well as of the risks to which they are exposed. Detailed information is also provided by the banks concerning their strategy for Eastern Europe, the group risk management system and the development of their most significant subsidiaries abroad.

ON-SITE INSPECTIONS

The FMA is required to commission the Oesterreichische Nationalbank (OeNB) to carry out on-site inspections in the normal case. For this purpose, the two bodies each year jointly stipulate a risk-based inspection plan, while reserving the resources needed for ad-hoc inspections for which the OeNB is mandated on short notice. A total of 43 inspection mandates were issued to the OeNB in 2014 (see Table 13). Inspections during the

year under review were focused on “credit risk with special emphasis on comprehensive assessment”.

Within the SSM, the ECB defines the inspection plan for significant banks. Meanwhile, the FMA retains the right to obtain information. Specifically, where there is occasion, the FMA may order an on-site inspection

even at significant institutions. The insights obtained from the inspection are, however, required to be brought before the Joint Supervisory Team (JST), in which the ECB works jointly with the NCAs. In the case of LSIs and banks not under the SSM, the FMA is still responsible for preparing an annual inspection plan in consultation with the OeNB.

In view of the significance of the CESEE region for Austrian credit institutions, on-site inspections of credit institutions in that region have been conducted with greater frequency within the framework of consolidated supervision. Such inspections are held with the consent of the national competent authority in the particular case and of the ECB where required.

In addition, in the context of approval procedures for the risk assessment models used by banks, nine related on-site activities took place in 2014.

Table 13: Inspection mandates 2010–2014

|  | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|------|------|------|------|------|
| Inspection mandates issued to the OeNB pursuant to Article 70 para. 1 no. 3 BWG and Article 63 para. 1 no. 4 ZaDiG | 39   | 43   | 47   | 47   | 43   |

SUPERVISORY PROCEDURES

GENERAL AND OFFICIAL MEASURES PURSUANT TO ARTICLE 70 BWG AND ARTICLE 64 ZADIG

In accordance with its statutory mandate, the FMA is responsible for monitoring compliance with statutory pro-

visions pertaining to banking, for ascertaining facts in cases involving the endangering of creditors' interests and for introducing appropriate remedial measures where necessary. The relevant statutory provisions in this regard are Article 70 BWG and Article 64 ZaDiG, which provide the FMA with the means of implementing these objectives, including powers to intervene and impose sanctions.

If there is a risk of a credit institution or payment institution being unable to fulfil its obligations to creditors and customers, pursuant to Article 70 para. 2 BWG the FMA may prohibit distributions of capital or profits, appoint a government commissioner, relieve directors of their duties or prohibit the further pursuit of business activities. The FMA ordered such measures on two occasions in 2014.

One official power that is particularly relevant in practice is the one specified in Article 70 para. 4 BWG. In cases where a licensing requirement is no longer met or where a credit institution violates provisions of the BWG or another specific law, the FMA may introduce measures as described in the following. Firstly, the credit institution will be issued with a request to restore compliance with the statutory provisions or be subject to a coercive penalty. Should the institution fail to comply with this request fully or at all, the FMA is required to completely or partially prohibit the directors from managing the business, except where such would be an inappropriate measure given the type and severity of the breach and it is expected that renewed imposition of the first measure will result in compliance with the statutory provisions.

In such a case, the FMA is required to impose the threatened coercive penalty and to re-issue the request under threat of a more severe penalty. If these measures are not sufficient to guarantee the ability of the credit institution to function, the institution's licence is to be revoked as a last resort. On 16 occasions during the period under review, the FMA ordered credit institutions, under threat of a coercive penalty, to establish compliance with statutory provisions within an appropriate period of time (see Table 14).

A special type of empowerment is specified in Article 70 para. 4a BWG. Where for a credit institution, affiliation of credit institutions or group of credit institutions the risks arising from banking transactions and banking operations are inadequately limited, and where such risks are not expected to become limited in the short term, the FMA must, irrespective of any other measures, impose a minimum capital requirement that is higher than the statutory minimum capital requirement ("capital add-on" measure). A capital add-on was required twice during the year under review.

A further official measure intended to enforce compliance with the statutory provisions is specified in Article 97 BWG. Specifically, the FMA is required to charge interest in the event of breaches of the law involving failure to comply with thresholds, either by exceeding or falling below them. This occurs in cases where, for instance, limits for large exposures are exceeded or the minimum capital requirement is not met. One of the intentions here is to negate any competitive advantages that arise through disregarding provisions of law. Interest was charged in 15 such cases (pursuant to Article 97 BWG) in 2014.

Table 14: **Official measures pursuant to Articles 70 and 97 BWG 2010-2014**

|   | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|------|------|------|------|------|
| Measures against danger to creditors pursuant to Article 70 para. 2 BWG             | 0    | 1    | 0    | 2    | 2    |
| Measures to restore legal compliance pursuant to Article 70 para. 4 nos. 1 to 3 BWG | 3    | 5    | 9    | 7    | 16   |
| Interest imposed pursuant to Article 97 BWG   | 37   | 32   | 24   | 16   | 15   |

#### OWNERSHIP PROVISIONS AND APPROVALS

Qualifying holdings exists in the case where a party acquires more than 10% of the capital or voting rights in a credit institution or payment institution. Any person intending to acquire such holdings or to increase their existing holdings such that the thresholds of 20%, 30% or 50% of the capital or the voting rights will be exceeded must notify the FMA. The same applies in the event that holdings are sold and the total falls below such a threshold. Such a sale or acquisition can be prohibited within 60 working days. This applies where the new owners do not meet the requirements set in the interests of the sound and prudent management of a credit institution. The corresponding legal basis is given in Article 20 para. 2 in conjunction with Article 20b BWG.

Table 15: Notifications and approvals pursuant to Article 20 et seq. BWG 2010–2014 and Article 11 ZaDiG 2011–2014

| NOTIFICATIONS AND APPROVALS pursuant to the BWG  | 2010   | 2011  | 2012  | 2013 | 2014 |
|--|--|---|---|------|------|
| Notification of qualifying holdings in an Austrian credit institution pursuant to Article 20 para. 1 BWG   | 16   | 20  | 14  | 68   | 27   |
| Procedure completed with expiry of assessment period (i.e. non-prohibition of acquisition) or non-prohibiting administrative decision prior to expiry of the period pursuant to Article 20a para. 2 BWG  | 13<br>(exkl. 5 current procedures from 2009) | 4<br>(exkl. 2 current procedures from 2010) | 12<br>(exkl. 1 current procedure from 2011) | 55   | 8    |
| Procedure completed with prohibition of the acquisition pursuant to Article 20a para. 2 BWG  | 0  | 1   | 0   | 0    | 0    |
| Procedure completed through withdrawal of the notification pursuant to Article 20a para. 2 BWG   | 0  | 15  | 1   | 2    | 1    |
| Current procedures pursuant to Article 20 para. 1 BWG  | 3  | 1<br>(from 2010)                            | 0   | 11   | 18   |
| Approval of mergers pursuant to Article 21 para. 1 no. 1 BWG   | 11   | 10  | 13  | 21   | 21   |
| Approval of demergers pursuant to Article 21 para. 1 no. 6 BWG   | 2  | 2   | 4   | 1    | 1    |
| NOTIFICATIONS AND APPROVALS pursuant to the ZaDiG*   | 2011   | 2012  | 2013  | 2014 |      |
| Notification of qualifying holdings in an Austrian payment institution pursuant to Article 11 para. 2 ZaDiG  | 3  | 4   | 0   | 1    |      |
| Procedure completed with expiry of assessment period (i.e. non-prohibition of acquisition) or non-prohibiting administrative decision prior to expiry of the period pursuant to Article 11 para. 2 ZaDiG | 0  | 2<br>(exkl. 1 current procedure from 2011)  | 0   | 1    |      |
| Procedure completed with prohibition of the acquisition pursuant to Article 11 para. 2 ZaDiG   | 0  | 0   | 0   | 0    |      |
| Procedure completed through withdrawal of the notification pursuant to Article 11 para. 2 ZaDiG  | 0  | 1<br>(exkl. 1 current procedure from 2011)  | 0   | 0    |      |
| Current procedures pursuant to Article 11 para. 2 ZaDiG  | 1  | 1   | 0   | 0    |      |

\* The ZaDiG entered into force in November 2009.

Table 16: Model approvals 2010–2014

|  | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|------|------|------|------|------|
| <b>CREDIT RISK</b>   |      |      |      |      |      |
| Approval for the Internal Ratings Based Approach and material changes to internal models pursuant to Article 143 CRR (formerly Article 21a para. 1 BWG)  | 12   | 10   | 11   | 6    | 4    |
| Approval for the Internal Ratings Based Approach with own estimates of Loss Given Default and conversion factors pursuant to Article 143(2) (formerly Article 21a para. 1 in conj. with Article 22b para. 8 BWG) | 1    | 0    | 0    | 0    | 0    |
| Approval to use own estimates of volatility adjustments (comprehensive method) pursuant to Article 225(1) CRR (formerly Article 21c para. 1 BWG)   | 0    | 21   | 0    | 0    | 0    |
| Approval for the Internal Model Method to determine the exposure value pursuant to Article 283 CRR (formerly within the meaning of Article 21f BWG)  | 0    | 0    | 0    | 0    | 1    |
| <b>MARKET RISK</b>   |      |      |      |      |      |
| Approval for internal models to limit market risk and material changes to internal models pursuant to Article 363 CRR (formerly Article 21e para. 1 BWG)   | 2    | 1    | 6    | 2    | 2    |
| <b>OPERATIONAL RISK</b>  |      |      |      |      |      |
| Approval for the Advanced Measurement Approach and material changes to their models for operational risk pursuant to Article 312 CRR (formerly Article 21d para. 1 BWG)  | 3    | 4    | 7    | 4    | 1    |
| <b>OF THESE</b>  |      |      |      |      |      |
| Cross-border processes pursuant to Article 20 CRR (formerly Article 21g para. 1 BWG)   | 7    | 11   | 8    | 6    | 4    |
| New approval cases as a consequence of the CRR   | –    | –    | –    | –    | 3    |

A total of 27 notifications of a planned acquisition of holdings in an Austrian credit institution or payment institution were submitted to the FMA in 2014. Of these, eight resulted in the acquisition not being prohibited while one notification was withdrawn. The proceedings in the remaining 18 cases had not yet been completed at the end of 2014 (see Table 15). The FMA also approved 21 mergers of credit institutions and one demerger during the reporting period. The ECB has been responsible for all owner control procedures at SIs and LSIs since 4 November 2014.



## MODEL APPROVALS

Since 2007 credit institutions have had the option of calculating their own funds requirements for credit risk on the basis of the Internal Ratings Based Approach (IRB Approach). Additionally, they have been able to apply the Advanced Measurement Approach (AMA) for operational risk. Models may also be used to calculate market risk.

The classic procedure, when a credit institution applies for approval of a model solely for the Austrian market, is as follows. The application, which is required to be submitted to the FMA, is first checked to ensure that it meets the formal requirements and to verify that all necessary documentation has been submitted. The OeNB is subsequently requested to provide an expert opinion. On the basis of the review of all documents and the OeNB opinion, the model is then either approved or rejected. A similar procedure applies in the event of material changes to the model.

In the case of cross-border approval for a model, the official process is far more comprehensive. If a superordinate EEA parent credit institution applies to have a risk model approved for itself and its subsidiary banks, the approval must be issued jointly by all of the supervisory authorities affected. The home supervisor, i.e. the supervisory authority responsible for the superordinate credit institution, plays the central role in this process. In addition to its activity as a home supervisor for Austria's largest banks, the FMA was involved in other cross-border processes in the capacity of host supervisor. A total of 11 models were approved. In four of the cases, the FMA was able in its capacity as home supervisor to successfully conclude the cross-border approval processes, while serving as host supervisor in three cases of model approval.

## CONSOLIDATED SUPERVISION

### COLLEGES AS AN INSTRUMENT OF CONSOLIDATED SUPERVISION

While collaborating in international organisations, in some cases in a leading capacity, the FMA is strongly concerned with maintaining bilateral and multilateral relations with other supervisory authorities. In line with the activities of Austrian credit institutions, the CESEE region is a focus of such contacts.

Colleges of supervisors are a key instrument for consolidated supervision of cross-border credit institutions. These colleges are the venue for taking joint decisions in model approval procedures, while also serving as a forum for discussing issues related to ongoing supervision in the context of overall risk management. The members of the college, specifically the home supervisor and all host supervisors, have to arrive at a joint risk assessment for the particular group of credit institutions and then, based on this assessment, reach a joint decision regarding the capital adequacy of the group (joint assessment and joint decision). Based on this decision, the members of the college annually stipulate a supervisory action plan, defining the further procedures of the supervisory authorities in the case of the particular banking group. In future, within the SSM the colleges will be replaced by the JSTs.

As of the end of 2014, the FMA had established a total of four supervisory colleges for banking groups operating on a cross-border basis that have at least two significant subsidiary institutions or branches in other EEA Member States. The colleges are required to hold an annual meeting. Another five supervisory colleges with a more flexible structure existed as of the end of 2014.

Table 17: **Supervisory colleges – banks 2010–2014**

|  | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|------|------|------|------|------|
| Colleges established as specified in Article 131 |      |      |      |      |      |
| CRD (FMA as home supervisor)                     | 4*   | 4    | 14   | 14   | 9    |
| College meetings held                            | 7*   | 7    | 9    | 4    | 4    |

\* The requirement to establish supervisory colleges (Article 77b BWG) entered into force on 31 December 2010.

## SUPERVISION OF CORPORATE PROVISION FUNDS

**T**he activities of corporate provision funds are regulated by the Company Employee and Self-Employment Provisions Act (BMSVG; *Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz*), which places them under the supervision of the FMA. Furthermore, pursuant to the BMSVG, the acceptance and investment of severance payment contributions are deemed to be banking transactions pursuant to Article 1 para. 1 no. 21 of the Austrian Banking Act (BWG; *Bankwesengesetz*) that require a licence. Consequently, corporate provision funds are to be regarded as special-purpose credit institutions.

### OFFICIAL TASKS

#### SUPERVISED COMPANIES/LICENSING

As at 31 December 2014, ten corporate provision funds held licences in Austria. Each of these ten licensed funds currently manages one collective investment undertaking.

#### DISCLOSURE OBLIGATIONS

##### REPORTING AND INFORMATION SOURCES

Corporate provision funds are subject to extensive reporting obligations. Pursuant to the Regulation on the Quarterly Financial Statements for Corporate Provision Funds (BVQA-V; *Betriebliche Vorsorgekassen-Quartalsverordnung*), corporate provision funds must submit reports on their quarterly financial statements to the OeNB within four weeks of the end of each calendar quarter. The information to be provided in the BVQA report includes details on own funds and a statement of net assets for the collective investment undertaking. In addition, corporate provision funds must submit their audited financial statements, the annex to the audit report, as well as the audited report on activities of the collective investment undertaking and the audit report on the report on activities to the FMA every year in good time. The state commissioners appointed for the corporate provision funds are additionally required to report regularly to the FMA.

##### DISCLOSURE OBLIGATIONS

The corporate provision funds are required to inform the beneficiaries (entitled) every year of the severance pay expectancy acquired as of the last balance sheet date, the contributions made by the employer during that financial year, the cash and administrative expenses charged to them, the investment income allocated to them and the acquired total severance pay expectancy. This information is to be provided by the respective corporate provision fund in the form of an account statement. In this context, the FMA has made use of its statutory power and published Minimum Standards on how this account information is to be presented. Upon request, corporate provision funds are also required to send the reports on activities of the collective investment undertakings to the employers who have paid contributions and to the responsible works council members.

## EXAMINATIONS AND INSPECTIONS ON SITE

For the purposes of fulfilling its statutory remit, the FMA may use a number of different supervisory measures. It may, for example, inspect the documents held by corporate provision funds and request information. It also has the right to prohibit or intervene in activities, and may carry out on-site examinations and inspections. During the year under review one follow-up inspection was carried out at one corporate provision fund.

## MANAGEMENT TALKS

The FMA invites representatives of corporate provision funds to management talks. At these talks, the directors are required to inform the FMA on such aspects as their performance and results during the past year, investment activities, changes in their organisational structure or deviations from the business plan, and they may also disclose any current concerns.

In 2014 management talks were held with each of the ten existing corporate provision funds.

## SUPERVISORY PROCEDURES

From the time they received a licence, corporate provision funds are subject to continued supervision by the FMA. Apart from its responsibility for introducing and managing supervisory procedures, the FMA is also in charge of processing notifications and reports submitted in accordance with the BWG. The authority must thus also examine the suitability of the directors and supervisory board members, conducting a “fit and proper” test where applicable. Any changes to the investment conditions must also be approved by the FMA. In addition, further areas of its supervisory duty are to monitor corporate provision funds’ compliance with the own funds requirements as referred to in Article 20 BMSVG and with the investment provisions of Article 30 BMSVG. The appointment of or any change of custodian bank also has to be approved by the FMA.

## SUPERVISION OF PENSION COMPANIES

### SUPERVISED COMPANIES/LICENSING

**W**ith regard to *Pensionskassen*, a distinction is made between two different types of pension company: single-employer and multi-employer *Pensionskassen*. Single-employer *Pensionskassen* are entitled to carry out pension company activities for the beneficiaries of only one employer or company group. Single-employer *Pensionskassen* were primarily founded as subsidiaries of international groups. Employees can thus be offered benefits from their “own” *Pensionskasse* while at the same time the parent companies can exert a stronger influence on the type of investment and on the terms and conditions. In the 2014 financial year, seven companies held a licence for the provision of single-employer pension company services.

Multi-employer *Pensionskassen* can carry out pension company activities for the beneficiaries of more than one employer. In the 2014 financial year, seven companies held a licence for the provision of multi-employer pension company services.

Companies with head offices in Austria that hold the appropriate licence granted by the FMA are entitled to pursue pension company activities in this country. Such a licence is to be granted if the conditions laid down in the *Pensionskassen Act* (PKG; *Pensionskassengesetz*) are fulfilled. These are specifically: sufficient capital, submission of an approvable business plan which includes suitable actuarial bases, as well as management board members and shareholders that are fit and proper. To be eligible for a licence, the company must also have the legal form of a joint stock company (*Aktiengesellschaft*). In 2014 no applications for the granting of a licence were filed.

### CONTINUED SUPERVISION

Among the most important tasks making up the FMA’s mandate are the ongoing analysis of the development of the pension company market and of individual *Pensionskassen* and IRGs, the verification of compliance with the provisions stipulated in the PKG, i.e. concerning investment limits, coverage of the technical provisions and an adequate level of own funds as prescribed, as well as verification of compliance with the Risk Management Regulation for *Pensionskassen* (RIMAV-PK; *Risikomanagementverordnung Pensionskassen*).

### SOURCES OF INFORMATION

Several standardised sources of information are available to Pension Supervision. These are:

- the quarterly report on investment data;
- performance figures (reported quarterly);
- reports by the state commissioners on the meetings of the pension company bodies (provided quarterly);
- audit reports and reports on activities of the *Pensionskassen* and IRGs;
- risk management manuals;
- each IRG’s set of investment policy principles.

Apart from the information that originates from these standardised reporting sources, Pension Supervision may also, pursuant to Article 33 para. 3 no. 1 PKG, at any time demand information on all business matters from the *Pensionskassen* and inspect all of their books, documents and data media. In addition, *Pensionskassen* are subject to the notification obligations as set out in Article 36 PKG.

## ON-SITE INSPECTIONS

In 2014 on-site inspections were performed at five *Pensionskassen*. The focus of inspections in the area of actuarial supervision included payment of lump-sum settlements, contribution policy, portfolio management and the technical account balances. The focus of inspections in the area of financial supervision was on compliance with the RIMAV-PK, the minimum standards for the risk management process and the structure of risk management at *Pensionskassen*.

## MANAGEMENT TALKS

In addition to the five on-site inspections, the FMA held 22 management talks during the year under review. In these talks, the FMA discusses topical economic and supervisory issues, as well as any current issues with the management board members. One of the main subjects of these talks is the result of the analysis of the financial statements of the *Pensionskassen* and any consequent issues.

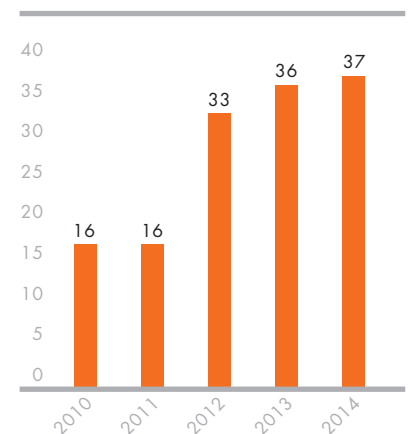
## APPROVAL OF BUSINESS PLANS

Pursuant to Article 20 PKG, the *Pensionskasse* must draw up a business plan containing all details and actuarial bases required for pension company activities. The business plan, as well as any amendment to the business plan, requires the FMA's approval, which may also stipulate related conditions and time limits. The application for approval must include a report of the auditing actuary, who must audit the business plan as well as any amendment to it. In the 2014 reporting year, 37 business plans were submitted for approval.

Table 18: **On-site activities 2010–2014** (source: FMA)

|                            | 2010 | 2011 | 2012 | 2013 | 2014 |
|----------------------------|------|------|------|------|------|
| <b>ON-SITE INSPECTIONS</b> |      |      |      |      |      |
| Acc. to inspection plan    | 3    | 3    | 6    | 6    | 5    |
| Non-scheduled              | 1    | 0    | 0    | 0    | 0    |
| <b>BRIEF INSPECTIONS</b>   |      |      |      |      |      |
| Acc. to inspection plan    | 0    | 0    | 0    | 0    | 0    |
| <b>MANAGEMENT TALKS</b>    |      |      |      |      |      |
| Acc. to inspection plan    | 21   | 17   | 15   | 11   | 22   |
| <b>COMPANY VISITS</b>      |      |      |      |      |      |
| Acc. to inspection plan    | 0    | 0    | 0    | 0    | 0    |
| Non-scheduled              | 0    | 0    | 0    | 1    | 0    |

Chart 25: **Approval of business plans 2010–2014** (source: FMA)



## SUPERVISION OF INSURANCE UNDERTAKINGS

## SUPERVISED COMPANIES/LICENSING

As at the end of 2014, 95 Austrian insurance undertakings had a licence granted by the FMA and were thus subject to continued supervision by the authority. The number of insurance companies has therefore fallen by 26 since 2000.

## JOINT STOCK COMPANIES AND LARGE MUTUAL ASSOCIATIONS

Excluding small mutual associations, a total of 43 domestic insurance undertakings were pursuing activities in Austria in 2014. Six of these were mutual associations, and 37 joint stock companies (see Table 19). The

classes of insurance in which these joint stock companies and large mutual associations operate are detailed in Table 20.

Austria is traditionally dominated by composite insurers. This refers to insurance undertakings that pursue activities in more than one balance sheet group (i.e. life assurance, health insurance, non-life and accident insurance). The regulation on the separation of insurance classes, which became effective in Austria with the signing of the EEA Treaty on 2 May 1992, does not apply to numerous Austrian insurance undertakings. This is because they were already operating as composite insurers before the Treaty was signed and are thus permitted to continue their business activities without limitation.

## SMALL MUTUALS

As at the end of December 2014 the FMA was supervising a total of 52 small mutuals, of which around two thirds are active as fire insurers, with the remaining third involved in animal insurance. In addition, there is one reinsurance association for small mutual associations (see Table 21).

Table 19: **Legal forms of domestic insurance undertakings 2010–2014**  
(Source: FMA)

|  | 2010       | 2011       | 2012       | 2013      | 2014      |
|--|------------|------------|------------|-----------|-----------|
| Mutual associations<br>(excluding small mutuals)                       | 6          | 6          | 6          | 6         | 6         |
| Small mutual associations  | 54         | 53         | 53         | 53        | 52        |
| Joint stock companies  | 45         | 46         | 42         | 40        | 37        |
| <b>Total</b>   | <b>105</b> | <b>105</b> | <b>101</b> | <b>99</b> | <b>95</b> |
| Mutual associations dealing in asset<br>management/private foundations | 6          | 6          | 6          | 6         | 6         |

Table 20: **Business areas of insurance undertakings 2010–2014**  
(excluding small mutuals; source: FMA)

|                                 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---------------------------------|------|------|------|------|------|
| Reinsurance only                | 3    | 3    | 3    | 3    | 3    |
| Life assurance                  | 31   | 31   | 30   | 30   | 28   |
| Health insurance                | 10   | 10   | 8    | 8    | 9    |
| Non-life and accident insurance | 42   | 42   | 41   | 38   | 38   |

Table 21: **Small mutual associations by field of activity 2010–2014**  
(Source: FMA)

|  | 2010      | 2011      | 2012      | 2013      | 2014      |
|--|-----------|-----------|-----------|-----------|-----------|
| Fire insurance associations                | 35        | 35        | 35        | 35        | 34        |
| Animal insurance associations              | 18        | 17        | 17        | 17        | 17        |
| Death benefit funds                        | 0         | 0         | 0         | 0         | 0         |
| Reinsurance associations for small mutuals | 1         | 1         | 1         | 1         | 1         |
| <b>Total number of associations</b>        | <b>54</b> | <b>53</b> | <b>53</b> | <b>53</b> | <b>52</b> |

## EEA AND THIRD-COUNTRY INSURERS

Since the beginning of July 1994, the country of origin principle has applied to Europe-wide licensing within the European internal insurance market, which covers all EEA countries. Consequently, Austrian policyholders and policyholders from other EEA countries may also take out insurance with insurance undertakings that have their registered office in another EEA Member State, rather than being restricted to insurance undertakings based in their own country. The European internal insurance market allows insurance undertakings that have their registered office in another EEA Member State as well as a valid licence there to operate through a branch and/or under the freedom to provide services without needing to acquire a new licence (single licence principle) from the competent foreign supervisory authority (host authority). In order to take up insurance activities in another EEA country, the insurance undertaking is required to register with the authority of its country of origin and to submit certain documents. The home country authority is the authority in the country where the insurance undertaking has its registered offices.

It is the home country authority and not the foreign supervisory authority of the country where the insurance undertaking pursues activities that is principally responsible for supervision.

As at the end of December 2014, 30 insurance undertakings from within the EEA were operating in Austria through a branch. An additional 953 companies were registered to provide services here, which is 50 more than in 2013 (see Table 22).

Since 2010 only one foreign insurance undertaking from a third country (outside the EEA) has remained licensed in Austria, namely Helvetia Versicherungen AG from Switzerland.

Table 22: **EEA insurers in Austria 2010–2014**  
(excluding small mutuals; source: FMA)

|                             | 2010 | 2011 | 2012 | 2013 | 2014 |
|-----------------------------|------|------|------|------|------|
| Operating through branches  | 27   | 26   | 28   | 29   | 30   |
| Providing services directly | 845  | 878  | 897  | 903  | 953  |

## CONTINUED SUPERVISION

## ANALYSES

Once every three months, the FMA carries out a risk-oriented analysis of the net assets, financial position and the results of operations of the supervised insurance undertakings. The data required for the analysis is reported by the companies electronically. Based on these routine analyses, the FMA has published a report on the performance of the Austrian insurance sector once every quarter since 2010. The reports can be viewed (in German) on the FMA website at [www.fma.gv.at/de/statistik-berichtswesen/statistiken-unternehmen/versicherungs-unternehmen.html](http://www.fma.gv.at/de/statistik-berichtswesen/statistiken-unternehmen/versicherungs-unternehmen.html)

Pursuant to Article 100 para. 1 of the Insurance Supervision Act (VAG; *Versicherungsaufsichtsgesetz*), the FMA is entitled to make use of its right to information at any time. Information on solvency status during the course of the year and the monthly development of hidden reserves may be requested from insurance undertakings so that any potential threats to capital requirements can be recognised at the earliest possible time. Additionally, a cash flow forecast for a five-year period helps to reveal whether sufficient liquidity is available to fulfil the obligations arising from insurance contracts. It can also be recognised whether companies will be able to hold conservatively valued securities until redemption or be forced to realise losses through the premature sale of the securities.

The data, which is reported as part of standard procedures, together with the FMA's analyses based on this data, also serve as a basis for deciding whether any additional supervisory measures are required:

- Article 104a para. 1 VAG: The FMA will call on the supervised insurance undertakings to submit a solvency plan if the solvency margin is judged insufficient or if the FMA has legitimate reason to assume that an insurance undertaking will no longer have sufficient own funds at its disposal in the foreseeable future.
- Article 104a para. 2a VAG: If, due to a deterioration in the financial situation of an insurance undertaking, the supervisory authority has reason to assume that a sufficient solvency margin is no longer likely to

be guaranteed in the long term, the authority may call on the undertaking to submit a recovery plan setting out the planned development for the next three financial years.

- Article 104a para. 2 VAG: If the own funds of an insurance undertaking are not in line with the scope of the guarantee fund, the FMA will require a financing plan, which it must approve.

In order to better estimate future risk potential, the FMA additionally performs regular stress tests. These are conducted twice a year in the life assurance sector and once a year in the classes of non-life/accident insurance and health insurance.

## OFFICIAL PROCESSES, DISCLOSURES, LICENSING, ON-SITE ACTIVITIES

Pursuant to Article 116 para. 1 VAG, the FMA periodically publishes information on legal requirements relevant to the insurance industry and on activities involving individual insurance undertakings. The latter includes information regarding licences granted, transformations of companies, liquidations, the establishment of branches and the taking-up of the provision of services by EEA-based companies. Since 2001 such disclosures have been available to view on the FMA website at [www.fma.gv.at/de/unternehmen/versicherungsunternehmen/veroeffentlichungspflichten.html](http://www.fma.gv.at/de/unternehmen/versicherungsunternehmen/veroeffentlichungspflichten.html)

Both undertakings with their head office in Austria and foreign insurers with their head office situated outside the EEA (third-country insurers) require a licence from the FMA in order to carry out contractual insurance business in Austria. Licences granted to Austrian insurance undertakings are valid for the entire EEA (single licence principle), while a licence granted to a third-country insurer is only valid for Austria.

An undertaking applying for a licence must fulfil a number of conditions before being granted a licence by the FMA. Examples of such conditions include the establishment of a company in the legal form of a joint stock company or a mutual association, and funding it with the required level of own funds. The members of the management board must be personally and professionally qualified for their functions (fit and proper), and shareholders must also meet certain requirements. A business plan must be presented providing precise information on the field and scope of activities, as well as the nature of the planned business activities. A separate licence is granted for each individual insurance class.

The FMA processed a total of three licensing applications in 2014: one application for the granting of a licence, one application for a licence withdrawal and one revocation of a licence.

In addition, the FMA dealt with four transfers of portfolio, and approved a total of twelve amended articles of association. 55 cases were processed in connection with the provision of services in 2014. The figures relating to outsourcing pursuant to Article 17a VAG and the appointment of trustees can be found in Table 23.

In compliance with the legal requirements set forth in Article 18 para. 2 VAG, 104 business plans disclosing

the scales of premiums for life assurance and health insurance were submitted to the Authority in 2014 (see Table 24).

With regard to on-site activities, a distinction is made between the different types according to the degree of intensity. The following terminology is applied in insurance supervision:

- **On-site inspections:** an inspection as specified in Article 101 of the VAG or Article 33 of the *Pensionskassen Act* (PKG; *Pensionskassengesetz*). Such inspections adhere to a predefined inspection plan. Inspections may also be carried out on an ad hoc basis if necessary.

Table 23: **Official tasks 2010–2014** (source: FMA)

|  | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|------|------|------|------|------|
| Licensing issues   | 3    | 3    | 5    | 0    | 3    |
| Transfers of portfolio   | 2    | 2    | 5    | 1    | 4    |
| Outsourcing pursuant to Article 17a VAG                            | 13   | 12   | 24   | 12   | 24   |
| Amendments to articles of association (insurers and small mutuals) | 31   | 8    | 19   | 20   | 12   |
| Trustee appointments   | 24   | 11   | 24   | 25   | 11   |
| Branches   | 4    | 2    | 2    | 0    | 3    |
| Services   | 68   | 55   | 91   | 78   | 55   |

Table 24: **Business plans / actuarial bases 2010–2014** (source: FMA)

|                                       | 2010 | 2011 | 2012 | 2013 | 2014 |
|---------------------------------------|------|------|------|------|------|
| Number of annually submitted premiums | 134  | 156  | 136  | 99   | 104  |



- **Brief inspections:** on-site activity focused on a specific item of inspection or investigation.
- **Management talks:** meetings with senior representatives of an insurance undertaking concerning topics specifically related to the undertaking.
- **Company visits:** on-site presence for the purpose of discussing current information.

As in the previous years, personnel resources for carrying out on-site activities were limited due to preparations for Solvency II and the preliminary implementation tasks.

During 2014 on-site inspections were held with regard to such subject areas as risk management of investments, internal auditing and internal control system, formation of an appropriate level of provisions for outstanding insurance claims, risk-bearing capacity, actuarial bases, preventing and tackling money laundering and terrorist financing, analysis of profits and costs – cost allocation, minimum standards for information requirements in life assurance, profit participation, conclusion of contracts and portfolio management.

Apart from on-site inspections, a number of brief inspections were also held at insurance undertakings in 2014. As in the previous year, one of the focuses was the current status of the risk management process among insurance undertakings. The suitability of risk management for Solvency II is also being evaluated.

In addition, company visits and management talks also touched on annual reports for 2013, current developments in 2014 and company strategies, as well as other company-specific topics.

An inspection database has been established to store information on the current situation of insurance undertakings and to enable developments to be traced at a later stage.

#### ACTIVITIES ABROAD IN CONNECTION WITH INSURANCE GROUPS

Alongside supervision of insurance undertakings at the level of the individual companies involved, supplementary supervision of insurance groups represents an important aspect of supervisory activity. Such supplementary supervision comprises the monitoring of sufficient solvency at the group level, as well as changes in levels of foreign business in relation to the associated risk exposure.

Austrian insurance groups operate outside Austria in 26 different countries through holdings. Of the 108 foreign holdings of Austrian insurance groups in 2014 (2013: 107 foreign holdings), 98 (2013: 95) are located in Central, Eastern and South-Eastern Europe (CESEE).

Table 26 shows which insurance groups are active through a subsidiary in which countries.

The Vienna Insurance Group Wiener Versicherung Gruppe (VIG) and Uniqa Versicherungen AG (Uniqa Group) have the most foreign holdings. Additionally,

Table 25: **On-site presence 2010–2014** (source: FMA)

|                   | 2010 | 2011 | 2012 | 2013 | 2014 |
|-------------------|------|------|------|------|------|
| Inspections       | 31   | 14   | 14   | 15   | 19   |
| Brief inspections | 6    | 7    | 9    | 6    | 9    |
| Management talks  | 55   | 19   | 34   | 37   | 61   |

Table 26: **Activities of Austrian insurance groups in Western Europe and CESEE** (as at 18 Feb. 2015; source: FMA)

|                        | VIG | Uniqa | GraWe | Merkur | Wüstenrot<br>Ergo (form-<br>Victoria) |
|------------------------|-----|-------|-------|--------|---------------------------------------|
| WESTERN EUROPE         |     |       |       |        |                                       |
| Germany                | ■   |       |       |        |                                       |
| Italy                  |     | ■     |       |        |                                       |
| Liechtenstein          | ■   | ■     |       |        |                                       |
| Luxembourg             | ■   |       |       |        |                                       |
| Switzerland            |     | ■     |       |        |                                       |
| CESEE COUNTRIES        |     |       |       |        |                                       |
| Albania                | ■   | ■     |       |        |                                       |
| Belarus                | ■   |       |       |        |                                       |
| Bosnia and Herzegovina | ■   | ■     | ■     | ■      |                                       |
| Bulgaria               | ■   | ■     | ■     |        |                                       |
| Croatia                | ■   | ■     | ■     | ■      | ■                                     |
| Cyprus                 |     |       | ■     |        |                                       |
| Czech Republic         | ■   | ■     |       |        | ■                                     |
| Estonia                | ■   |       |       |        |                                       |
| Georgia                | ■   |       |       |        |                                       |
| Hungary                | ■   | ■     | ■     |        | ■                                     |
| Kosovo                 |     | ■     | ■     |        |                                       |
| Macedonia              | ■   | ■     | ■     |        |                                       |
| Moldavia               | ■   |       | ■     |        |                                       |
| Montenegro             | ■   | ■     | ■     | ■      |                                       |
| Poland                 | ■   | ■     |       |        |                                       |
| Romania                | ■   | ■     | ■     |        |                                       |
| Russia                 |     | ■     |       |        |                                       |
| Serbia                 | ■   | ■     | ■     | ■      |                                       |
| Slovakia               | ■   | ■     |       |        | ■                                     |
| Slovenia               |     |       | ■     | ■      |                                       |
| Turkey                 | ■   |       |       |        |                                       |
| Ukraine                | ■   | ■     | ■     |        |                                       |

Grazer Wechselseitige Versicherung Aktiengesellschaft (GraWe Group) also engages in a high level of foreign activity. Whilst the VIG and the Uniqa Group began by extending their business activities to neighbouring states, the GraWe Group was primarily active in the Balkans from the outset.

In order to ensure efficient supplementary supervision of cross-border insurance groups, the regular exchange of information between the national competent insurance supervisors is vital. One of the ways through which this is being achieved is the establishment of colleges of supervisors for each cross-border insurance group. The objective of the colleges of supervisors, by integrating the local insurance supervisor's knowledge of the market and companies it supervises, is to provide a thorough overview of the business activities and risk profile of an insurance group, and to ensure a common level of knowledge among the relevant national competent authorities.

Supervisory college meetings were held for VIG, Uniqa Group, GraWe Group and Merkur Versicherung Aktiengesellschaft (Merkur Group) in 2014. In addition to the exchange of information amongst the supervisory authorities in attendance, the meetings also focused on the approval process for the partial internal models, an issue that is becoming vitally important in the context of the Solvency II regime. As in the previous year, supervisory authorities from countries outside the EEA were also included in the work of the supervisory colleges.

## SUPERVISION OF INVESTMENT FUNDS, REAL ESTATE FUNDS AND ALTERNATIVE INVESTMENT FUNDS

**T**he management of investment funds pursuant to the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*) is deemed to be a banking transaction that requires a licence in accordance with Article 1 para. 1 no. 13 of the Austrian Banking Act (BWG; *Bankwesengesetz*). Investment fund management companies should therefore be viewed as special-purpose credit institutions and, as well as complying with the terms of the InvFG 2011, must also adhere to the provisions of the BWG. The InvFG 2011 also regulates extended options for the cross-border management and marketing of undertakings for collective investment in transferable securities (UCITS).

Real estate investment fund management companies that hold a banking licence in accordance with Article 1 para. 1 no. 13a BWG are subject first and foremost to the provisions of the Real Estate Investment Fund Act (ImmoInvFG; *Immobilien-Investmentfondsgesetz*) including the provisions of the BWG.

The Alternative Investment Funds Managers Act (AIFMG; *Alternative Investmentfonds Manager-Gesetz*) regulates the activities of these managers and places them under the supervision of the FMA. Real estate investment fund management companies and investment fund management companies that also manage AIFs are similarly subject to the provisions of the AIFMG.

Table 27: **Key figures of the Austrian investment fund market 2010–2014** (source: FMA)

|  | 2010         | 2011         | 2012         | 2013         | 2014         | 2014  |
|--|--------------|--------------|--------------|--------------|--------------|---|
| DOMESTIC UCITS<br>or AIFs of (real-estate) investment fund management companies not yet holding an AIFMG licence |              |              |              |              |              | DOMESTIC UCITS of (real estate)<br>investment fund management<br>companies as well as of licensed<br>and registered AIFMs |
| Article 2 paras. 1 and 2 InvFG 2011  | 1 131        | 1 100        | 1 095        | 1 102        | 1 096        | –   |
| Article 166 InvFG  | 215          | 210          | 198          | 140          | 19           | 88  |
| Article 166 InvFG > 10% units in undertakings for<br>collective investment                                       | 138          | 123          | 110          | 80           | 27           | 47  |
| Article 168 et seq. InvFG  | 3            | 3            | 3            | 3            | –            | 3   |
| Article 168 et seq. in conj. with Article 108g et seq. EStG  | 19           | 19           | 19           | 19           | 2            | 15  |
| Real estate funds  | 6            | 6            | 7            | 7            | 1            | 7   |
| Special funds  | 641          | 765          | 795          | 831          | 142          | 671   |
| Article 75 InvFG   | 5            | 6            | 3            | 3            | 4            | AIFs of registered AIFMs<br>30  |
| <b>Total</b>   | <b>2 158</b> | <b>2 232</b> | <b>2 230</b> | <b>2 185</b> | <b>1 291</b> | <b>Total</b><br><b>861</b>  |
| FOREIGN UCITS  |              |              |              |              |              | FOREIGN UCITS   |
| Article 181 InvFG  | 34           | 29           | 34           | 27           | 15           | Article 29 AIFMG<br>3   |
| Article 140 InvFG  | 5 333        | 5 558        | 5 626        | 5 669        | 6 094        | Article 31 AIFMG<br>254   |
| Article 181 Immo-InvFG   | 4            | 4            | 3            | 3            | 1            | EuSEF<br>1  |
| <b>Total</b>   | <b>5 371</b> | <b>5 591</b> | <b>5 663</b> | <b>5 699</b> | <b>6 110</b> | EuVECA<br>14<br><b>Total</b><br><b>272</b>  |

## SUPERVISED COMPANIES/LICENSING

As at 31 December 2014, 24 investment fund management companies held a licence pursuant to the InvFG 2011. No new licences were issued in accordance with the InvFG 2011 during the reporting year, and no licences were extended pursuant to Article 5 para. 2 nos. 3 and 4 InvFG 2011.

Licensing processes were implemented in 31 cases in accordance with the AIFMG in 2014. As at the reporting date of 31 December 2014, 22 AIFMs were licensed with the FMA. There were 15 instances of registration notifications to the FMA pursuant to the AIFMG in 2014, 13 of which were acknowledged by the FMA. In total, the FMA registered 18 AIFMs.

At 31 December 2014, 2 152 funds of domestic and 6 382 funds of foreign investment fund management companies and AIFMs were licensed for sale in Austria (compared with 2 185 domestic and 5 699 foreign funds as at 31 December 2013). The changing number of domestic and foreign funds, including both UCITS and also AIFs, over the past five years is shown in Table 27 (see page 57).

As at the year-end there were 18 registered AIFMs managing a total of 30 AIFs in Austria. At the same time, 257 EU AIFs, 16 European Venture Capital Funds (EuVECA) and two European Social Entrepreneurship Funds (EuSEF) from other Member States were licensed for sale in Austria.

As at 31 December 2014 there were five real estate investment fund management companies licensed in Austria, managing a total of six retail real estate funds. There are also two special real estate funds. No new licences for real estate investment fund management companies were granted in 2014. As at the reporting date of 31 December 2014, four out of the five real estate investment fund management companies were licensed with the FMA as AIFMs.

## FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT

Investment fund management companies based in the European Economic Area (EEA) that make use of the freedom to provide services or establish a branch in another Member State pursuant to the Directive relating to undertakings for collective investment in transferable securities (UCITS Directive) may, after notification, provide those services that they are licensed to provide in their home country anywhere in the EEA. This similarly applies to licensed AIFMs who are authorised pursuant to the Directive on Alternative Investment Fund Managers (AIFMD) to manage AIFs on a cross-border basis and may also sell their AIFs throughout the EU on a cross-border basis.

### UCITS

There were twelve Austrian investment fund management companies operating in the EEA outside Austria during 2014 and therefore making use of the freedom to provide services in the Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden and the UK. Conversely, a total of 56 companies (2013: 54) from Belgium, Denmark, France, Gibraltar, Germany, Liechtenstein, Luxembourg, Norway, Spain, Sweden and the UK were represented in Austria under the freedom to provide services in 2014. With regard to the freedom of establishment applicable to UCITS, one Austrian investment fund management company has a branch office in both Germany and Italy. Conversely, one French, one Liechtenstein and one Luxembourg company are currently active in Austria under the freedom of establishment, which is unchanged on the previous year. There are currently no companies from a different Member State with a management company passport (MCP) authorising them to manage and distribute Austrian UCITS under the terms of the now implemented UCITS IV Directive. Furthermore, no Austrian investment fund management company has yet applied for an MCP.

### AIFS

With some licensing processes being completed in the second half of 2014, it has not yet been possible for

any Austrian AIFMs to engage in cross-border operations in accordance with the AIFMG. Supervisory procedures in relation to the freedom to provide services and freedom of establishment will only be needed from 2015 at the earliest. However, there were 44 EU AIFMs, primarily from the UK but also from France, Luxembourg and Malta, active in Austria in 2014 through the freedom to provide services, based on the passport regime defined in the AIFM Directive. No foreign companies have yet availed themselves of the freedom of establishment pursuant to the AIFMG.

## SUPERVISORY PROCEDURES

The supervisory procedures encompass both notification and approval processes. The fund-specific notification procedures relate in particular to the submission of reports on activities, half-yearly reports and special fund reports, as well as the submission of notifications regarding the closure of any funds and material changes as defined in Article 29 para. 5 AIFMG. Mention should also be made in this regard of the notification procedures (known as the "EU passport"), during which the FMA passes documents to the responsible authority of the Member State in question. The approval procedures relate, for example, to the issuing of new funds and any changes to existing investment fund regulations, as well as the approval of mergers, management transfers, custodian bank changes or the granting of marketing licences pursuant to the AIFMG.

The number of official notification and approval processes in 2014, at 6 547, was significantly up on the previous year (2013: 4 521 processes). This increase is mainly attributable to the fact that, following the AIFMG licensing process, a marketing licence in accordance with Article 29 para. 3 AIFMG needed to be granted for each individual managed AIF. It should also be stressed that there were numerous instances of investment funds being merged during the reporting period. Moreover, the fund regulations governing AIFs were revised to bring them into line with the AIFMG. A total of six changes to the fund regulations were approved in relation to the five real estate investment fund management companies, these updates also having been necessitated by the AIFMG. There was one instance of a decision imposing the appropriate measures on a real estate investment fund management company pursuant to Article 70 para. 4 BWG. Compliance with statutory provisions was thus restored in good time.

## CONTINUED SUPERVISION

### REPORTING AND INFORMATION SOURCES

Investment fund management companies are responsible for meeting the reporting obligations specified in the 4th Regulation on Risk Calculation and Reporting of Derivative Instruments (4. *Derivate-Risikoberechnungs- und Meldeverordnung*) by reporting the derivatives belonging to the fund assets using a standardised format; they are also required to comply with the notification and reporting provisions contained in the BWG and the InvFG 2011. Similarly, the appointed state commissioners are obliged to prepare regular reports for submission to the FMA.

The reporting process for licensed AIFMs is defined in Article 22 AIFMG, while registered AIFMs are covered by the provisions of Article 1 para. 5 no. 4 AIFMG, according to which the AIFM must inform the FMA regularly of the main markets and instruments in or with which it is trading for account of the AIFs it manages. The AIFM must also submit information on matters such as the greatest risks and concentrations of each of the AIFs it manages.

### DISCLOSURE OBLIGATIONS

The disclosure obligations applicable to investment fund management companies are defined in the InvFG 2011, which specifies that the investment fund management company must publish a current prospectus, a half-yearly report and a report on activities for each investment fund in addition to the current annual financial statements of the company itself. The obligations also encompass the requirement that the company itself or its custodian

bank, if one has been appointed, must publish the issue and repurchase price of units on every occasion on which units are issued or repurchased. This must happen at least twice every month. In addition, all investment fund management companies must publish any major changes to prospectuses. Their customers must also be provided with a Key Investor Information Document (KIID).

The disclosure obligations applicable to real estate investment fund management companies are defined in the ImmoInvFG using almost exactly the same wording as in the InvFG 2011. The only difference in the provisions concerns the KIID, which was not included in the ImmoInvFG. By way of a substitute, the real estate investment fund management company therefore continues to be required to publish a complete prospectus and a simplified prospectus as well as any major changes to these documents.

An AIFM managing an AIF that falls under Directive 2004/109/EC (Transparency Directive) is required to publish the audited annual reports for the AIF. The AIF may also be obliged pursuant to Directive 2003/71/EC (Prospectus Directive) to publish a prospectus. An AIFM selling an AIF to retail customers is required to publish the AIF's net asset value either once a month (in the case of AIFs in real estate, managed futures funds) or twice a month (for private equity funds of funds and AIFs in company holdings). Additionally, a half-yearly report and KIID must be prepared for all AIFs that are sold to retail customers.

### ON-SITE INSPECTIONS

Fourteen on-site inspections were carried out at investment fund management companies and three at custodian banks in 2014. Three of these took the form of follow-up inspections.

### MANAGEMENT TALKS

Management talks were held with 24 investment fund management companies and five real estate investment fund management companies in 2014.

## SUPERVISION OF INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

I

n accordance with Article 3 para. 2 of the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*), the following investment services may only be provided commercially with a licence:

- investment advice relating to financial instruments;
- portfolio management by managing portfolios for individual customers who authorise a certain degree of management discretion, provided that the customer portfolio contains one or more financial instruments;
- receipt and transmission of orders, provided that such activity involves one or more financial instruments;
- operation of a multilateral trading facility.

According to Article 1 no. 6 WAG 2007, financial instruments take the form of transferable securities, money market instruments, units in undertakings for collective investment in securities (UCITS) and in open-ended alternative investment funds (AIF), derivative contracts (particularly options, futures, forwards, swaps) relating to securities, currencies, interest rates, interest income, financial indices, derivative contracts relating to goods, derivatives designed to transfer credit risk, financial margin trading and derivative contracts relating to climate variables, freight rates, emission allowances, inflation rates and official economic statistics.

### OFFICIAL TASKS

#### SUPERVISED COMPANIES

For the commercial provision of investment services the WAG 2007 stipulates two kinds of licences, each with a separate scope of authorisation in terms of type of investment service and the financial instruments related to these services: the licence for an investment firm as specified in Article 3 WAG 2007 and the licence for an investment service provider as specified in Article 4 WAG 2007.

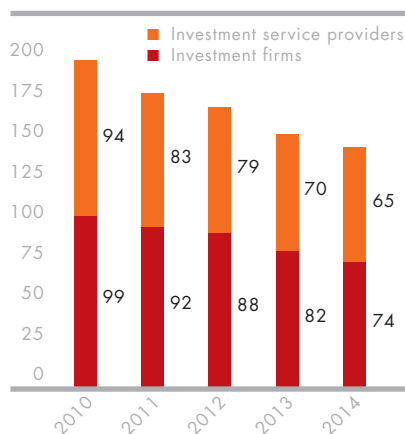
The authorisation of an investment firm to provide one or more investment services can be without limitation, thus including all financial instruments stipulated in Article 1 no. 6 WAG 2007, and can be extended to the entire European Economic Area (EEA) through the issuing of a "European passport". Unlike investment firms, investment service providers are subject to various limitations relating to the provision of investment services and may only pursue activities in Austria. Pursuant to Article 4 para. 2 WAG 2007, various relaxed licensing requirements apply to investment service providers. For instance, the appointment of a single managing director, who may also have another full-time occupation outside the banking, insurance or pension company sector, is sufficient. Also permitted are a free choice in the legal form of the company (in addition to corporations, partnerships and sole proprietorships may also offer investment services that require a licence), substitution of the capital requirements with a professional liability insurance policy and relaxations concerning accounting and auditing. The recent amendment of the WAG 2007, which entered into force on 1 January 2014, changed the legal framework for investment service providers such that companies may now be licensed as investment service providers up to a threshold of € 2 million of sales revenues generated by providing investment services;

companies with sales revenues exceeding that figure may be exclusively licensed as investment firms. The previous threshold was € 730 000 of total sales revenues.

Pursuant to Article 4 para. 4 of the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*), the FMA may grant an external alternative investment fund manager (AIFM) an additional licence to provide investment services. This encompasses the individual management of individual portfolios and, as ancillary services, investment advice, the holding in custody and technical management of AIF units, as well as the receipt and transmission of orders relating to financial instruments.

As at the reporting date of 31 December 2014, there were 139 companies in possession of a valid licence from the FMA entitling them to provide investment services pursuant to the WAG 2007. Of these 139 companies, 74 held a licence as an investment firm pursuant to Article 3 WAG 2007 and 65 companies a licence as an investment service provider pursuant to Article 4 WAG 2007. In comparison, there were 152 licensed companies in 2013, comprising 82 investment firms and 70 investment service providers.

Chart 26: Number of valid licences 2010-2014 (source: FMA)



The comparison with the previous year's data shows that the number of licences pursuant to the WAG 2007 fell by 13, eight of which related to investment firms. Two of the licences that were given up related to investment firms that were licensed as AIFM with an additional licence in 2014 and are set to continue to offer investment services on this basis. The total number of Austrian companies included in this area of supervision therefore amounts to 141 institutions. This means that the decline in licensed undertakings amounted to approximately 7.24% in 2014, compared with around 9% in 2013. As at the end of the reporting year, three further licences had been given up by investment service providers.

All of these 139 companies with a valid licence pursuant to the WAG 2007 were entitled to provide investment advice relating to financial instruments, with 48 investment firms entitled to manage client portfolios. In all, 134 investment firms and investment service providers were entitled to receive and transmit orders, to the extent that such activity involved one or more financial instruments. As at the end of the reporting year, 46 Austrian invest-

ment firms held a European passport for the provision of investment services in the EEA, with four of these undertakings maintaining a total of four branches in the EEA. In terms of the geographical distribution of the licensed investment firms and investment service providers within Austria, a total of 78 undertakings or nearly 56.1% of all licensed undertakings had their registered office in Vienna as at the reporting date of 31 December 2014. Upper Austria was the next federal province in the list, with 13 companies, followed by Salzburg with 12 licensed companies.

#### NEW LICENCES GRANTED TO INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

In 2014 three new licence applications were submitted to the FMA pursuant to the WAG 2007, the same number as in 2013. One application submitted in 2013 was withdrawn again in 2014. Three new licences were awarded during the reporting year in accordance with the WAG 2007, two to investment firms and one to an investment service provider. Thus, the trend towards corporations continued, as seen in previous years, with this form of company now accounting for more than 85.61% of all the firms licensed pursuant to the WAG 2007.

Using the FMA website at [www.fma.gv.at](http://www.fma.gv.at) investors and interested members of the public can access the corporate database at any time to check whether a provider holds a valid FMA licence. The information available online also includes the scope of the licences held by the respective investment firms and investment service providers, and contact addresses for the licensed undertakings.



## AGENTS OF INVESTMENT FIRMS AND INVESTMENT SERVICE PROVIDERS

Investment firms and investment service providers are allowed to use vicarious agents for the provision of investment services. These agents may, without themselves having to hold a licence pursuant to the WAG 2007, perform investment services on behalf and for the account of the licensed firm. There are two legal forms for these agents, the tied agent and the securities broker, with the latter definitively having replaced the financial services assistant in 2014.

## TIED AGENTS

Tied agents may be natural or legal persons. They are bound by the principle of exclusivity, which means that a tied agent may only work for one single investment firm, credit institution, insurance undertaking or branch of an investment firm or credit institution. Tied agents may be appointed for the purposes of promoting the services of the investment firm, soliciting business or receiving orders from clients and transmitting them, and for providing investment advice with regard to financial instruments and services offered by the legal entity.

An investment firm that appoints a tied agent is liable pursuant to Article 1313a of the General Civil Code (ABGB; *Allgemeines Bürgerliches Gesetzbuch*) for each and every act or failure to act of the agent where that agent is acting in the name of the legal entity. Therefore, the investment firm is obliged to monitor the agent's activities accordingly. If tied agents reside in Austria, they must hold a trade licence for the commercial provision of investment advice pursuant to Article 136a of the Trade Act (GewO; *Gewerbeordnung*) and must be entered in the public register kept by the FMA.

As at the reporting date of 31 December 2014, 27 Austrian investment firms were using 1 752 tied agents for the provision of investment services. There were 13 tied agents registered with investment firms from the EEA and 677 such agents working with Austrian credit institutions.

## SECURITIES BROKERS

Unlike the remit of tied agents, the scope of activities to be performed by a securities broker is limited. Only natural persons may serve as securities brokers. The securities broker may only provide services on the domestic market and requires a trade licence pursuant to Article 136a or 136b GewO. The profession of securities broker is a regulated trade, which means that a certificate of qualification is required to obtain the authorisation to exercise the profession. Unlike the activity of tied agents, that of the securities broker is limited to investment advice and the receipt and transmission of orders in relation to financial instruments pursuant to Article 1 no. 6

lit. a and c WAG 2007. This relates to transferable securities and units in investment funds and open-ended alternative investment funds. The securities broker may act on behalf and for the account of a maximum of three investment firms/investment service providers, but not for credit institutions or insurance undertakings.

Securities brokers provide their services for investment firms and investment service providers in the capacity of vicarious agents, and their actions are attributed to the respective legal entity. This is why the investment firm or investment service provider is liable for their vicarious agent pursuant to Article 1313a ABGB regard-

Table 28: **Number of staff and customers of Austrian investment firms/ investment service providers 2010–2014** (source: FMA register as specified in Article 28 para. 6 WAG 2007, 2014 analysis survey)

|   | 2010  | 2011  | 2012  | 2013  | 2014  |
|---|-------|-------|-------|-------|-------|
| <b>NUMBER OF STAFF</b>                                |       |       |       |       |       |
| Employees   | 1 366 | 1 283 | 992   | 926   | 781   |
| Tied agents   | 2 038 | 1 263 | 1 620 | 1 732 | 1 752 |
| Financial services assistants                         | 4 313 | 3 426 | 1 316 | 426   | 0     |
| Securities brokers                                    | –     | –     | 730   | 725   | 856   |
| <b>SHARE OF INVESTMENT SERVICES IN TOTAL BUSINESS</b> |       |       |       |       |       |
| Up to 50%   | 66    | 54    | 61    | 57    | 46    |
| Up to 75%   | 23    | 21    | 18    | 13    | 12    |
| Up to 99%   | 32    | 37    | 31    | 23    | 28    |
| 100%  | 72    | 63    | 57    | 59    | 55    |
| <b>NUMBER OF CUSTOMERS PER COMPANY</b>                |       |       |       |       |       |
| Up to 100 customers                                   | 100   | 91    | 98    | 88    | 82    |
| Up to 1 000 customers                                 | 71    | 66    | 53    | 48    | 43    |
| Up to 10 000 customers                                | 15    | 12    | 10    | 10    | 11    |
| Up to 100 000 customers                               | 5     | 4     | 5     | 5     | 4     |
| More than 100 000 customers                           | 2     | 2     | 2     | 1     | 1     |

less of whether the securities broker discloses the respective principal or not. The provisions of Article 136d GewO on the joint and several liability of all investment firms and investment service providers that have registered the same securities broker in the FMA register apply accordingly. This joint and several liability applies if the securities broker has not clearly disclosed the identity of the principal under the terms of the contract.

Like tied agents, securities brokers must also be entered in the public register kept by the FMA. Appointing securities brokers for the provision of investment services presupposes that this has been approved in the administrative decision granting the licence issued to the investment firm or the investment service provider.

As at 31 December 2014, 82 Austrian investment firms and investment service providers were entitled to provide services by way of securities brokers. Of these, only 38 actually exercised the right granted to them. As at 31 December 2014, 856 individuals acting as securities brokers for investment firms or investment service providers had been registered with the FMA.

Up-to-date information on the tied agents and securities brokers registered with the FMA can be found on the FMA website at [www.fma.gv.at](http://www.fma.gv.at). This gives investors a means of checking whether or not a particular individual is actually registered with the FMA as a tied agent or securities broker and is entitled to provide investment services.

#### CONTINUED SUPERVISION OF INVESTMENT FIRMS, INVESTMENT SERVICE PROVIDERS AND ALTERNATIVE INVESTMENT FUND MANAGERS WITH AN ADDITIONAL LICENCE

The FMA supervises all licensed investment firms and investment service providers, as well as AIFMs with an additional licence, in terms of their compliance with the obligations set forth in the WAG 2007. These obligations include, in particular, adherence to the extensive organisational requirements of the WAG 2007, such as for example the obligation to establish an independent compliance function, a risk management function and an internal audit function, as well as observance of recording duties. A central aspect is the supervision of compliance with the statutory codes of conduct based on classification of the respective institution's clients as retail customers, professional clients or eligible counterparties. Further obligations of the WAG 2007 covered by securities supervision include the licensing requirements, adherence to the scope of the licence granted, the notification and reporting obligations and the duties of presentation, as well as the provisions on accounting and the annual audit.

Once a year, investment firms and investment service providers must appoint a statutory auditor to prepare an audit report pursuant to Articles 73 and 74 WAG 2007. This report serves to document verification of compliance with the statutory provisions and must be submitted to the FMA no later than six months after the audited company's financial year-end, which in the case of most investment firms and investment service providers means by 30 June.

Pursuant to Article 15 of the FMA Cost Regulation (FMA-KVO; *FMA-Kostenverordnung*), the companies liable to pay costs also have to report the sales revenues from their investment services activities to the FMA by that date. The preparation, verification and analysis of the financial statements, audit reports and reporting data provide decisive indicators with regard to implementation of and compliance with statutory standards governing the provision of investment services by the supervised companies; they also provide a starting point for supervisory measures.

A further important supervision tool is the electronic analysis questionnaire for investment firms and investment service providers, which can be completed online on the FMA website. The questionnaire consists of six modules and contains 38 questions. These are grouped into the following topics: company information, own funds and insurance cover, corporate structure – branches and staff, organisational structure pursuant to the WAG 2007, business activities and customer structure. The evaluation of the analysis questionnaires gives the FMA valuable insights into the activity of the supervised companies as well as into the market of investment service providers, and also provides every evaluated company with information and tips that can be used to review and optimise existing internal processes.

## EEA INVESTMENT FIRMS

The European Markets in Financial Instruments Directive, or MiFID, provides the basis on which investment firms from the EEA may operate throughout the entire EEA both through branches and under the freedom to provide services. To make use of this freedom of establishment and freedom to provide services, investment firms, having obtained the corresponding licence, must provide notification of their operations in the respective country through their home supervisory authority. Having this “European passport” means that investment firms are entitled, pursuant to MiFID, to provide any investment services that they are licensed to provide in their home Member State also in those Member States that are included in the notification process, without the need for any further licensing processes.

In 2014 there were 2 439 investment firms with their head offices situated in another EEA Member State that were authorised to provide investment services in Austria under the freedom to provide services. Such authorisation is provided in the form of the European passport. It may, however, also apply if there is a branch in Austria with regard to which the responsible partner authority abroad has provided appropriate notification to Austria. As at the end of 2014, 17 branches of EEA investment firms were operating in Austria on the basis of such notification. Compared with the 2 419 firms that had provided notification of their operations in Austria in 2013, the number of EEA investment firms entitled to provide investment services in Austria therefore increased slightly. During the reporting year, 1 806 firms or around 74% of the firms that had provided notification of their operations in Austria came from the UK. This was followed by Germany with 159 notified companies, Cyprus with 135 and the Netherlands with 54.

## ON-SITE INSPECTIONS AND MANAGEMENT TALKS

During the year under review, on-site inspections were carried out with regard to 30 investment firms and investment service providers, seven of which were conducted in response to current issues. By way of comparison, 30 on-site inspections were also carried out in 2013, eight of which tackled a current issue.

Within the scope of an on-site inspection, the FMA is entitled to request information from the companies and their bodies concerning any business matter, and examine all books, documents and data media of these companies. In addition, statutory auditors can obtain audit reports and information. On-site inspections focus on verifying compliance with the provisions of the


WAG 2007 according to the specific inspection mandate, particularly compliance with organisational obligations and the rules of conduct. Compliance with the scope of the licence and with any stipulations or limitations prescribed by administrative decision is also monitored.

A total of 92 talks were held with the management of investment firms and investment service providers during the year under review, providing a regular opportunity for a direct and prompt exchange of information. Such talks are also used within the context of official processes as a means of observing the obligation to hear the parties involved, as well as within the framework of “fit and proper” tests of prospective directors of supervised companies.

Table 29: **On-site activities 2010–2014** (source: FMA)

|                       | 2010 | 2011 | 2012 | 2013 | 2014 |
|-----------------------|------|------|------|------|------|
| On-site inspections   | 32   | 38   | 36   | 30   | 30   |
| Scheduled             | 21   | 29   | 29   | 22   | 23   |
| Current issue-related | 11   | 9    | 7    | 8    | 7    |
| Management talks      | 84   | 143  | 135  | 118  | 92   |

## SUPERVISION OF FINANCIAL CONGLOMERATES

 In the basis of the 2013 financial statements, there are currently 54 financial conglomerates in the EU that are subject to supplementary supervision pursuant to Directive 2002/87/EC (Financial Conglomerates Directive). A further 11 financial conglomerates are exempt from supplementary supervision by the respective national competent authority given their low level of cross-sectoral activities.

In the European Economic Area (EEA), which in addition to the EU Member States encompasses Iceland, Liechtenstein and Norway, the number of financial conglomerates is 60. Five further financial conglomerates based outside the EEA are also active in the EEA: two from Switzerland, three from the USA and one from Australia. There are therefore 76 financial groups in total operating on a cross-sectoral basis in the EEA that have business activities of significant magnitude in both financial sectors (banking and insurance).

In addition to financial conglomerates, which are subject to supplementary supervision as defined by law due to their structure, cooperation among companies from different financial sectors (banking and insurance) is also becoming increasingly common in the form of cooperation models and the provision of equity and liquidity support. This is associated with potential risk elements (e.g. the risk of cross-sector contagion), as are addressed by the Financial Conglomerates Act (FKG; *Finanzkonglomeratengesetz*) but not automatically subject to supplementary supervision. The FMA does, however, carry out specific analysis of the risk situation that arises in such cases with large and complex clusters of companies extending across different sectors, in order to detect any interdependence, dependence or potential additional risks.

### SUPERVISED COMPANIES

In Austria the following groups continue to be subject to supplementary supervision pursuant to the FKG:

- Bausparkasse Wüstenrot AG and Wüstenrot Versicherung AG;
- Grazer Wechselseitige Versicherung AG with the Hypo-Bank Burgenland AG banking group (whose member companies include Hypo-Bank Burgenland AG, Sopron Bank Burgenland Rt., Capital Bank – GraWe Gruppe AG, Brüll Kallmus Bank AG); and
- Raiffeisenzentralbank Österreich AG and its major holding in Uniqa Versicherungen AG.

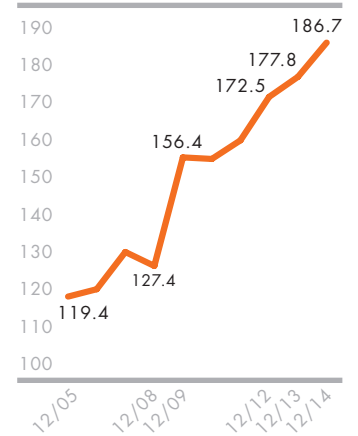
Given that risk managers in the insurance sector use risk concepts other than those used by their counterparts in banking and investment, it can be difficult to interpret and understand an overall view of the relevant risk. Additionally, different workflows and processes in the back offices or in the accounting departments of the various types of company operating in the financial sector may generate operational risks within the group. Pursuant to Article 15 para. 1 FKG, the FMA can perform on-site inspections at companies that are subject to supplementary supervision. The focus of such inspections is on the group structure, group strategy, financial position and organisation, risk management and internal control system at the level of the respective financial conglomerate. In addition to the sector-based supervision requirements at group level, comprising the Austrian Banking Act (BWG; *Bankwesengesetz*), the Capital Requirements Regulation (CRR) and the Insurance Supervision Act (VAG; *Versicherungsaufsichtsgesetz*), which already make provision for sector-wide risk management,

an appropriate sector-wide risk management system encompassing the financial conglomerate as a whole is required under Article 11 para. 2 FKG. Against the backdrop of developments over recent years, risk management and internal control systems in particular have become the focus of greater attention by the supervisory authorities. Additionally, from the FMA's perspective, scenario analysis at conglomerate level is crucial in order to arrive at a group-wide risk assessment and position, and to provide the responsible managers with the necessary decision-making basis.

#### OWN FUNDS

Measured in terms of average solvency ratio, the position of Austrian financial conglomerates with regard to own funds increased slightly to 186.7% as at the reporting date of 31 December 2014 (31 December 2013: 178%; see Chart 27). Nevertheless, the situation of all Austrian financial conglomerates in terms of own funds is judged to be appropriate.

Chart 27: **Changes in average solvency ratio among Austrian financial conglomerates 2005–2014** (unweighted, in %)



## COMPLIANCE SUPERVISION

**C**ompliance contributes significantly towards strengthening the confidence of market participants in the Austrian capital market. The concept generally denotes adherence to laws, guidelines, rules of conduct, regulations or established practices. Appropriate compliance has the purpose of avoiding administrative sanctions and penalties defined by criminal or civil law. As a management responsibility, compliance is specifically a means of controlling business risks and risks to the company's reputation. Compliance, in the sense of establishing an efficient company organisation for the purpose of fulfilling and meeting supervisory requirements that are aimed at strengthening financial market stability, has become increasingly important in recent years. Supervisory legislation now includes highly concrete, detailed requirements for a company's compliance plan and for establishing a compliance function. In the context of its compliance supervision duties, the FMA monitors adherence by credit institutions, management companies (investment fund management companies), issuers, insurance undertakings and *Pensionskassen* to the rules of conduct and compliance-related provisions contained in the relevant supervisory laws such as the Stock Exchange Act (BörseG; *Börsegesetz*), 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*) and the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*).

### SUPERVISED COMPANIES

As at the reporting date of 31 December 2014, the following entities were subject to compliance supervision by the FMA (comparable figures for 2013 given in brackets):

- 748 credit institutions licensed in Austria (790), including:
  - 39 special-purpose credit institutions (41) and
  - 29 investment fund management companies (29);
- 43 insurance undertakings established and licensed in Austria (47), of which six mutual associations;
- 14 Austrian *Pensionskassen* (16), including seven single-employer and seven multi-employer; and
- 146 issuers (152), including 75 subject to the provisions of the 2007 Compliance Decree for Issuers (ECV 2007; *Emittenten-Compliance-Verordnung*)<sup>1</sup>.

### SUPERVISORY MEASURES

On-site inspections are a particular means of verifying adherence to compliance-related provisions of law in a targeted way. These provisions are specified in Article 91 para. 3 no. 3 WAG 2007, Article 48q para. 1 no. 3 in conjunction with Article 86 para. 6 no. 8 BörseG and Article 3 para. 8 of the Austrian Banking Act (BWG; *Bankwesengesetz*) in conjunction with Article 147 paras. 1 and 2 InvFG 2011. The FMA reviews the extent to

<sup>1</sup> Source: Wiener Börse, yearly statistics for 2014; issuers whose shares or securities similar to shares are admitted to trading on a regulated market in Austria are governed by the terms of the ECV 2007, i.e. particularly foreign and domestic issuers of shares and ADCs, as well as issuers of participation certificates.

which the compliance mechanisms in place meet the statutory requirements and whether the rules of conduct are actually being upheld in practice.

Additional supervisory measures include company visits and management talks. These are used above all as a means of maintaining ongoing contact with the supervised companies in order to raise the market standard in the area of compliance and to enable discussions of specific problems in response to current issues. Targeted use is also made of management talks as a follow-up measure.

In total, 86 on-site measures/management talks were conducted in 2014.

The FMA also analyses the annexes to audit reports prepared by the auditors in accordance with Article 63 paras. 5 and 7 BWG, as well as analysing the compliance guidelines submitted by supervised companies and the annual reports on activities submitted by issuers.

Where necessary, the FMA uses a fit and proper test to determine whether compliance officers and managers of credit institutions have the requisite expertise in the area of rules of conduct and compliance.

If facts emerge in a specific case during the FMA's supervisory activities indicating that a supervised company has possibly acted in breach of its rules of conduct in accordance with the relevant legal provisions, an investigation is launched to examine and clarify the case. The FMA initiated a total of 67 such investigations during the year under review.

Where an existing situation of non-compliance with statutory provisions is identified in the course of supervisory activities, the FMA's primary interest is to take action to have legal compliance restored. The FMA will confront the company concerned with the existing defects and call upon it to define and implement remedial measures. To determine the extent to which the defects have been eliminated, the FMA will then implement regular follow-up measures.

Within the context of compliance supervision, supervisory measures are therefore implemented both on a scheduled basis and as cases arise. Such measures may serve to review the complete range of supervisory issues relating to compliance supervision or may be limited to individual topics or cases subject to supervision.

## SPECIAL TOPICS

### MARKET SURVEY OF KMG INVESTMENT

The FMA conducted a survey of credit institutions in 2014 looking at "KMG investment", namely investments in accordance with Article 1 para. 1 no. 3 of the Capital Market Act (KMG; *Kapitalmarktgesetz*), such as real estate funds or ship investment funds. The aim was to gain an overview of the volume of arranged investments and to acquire key information from a risk perspective. This survey revealed that, as at the reporting date of 31 December 2013, KMG investments totalling approximately € 806 million had been sold or were being held in the form of nostro accounts.

In terms of the type of KMG investments sold, real estate investments accounted for the largest proportion, at 47.92%, followed by equity holdings in the infrastructure and energy sectors (23.13%) and ship investment funds (15.40%).

Given that only the provisions of the WAG 2007 relating to the granting or acceptance of benefits (Article 39 WAG 2007) and to information, documentation and reporting obligations (Article 40 et seq., Article 47 and Article 48 WAG 2007) apply in the case of the sale of KMG investments, customers who purchase this type of investment only have a limited level of protection.

In order to remedy this loophole, one of the central aims of the market survey was to raise credit institutions'

Table 30: Supervisory measures 2010-2014

|                     | 2010      | 2011      | 2012      | 2013      | 2014      |
|---------------------|-----------|-----------|-----------|-----------|-----------|
| On-site inspections | 12        | 12        | 11        | 11        | 15        |
| Management talks    | 32        | 32        | 32        | 36        | 36        |
| Company visits      | 13        | 20        | 18        | 25        | 35        |
| <b>Total</b>        | <b>57</b> | <b>64</b> | <b>61</b> | <b>72</b> | <b>86</b> |

awareness of the need to apply the relevant requirements of the WAG 2007 with particular care when selling KMG investments, thereby acting honestly, fairly and professionally in the customers' best interests.

#### MARKET SURVEY OF FINANCIAL ANALYSES

Financial analyses have an important role to play as a way of providing investors with information about the capital market. Given the sheer amount, complexity and rapidly changing nature of capital market information, investors are generally not well placed to process and/or assess the information for themselves. In light of the importance of financial analyses for a well-functioning capital market, it is all the more important to ensure that financial analysts do not abuse any information advantage that they may have and that any conflicts of interest or resulting unequal opportunities do not impede fairness on the capital market.

Consequently, the FMA must monitor whether supervised companies, when preparing or passing on financial analyses, are adhering to the rules on transparency and disclosure contained in Article 48f paras. 2 to 9 BörseG and complying with the organisational requirements for financial analysts stipulated in Article 37 WAG 2007. The FMA therefore carries out spot checks of the financial analyses submitted to it. It also reviews compliance with the organisational requirements during on-site inspections.

The FMA carried out a representative market study of 50 credit institutions during the reporting year, asking whether these institutions prepared their own financial analyses or passed on analysis documents prepared by third parties (with or without revisions) and also seeking information on how these analyses were distributed. The findings were as follows: while 21 of the credit institutions surveyed provide customers with financial analyses, only five of these produce their own material. The analyses are mainly made available to a restricted group of customers using such methods as a password-protected website and e-mail distribution list or directly during meetings with customers.



## LEGAL SUPERVISION OF EXCHANGE OPERATING COMPANIES

During the period under review, the only exchange operating company established in Austria was the Vienna Stock Exchange, for which the licensed operator and assigned legal entity is Wiener Börse AG. The Vienna Stock Exchange is thus operated by a private legal entity, yet also executes some official functions (e.g. in the admission of financial instruments to trading). To this extent it may be viewed as an “enterprise charged with the fulfilment of sovereign functions”, as defined in the Stock Exchange Act (*BörseG; Börsegesetz*), or as being a partly official entity. In addition to two regulated markets (official market and second regulated market), Wiener Börse AG also operates the “third market”, which, in the capacity of a multilateral trading facility (MTF), is only subject to the terms of the *BörseG* and to supervision to a limited extent. The level of protection available to investors in this third market segment is therefore markedly reduced. The FMA’s supervisory competence for the stock exchange is based on a large number of regulations contained in the *BörseG*, which in turn are derived from provisions found in various EU directives. Article 45 of the *BörseG* plays a key role in this regard: the provision authorises the FMA to take measures affecting the exchange operating company and serves as a general guideline, specifying the conditions for exercising other powers as an authority.

The institutional environment (in terms of company law and with regard to cooperation) in which the Vienna Stock Exchange operates remained largely unchanged during the reporting period. Wiener Börse AG remains part of the CEE Stock Exchange Group (CEESEG), which is ultimately owned by Austrian credit institutions and issuers. Other exchange operating companies belonging to the group include the stock exchanges in Budapest, Ljubljana and Prague. Plans to merge the Vienna and Warsaw stock exchanges were put on hold during the reporting year.

In the energy sector, Wiener Börse AG was involved in cooperation ventures with Energy Exchange Austria Abwicklungsstelle für Energieprodukte AG (EXXA) and the Central European Gas Hub AG (CEGH) during the reporting period for the purpose of commodity trading in electricity and natural gas products respectively.

Wiener Börse AG has commissioned Central Counterparty Austria GmbH (CCP.A), which is a joint subsidiary of the Vienna Stock Exchange and Österreichische Kontrollbank AG, as the clearing agency for securities trading.

The licensing of CCP.A during the reporting year in accordance with the now applicable Regulation (EU) No 648/2012 (European Market Infrastructure Regulation – EMIR) resulted in the need for some parts of the exchange operating company’s General Terms and Conditions of Business, forming part of its relevant legal framework, to be revised.

Another relevant issue during the reporting year was the development of the application processes for the Suspension and Restoration Information System (SARIS) implemented back in the third quarter of 2013. This web-based multilateral IT platform operated by the European Securities and Markets Authority (ESMA) promotes effective and timely communication between authorities on suspensions and removals of financial instruments from trading.

## SUPERVISION OF THE STOCK EXCHANGE AND SECURITIES TRADING

**W**ith regard to supervision of the stock exchange and securities trading, the FMA's statutory remit is to ensure orderly and fair trading in listed securities. In this context, the FMA specifically has these core responsibilities:

- To expose the misuse of inside information and, in accordance with statutory responsibilities, to introduce measures to prosecute these offences. Insider dealing is a criminal offence which, when reported by the FMA, is liable to prosecution by the Central Public Prosecutor for Economic Crime and Corruption (WKStA) and to punishment by the courts of law. The FMA is responsible for monitoring trading to ensure that it is orderly and fair, and for reporting to the WKStA the facts ascertained in cases where reasonable suspicion exists that the prohibition of insider dealing has been violated. As a rule, the FMA is subsequently commissioned with further investigations.
- To expose market manipulation and the violation of trading rules of the Vienna Stock Exchange and to prosecute these offences.
- To monitor compliance with statutory disclosure, reporting and information obligations and to prosecute any violations within the framework of administrative penal proceedings.

### SUPERVISED COMPANIES

#### ISSUERS

On the official market and the second regulated market of the Vienna Stock Exchange, a total of 8 055 securities were listed by 146 issuers as at 31 December 2014. An additional 1 081 securities were listed by a total of 221 issuers on the third market, which has been operated as a multilateral trading facility (MTF) since 2007.

Compared with the previous year, the number of issuers on the official market and the second regulated market fell slightly (2013: 152 issuers), whereas there were slightly more issuers on the third market (2013: 213).

#### INSTITUTIONS UNDER REPORTING OBLIGATIONS

All companies that conclude transactions with instruments subject to reporting obligations are required to report them pursuant to Article 64 of the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*); this specifically includes Austrian credit institutions and Austrian branches of foreign credit institutions. Instruments subject to reporting obligations are financial instruments, such as for example transferable securities which are admitted to trading on a regulated market or for which an application for admission to trading on a regulated market has been made, regardless of whether transactions were concluded or executed on a regulated market. Companies under reporting obligations are required to report every transaction to the FMA.

In 2014, 732 companies were subject to this reporting obligation.

Table 31: **Supervised markets, issuers and securities 2010–2014** (source: Wiener Börse AG)

| <b>NUMBER OF ISSUERS</b>                           | 2010         | 2011         | 2012         | 2013         | 2014         |
|--|--------------|--------------|--------------|--------------|--------------|
| <b>OFFICIAL MARKET AND SECOND REGULATED MARKET</b> |              |              |              |              |              |
| Foreign shares                                     | 7            | 6            | 6            | 7            | 6            |
| Domestic shares                                    | 72           | 70           | 67           | 65           | 67           |
| Profitsharing certificates                         | 3            | 1            | 1            | 1            | 1            |
| Warrants   | 3            | 3            | 3            | 2            | 2            |
| Participation certificates                         | 2            | 2            | 2            | 2            | 2            |
| Bonds  | 94           | 91           | 97           | 95           | 93           |
| Certificates                                       | 14           | 12           | 12           | 10           | 7            |
| Exchange traded funds                              | 4            | 4            | 3            | 3            | 2            |
| <b>Total issuers</b>                               | <b>166</b>   | <b>158</b>   | <b>157</b>   | <b>152</b>   | <b>146</b>   |
| <b>THIRD MARKET</b>                                |              |              |              |              |              |
| Foreign shares                                     | 14           | 11           | 9            | 13           | 11           |
| Domestic shares                                    | 17           | 18           | 17           | 17           | 15           |
| Profitsharing certificates                         | 4            | 4            | 3            | 4            | 4            |
| Warrants   | 5            | 4            | 2            | 1            | 1            |
| Participation certificates                         | 1            | 1            | 1            | 1            | 1            |
| Bonds  | 180          | 172          | 182          | 175          | 188          |
| Certificates                                       | 14           | 12           | 11           | 11           | 9            |
| Investment funds                                   | 17           | 0            | 1            | 1            | 1            |
| <b>Total issuers</b>                               | <b>239</b>   | <b>210</b>   | <b>216</b>   | <b>213</b>   | <b>221</b>   |
| <b>NUMBER OF LISTED SECURITIES</b>                 |              |              |              |              |              |
| <b>OFFICIAL MARKET AND SECOND REGULATED MARKET</b> |              |              |              |              |              |
| Foreign shares                                     | 7            | 6            | 6            | 7            | 6            |
| Domestic shares                                    | 78           | 76           | 73           | 71           | 73           |
| Profitsharing certificates                         | 6            | 2            | 2            | 2            | 2            |
| Warrants   | 2 268        | 2 286        | 1 857        | 1 684        | 1 529        |
| Participation certificates                         | 2            | 2            | 2            | 2            | 2            |
| Bonds  | 2 748        | 2 802        | 2 808        | 2 616        | 2 359        |
| Certificates                                       | 3 609        | 3 389        | 3 336        | 4 084        | 4 064        |
| Exchange traded funds                              | 22           | 22           | 21           | 20           | 20           |
| <b>Total securities</b>                            | <b>8 740</b> | <b>8 585</b> | <b>8 105</b> | <b>8 486</b> | <b>8 055</b> |
| <b>THIRD MARKET</b>                                |              |              |              |              |              |
| Foreign shares                                     | 14           | 11           | 9            | 13           | 11           |
| Domestic shares                                    | 17           | 18           | 18           | 17           | 15           |
| Profitsharing certificates                         | 4            | 4            | 3            | 4            | 4            |
| Warrants   | 14           | 7            | 4            | 2            | 2            |
| Participation certificates                         | 1            | 1            | 1            | 1            | 1            |
| Bonds  | 909          | 836          | 818          | 802          | 868          |
| Certificates                                       | 50           | 108          | 82           | 151          | 179          |
| Investment funds                                   | 34           | 0            | 1            | 1            | 1            |
| <b>Total securities</b>                            | <b>1 043</b> | <b>985</b>   | <b>936</b>   | <b>991</b>   | <b>1 081</b> |

#### OTHER STOCK EXCHANGE MEMBERS

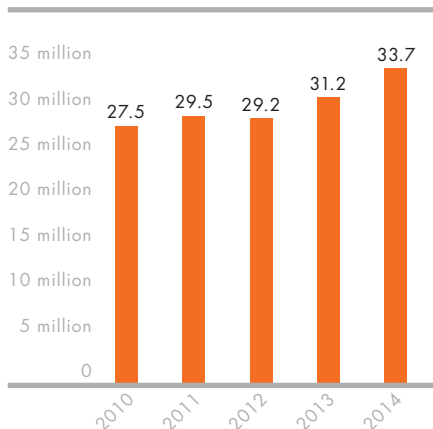
Since the implementation of the Markets in Financial Instruments Directive (MiFID) in 2007, market participants that are based within the EU have been required to report the securities transactions carried out at the Vienna Stock Exchange to the authority of their home country, which subsequently forwards the reported data to the FMA.

## COMBATING MARKET ABUSE

### TRANSACTION REPORTING

In addition to ongoing activities such as monitoring compliance with the reporting obligation as defined in

Chart 28: **Transaction reports received 2010-2014** (acc. to Article 64 WAG 2007; source: FMA)



Article 64 WAG 2007, special attention was given in 2014, as in previous years, to ensuring data quality and compliance with reporting deadlines.

In 2014, 13 670 549 securities transaction reports (including changes and cancellations) were submitted to the FMA by the institutions under reporting obligations pursuant to Article 64 WAG 2007. Of these roughly 13.7 million reports, 4 259 391 were forwarded to the authority within the EU competent in the particular case. In its role as competent authority, the FMA additionally received 20 065 821 transaction reports from other European supervisory authorities. This meant that the FMA received 33 736 370 transaction reports in total, which represents a substantial increase (+8,2%) compared with the previous year (31 180 867 reports; see Chart 28).

## MARKET SUPERVISION

The FMA's task in markets and exchanges supervision is to ensure orderly and fair trading in listed securities, with specific obligations to expose any misuse of inside information, as defined in Article 48b of the Stock Exchange Act (*BörseG*; *Börsegesetz*), any market manipulation (Article 48c *BörseG*) and any breaches of the Vienna Stock Exchange's trading rules (Article 18 no. 1 *BörseG* in conjunction with Article 48 para. 1 no. 7 *BörseG*).

Irregularities in trading become known to the FMA either through its own monitoring of the market or from other sources, such as routine analyses performed on an ongoing basis or from third-party observations. In this regard, the reporting requirement specified in Article 48d para. 9 *BörseG* is becoming increasingly relevant. Specifically, individuals who engage in transactions with financial instruments are required to notify the FMA immediately in the event that they become aware of facts and information leading to reasonable suspicion of a transaction involving insider dealing or market manipulation (suspicious transaction reporting). Every irregularity is investigated to determine either a plausible explanation or whether evidence exists pointing to a potential breach of a provision of law falling within the FMA's supervisory competence.

Where evidence pointing to a breach of law exists, further investigative measures suited to substantiating the suspicion are selected depending on the type of irregularity identified. Specific examples would be to examine trading days before and after the suspicious transaction, to investigate the trading behaviour of specific market participants or traders, or to assess the investment behaviour of a client on the basis of previously reported transactions and identify recurrent trading patterns. More in-depth information such as professional securities analyses are included in any detailed analysis of the order and/or transaction data. When conducting investigations, the FMA also makes full use of its rights to demand information and conduct inspections pursuant to the WAG 2007 and the *BörseG*, examining various documents, conducting on-site inspections and interviewing the individuals involved.

Market supervision carried out 1 380 routine analyses during the period under review (see Table 32). Suspicions were further substantiated in 61 cases and more detailed analysis was performed. This subsequently led to the opening of an investigation, in 20 of those cases on account of suspected misuse of inside information and in 19 cases on suspicion of market manipulation or of a breach of trading rules. The number of investigations initiated in response to suspected misuse of inside information rose by more than double over the previous year (2013: 11 investigations), whereas the count of investigations on suspicion of market manipulation or breach of trading rules remained almost the same (2013: 16 investigations).

During the period under review, 81 requests for official assistance were addressed to authorities in other countries, which was almost four times the number counted in the previous year (22 requests, see Table 33). Particularly worthy of note in this regard was the drastic increase in the number of enquiries to the German Federal

Financial Supervisory Authority (BaFin), namely 26 (up from six in 2013), as well as the significant rise in enquiries to other partner authorities, from 11 in 2013 to 50 in 2014; an exception in the latter case was the number of enquiries to the UK's Financial Conduct Authority (FCA), which remained constant at five. These changes clearly indicate how the international financial sector is becoming intertwined, and this trend is expected to prevail in future.

Far fewer enquiries, in contrast, were received from foreign authorities. Specifically, only 38 enquiries were received in 2014, 21 of them from BaFin, compared with 55 in 2013.

In the way of focus activities, the FMA carried out 'special inspections' in 2014. Rather than examining specific irregularities, such inspections investigate and analyse in their entirety subject areas that have general relevance for supervisory activities. The goal is to derive additional benefits for ongoing market observation. Special inspections can be launched in response to either insights gathered from ongoing market observation or information or reports submitted by external parties. Examples of activities during special inspections include investigating securities trading in certain sectors, analysing selected market areas or the trading behaviour of a market participant over an extended period of time, or researching the risks entailed in electronic trading platforms that exist as alternatives to conventional exchanges.

#### MISUSE OF INSIDE INFORMATION

The law defines inside information as any information of a precise nature which has not been made public and relates directly or indirectly to one or more issuers of financial instruments or to one or more financial instruments, and which would be likely to have a significant effect on the price of those financial instruments or their derivatives were it to be disclosed, since an informed investor would be likely to use such information as part of the basis of their investment decision. In Article 48b BörseG, Austrian law prohibits the misuse of inside information.

Anyone who as an insider takes advantage of inside information to secure a pecuniary benefit, either by transactions in securities or by disclosing the information to third parties, commits the offence described above. A pecuniary benefit in this case refers not just to the generation of a profit but also to the avoidance of a loss. Misuse of inside information is punishable by imprisonment for up to five years or by a fine.

In 2014 a total of 20 investigations involving inside information were opened, and 15 were closed. In three cases, the FMA submitted a report pursuant to Article 48i para. 3 BörseG to the WKStA concerning the suspected misuse of inside information.

#### MARKET MANIPULATION

Austrian law defines market manipulation as transactions or buy/sell orders that:

- give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments; or

Table 32: **Market supervision 2010–2014**

|      | ROUTINE ANALYSES  | INVESTIGATIONS INTO MISUSE OF INSIDE INFORMATION, MARKET MANIPULATION AND VIOLATION OF TRADING RULES |  |                                  |  |
|------|-------------------|--|--|----------------------------------|--|
|      | Warnings computed | Investigations initiated   | Investigations forwarded for internal legal processing | Investigations dropped/completed | Reports forwarded to the Central Public Prosecutor for Economic Crime and Corruption (WKStA) |
| 2010 | 1 496             | 31   | 3  | 22                               | 1  |
| 2011 | 1 436             | 52   | 6  | 38                               | 2  |
| 2012 | 1 209             | 61   | 7  | 25                               | 1  |
| 2013 | 1 376             | 67   | 9  | 50                               | 2  |
| 2014 | 1 380             | 61   | 10   | 31                               | 3  |

Table 33: **Official assistance market supervision 2010–2014**

|      | Enquiries addressed to foreign supervisory authorities |     |       | Enquiries received from foreign supervisory authorities |     |       |
|------|--|-----|-------|---|-----|-------|
|      | BaFin  | FCA | other | BaFin   | FCA | other |
| 2010 | 4  | 1   | 9     | 18  | 0   | 29    |
| 2011 | 2  | 2   | 9     | 25  | 0   | 27    |
| 2012 | 7  | 7   | 7     | 13  | 0   | 11    |
| 2013 | 6  | 5   | 11    | 34  | 0   | 21    |
| 2014 | 26   | 5   | 50    | 21  | 0   | 17    |

- influence the price of one or several financial instruments by one person or several persons acting in collaboration in the intent to drive up prices to an abnormal or artificial level.

Such cases do not qualify as market manipulation where there were legitimate reasons for entering into the transactions or placing the orders, or the transactions or orders conform to accepted market practices in the regulated market concerned.

Other actions falling under the criminal offence of market manipulation include transactions entered into or buy or sell orders placed under false pretences or by any other deceitful actions, and the dissemination, via the media, of information that sends out or may send out false or misleading signals relating to financial instruments; examples of the latter include disseminating rumours or false or misleading news where the individual who disseminated that information knew or should have known that it was false or misleading.

Market manipulation is a criminal offence under administrative law, for which the FMA is required to impose a fine of up to € 150 000.

In the year under review 19 investigations of suspected market manipulation were initiated and 16 were completed. Ten cases were referred to the Enforcement and Law Division to initiate administrative penal proceedings.

## COMPLIANCE WITH INFORMATION REQUIREMENTS

The FMA is also responsible for supervising compliance with reporting and disclosure requirements as set out in the BörseG and for imposing penalties for any breaches. The following provisions fall under the disclosure obligations:

- ad hoc disclosure requirement pursuant to Article 48d para. 1 BörseG;
- changes to major holdings pursuant to Articles 91 et seq. BörseG (changes in the total number of voting rights and in capital, changes in significant thresholds relating to the issuer's own shares, disclosure of derivative instruments);
- annual and half-year financial statements and interim reports pursuant to Article 82 para. 4 and Article 87 BörseG;
- requirement to report directors' dealings pursuant to Article 48d para. 4 BörseG;
- new bond issues pursuant to Article 93 para. 6 BörseG;
- changes to the rights attached to different categories of shares and securities other than shares pursuant to Article 93 paras. 4 and 5 BörseG;
- choice of the home Member State;
- amendments to articles of association pursuant to Article 86 para. 1 BörseG;
- information requirements related to exercising rights pursuant to Articles 83 and 84 BörseG.

### AD HOC DISCLOSURE

Ad hoc disclosure refers to the requirement for issuers to immediately disclose inside information. The primary objective is to provide the market with timely information relevant to prices. Transparency is a basic prerequisite for fully functioning, fair financial markets. The secondary objective is to avoid any insider dealing. Once information is disclosed publicly, all market participants are simultaneously able to draw their own conclusions from it for any investment decision. An information policy that is in line with the provisions of the BörseG also bolsters confidence in the capital market.

Yet, the BörseG also provides for cases in which the disclosure of inside information can be postponed. Article 48d para. 2 BörseG defines the exceptions from the general requirement to disclose such information immediately. That paragraph responds to the need that issuers have in certain situations to refrain from publicising, for a limited period of time, information subject to ad hoc disclosure requirements because it could have detrimental effects for the issuer.

The exception only applies, however, to the requirement for disclosure to be immediate; i.e. the object is not a general suspension of the disclosure requirement per se but only a postponement (the issuer can refrain from

disclosure if during the exemption period the inside information becomes irrelevant). In order for the issuer to use the postponement option, all of the following three conditions must be met:

1. the disclosure of the information could be potentially damaging to the issuer's legitimate interests;
2. suppression of the information would not mislead the public;
3. the issuer is able to guarantee the confidentiality of the information.

The paragraph includes examples illustrating the cases in which legitimate interests exist, specifically, in the event of ongoing negotiations or related circumstances, where the outcome or course of the negotiations would be impaired through disclosure. In particular, where the financial survival of the issuer is directly at high risk, the disclosure of information can be postponed for a limited time, should such disclosure seriously threaten existing and potential shareholders' interests, inasmuch as it would obstruct the conclusion of the specific negotiations actually intended to secure the issuer's long-term financial recovery. Another case is when one of the executive bodies of an issuer makes a decision or concludes a contract and such actions require the approval of another body of the issuer. The issuer is required to immediately inform the FMA of the decision to postpone disclosure. In the FMA's investigations relating to cases of delayed ad hoc disclosure, the authority usually identifies circumstances allowing a postponement.

In 2014 the FMA was able to observe the success of measures aimed at raising issuers' awareness of how to deal with inside information and of the option of delaying ad hoc disclosure; the FMA's extensive information and awareness measures include circulars, presentations and participation in management talks held by the Rules of Conduct and Compliance Division.

In 2014 issuers notified the FMA of postponing disclosure of inside information in 24 cases.

#### PERIODIC DISCLOSURE

The obligation to periodically submit financial reports results in a wealth of data which provides investors, analysts as well as the entire financial community with important facts.

Annual financial statements, half-year financial statements and interim reports as well as quarterly reports are required to be published in accordance with the International Financial Reporting Standards (IFRS) and submitted for storage to the Issuer Information Center of Oesterreichische Kontrollbank AG (OeKB)<sup>1</sup>. This is the system that has been officially designated for central storage of prescribed information.

The ad hoc disclosure requirement applies independently of the periodic disclosure obligation, and the latter is no substitute for the former. Any business results recognised as being inside information are to be disclosed in the form of an ad hoc report immediately, i.e. irrespective of other publication deadlines previously specified in the context of financial reporting.

Two instances are relevant in this case. Firstly, while preparing to publish a financial report it may be revealed that the business figures differ sharply from general market expectations and correspondingly represent inside information. Secondly, the information published in the financial report may subsequently prove incorrect, thus also qualifying as inside information<sup>2</sup>.

#### DISCLOSURE OF MAJOR HOLDINGS

Natural and legal persons are required to report to the FMA and to the listed company the proportion of their voting rights as soon as it reaches, exceeds or falls below one of the reporting thresholds through acquisition or sale or as a result of other events that affect the distribution of voting rights (capital increase, etc.). Reporting thresholds have been set at 4%, 5%, 10%, 15%, 20%, 25%, 30%, 35%, 40%, 45%, 50%, 75% and 90%. Issuers have the option of stipulating an additional threshold of 3% in their articles of association. Changes must be reported within two trading days. In addition to voting rights, certain financial instruments entitling to purchase shares are also required to be reported. Persons to whom voting rights are attributed or who can influence the exercise of voting rights, as specified in Article 92 BörseG, are additionally subject to reporting

<sup>1</sup> <http://issuerinfo.oekb.at/startpage.html>

<sup>2</sup> Refer to the Circular Letter of the Financial Market Authority of 19 June 2013, "Guidelines for Issuers", p. 25.

requirements. Issuers are also subject to reporting requirements when holdings are acquired. As soon as the issuer receives notification from the shareholder, the issuer must disclose all of the information contained in the notification within two trading days.

DIRECTORS' DEALINGS

The transparency of capital markets is enhanced when investors are informed of directors' dealings, i.e. purchases or sales of a listed company's shares by members of that company's management board or supervisory

board. The BörseG requires that certain individuals report their transactions in their firm's shares within five working days; this group includes members of the management or of the supervisory body as well as individuals who have regular access to inside information and take the major business decisions.

The management and supervisory boards of listed companies and individuals closely associated with them reported a total of 374 securities transactions in 2014. This represents an

increase in the number of reports compared with 2013 (283 reports). The FMA publishes the reported insider trades on its website.

DERIVATIVE TRADING

Even before the entry into force of the EMIR reporting requirement on 12 February 2014,

the FMA had already begun to map out the links to the six trade repositories under EMIR. As one of Europe's leading supervisory authorities, the FMA was then able to build up interfaces with all of the trade repositories and thus gain access to the reported data pursuant to Article 9 EMIR. The reports are used in the first instance as the basis for ongoing quality reviews. The FMA was involved in regular talks with the Bank and Insurance Division of the Austrian Federal Economic Chamber (WKO) and its members in which the FMA actively reported on changes introduced in connection with EMIR reporting and also gave market participants the opportunity to ask questions. The initial findings have been incorporated into the review of the EMIR Reporting Technical Standards, which was launched in 2014 and is scheduled for completion in mid-2015.

Together with the OeNB, the FMA carried out a risk assessment of CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH (CCP.A) pursuant to Article 19 EMIR in 2014. The results of the risk analysis showed that CCP.A fulfilled all of the EMIR requirements. Following a positive decision in the international CCP.A supervisory college, the FMA awarded CCP.A an EMIR licence for the settlement of cash products with effect from 14 August 2014. The FMA also implemented a new CCP.A reporting system in cooperation with the OeNB, the aim of which is to make ongoing supervision of CCP.A more efficient.

Table 34: Ad hoc reports by subject matter 2011-2014\* (source: FMA)

|  | 2011       | 2012       | 2013       | 2014       |
|--|------------|------------|------------|------------|
| Share buyback/resale                                     | 29         | 18         | 14         | 27         |
| Peculiarities/other items of ongoing business operations | 71         | 110        | 116        | 112        |
| Participations (acquisition, sale), partnerships         | 49         | 29         | 24         | 60         |
| Financial reports/business figures                       | 214        | 197        | 187        | 121        |
| Large-scale order  | 10         | 5          | 2          | 3          |
| Capital measures   | 68         | 28         | 29         | 36         |
| Staff details  | 38         | 45         | 45         | 43         |
| Forecasts, profit warning                                | 8          | 1          | 5          | 13         |
| Restructuring, recovery, insolvency                      | 11         | 7          | 17         | 4          |
| Strategic corporate decisions, investments               | 22         | 10         | 10         | 17         |
| Management board meetings, resolutions                   | 8          | 0          | 3          | 8          |
| <b>Total</b>   | <b>539</b> | <b>450</b> | <b>462</b> | <b>444</b> |

\* No comparable data for 2010 due to changes to classification of ad hoc reports in 2011.

Table 35: Supervision of issuers 2010-2014

|      | Ad hoc disclosure       | Periodic disclosure                   | Reports pursuant to Article 48d para. 4 BörseG | Reports of major holdings         | INVESTIGATIONS           |                          |                                  |
|------|-------------------------|---------------------------------------|--|-----------------------------------|--------------------------|--------------------------|----------------------------------|
|      | Ad hoc reports received | Annual and quarterly reports received | Directors' dealings                            | Reports of voting rights received | Investigations initiated | Investigations forwarded | Investigations dropped/completed |
| 2010 | 569                     | 545                                   | 442  | 124                               | 45                       | 29                       | 26                               |
| 2011 | 539                     | 558                                   | 516  | 107                               | 30                       | 17                       | 43                               |
| 2012 | 459                     | 511                                   | 287  | 118                               | 41                       | 27                       | 40                               |
| 2013 | 462                     | 526                                   | 283  | 293                               | 17                       | 14                       | 30                               |
| 2014 | 444                     | 645                                   | 374  | 293                               | 27                       | 6                        | 31                               |



## SUPERVISION OF CAPITAL MARKET PROSPECTUSES

**T**he EU Prospectus Directive (2003/71/EC) was transposed into Austrian law in the form of the Capital Market Act (KMG; *Kapitalmarktgesetz*), with the FMA being appointed as the competent authority. With regard to its remit of supervising capital market prospectuses, the FMA is in essence responsible for the following tasks:

- Auditing and approval of prospectuses and supplements when securities are offered to the public (securities prospectuses) and/or admitted to trading on a regulated market. The audit benchmark applied in this case includes, in accordance with Article 8a para. 1 KMG, completeness, coherence and comprehensibility.
- Conducting investigations of any alleged infringements of the KMG or of any provisions of the Stock Exchange Act (*BörseG*; *Börsegesetz*) that apply to prospectuses.
- Cooperation with other European supervisory authorities, which includes notifications, official assistance and the exchange of information, as well as the further development of relevant European legislation as part of expert groups of the European Securities and Markets Authority (ESMA).
- Publication of lists of eligible prospectus auditors, of approved securities prospectuses and of incoming notifications on the FMA website.

### APPROVAL PROCEDURES

A prospectus is required to be issued whenever securities or investments are publicly offered and when securities are admitted to trading on a regulated market of the stock exchange. The prospectus must include all details which are required based on the nature of the issuer and the publicly offered securities or investments, or the securities admitted to trading on the regulated market. The purpose is to allow investors to make a sound judgement on the issuer's, and any guarantor's, assets and liabilities, financial situation, profits and losses, and future prospects, as well as on any rights associated with these securities or investments.

The prospectus must not be published until it has been approved by the FMA. On approval, however, the prospectus must be published at the earliest possible date, and no later than one banking day before the public offering commences or one banking day before the particular security is admitted to trading.

Any supplement pursuant to Article 6 KMG to a previously approved securities prospectus must be published and filed according to the same procedure as for the prospectus. A supplement must be issued for any important new fact or material error or inaccuracy with respect to the information contained in the prospectus that could affect the valuation of the securities or investments and that occurs or is identified between approval of the prospectus and final closure of the public offering or, if occurring later, opening of trading on a regulated market.

The issuer has a legal claim to approval where a prospectus submitted for approval meets all of the requirements in full.

Unlike the procedures for approving securities prospectuses, which are harmonised by EU law, prospectuses for the public offering of investments are subject to the national law of the country concerned. The notification pro-

**AUDIT BENCHMARK APPLIED BY THE FMA IN APPROVAL PROCEDURES**

In accordance with the legal basis stipulated in the KMG, the FMA audits securities prospectuses in terms of completeness, coherence and comprehensibility. It is not part of the FMA’s remit to evaluate the correctness of the information contained in the prospectus during the approval procedure. The issuer is liable, pursuant to Article 11 KMG, for the correctness of the information or for any material incompleteness, such as undisclosed details.

**COMPLETENESS**

Within an approval procedure, completeness is verified on the basis of the minimum requirements as contained in the relevant provisions under European law. These provisions have been set forth in standardised form in Regulation (EC) No 809/2004 as amended. They stipulate a broad range of compulsory information applicable to various different securities and issuer categories.

**COHERENCE**

The key to verifying coherence is to ensure that the information contained in the prospectus does not include any contradictory statements. Any specific items that are inconsistent will require closer examination and possibly adaptation by the provider or issuer.

**COMPREHENSIBILITY**

When verifying comprehensibility, the average informed investor is to be used as the benchmark. The prospectus must convey the information in such a way that the details are easy to analyse and follow. While technical terms may be used, such language should not predominate in the prospectus. An explanation of any such terms should be included in the prospectus. In particular, the summary to be included in the prospectus and the presentation of the risk factors associated with the security should be written in generally comprehensible language.

cess within the framework of the European passport is therefore not applicable to such prospectuses. The audit of the investment prospectus with regard to correctness and completeness must be performed by a prospectus auditor as specified in Article 8 KMG. The FMA publishes a list of eligible prospectus auditors on its website.

**OFFICIAL TASKS**

Chart 29: **Approval procedures 2010–2014** (source: FMA)

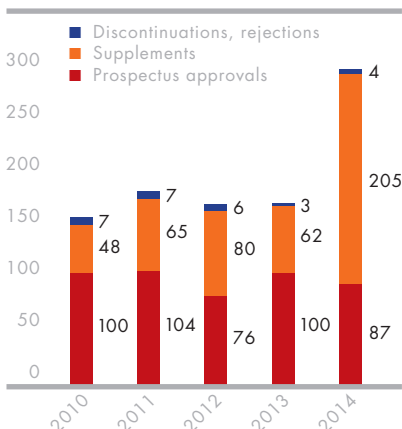


Chart 29 shows the number of prospectus approval procedures, approved supplements and procedures discontinued during 2010 to 2014. With 87 prospectuses having been approved by the FMA in 2014, the number fell below the average of 95 prospectus approvals as seen in the past four years. This is primarily due to the Austrian housing bank sector having made use of the base prospectus regime since 2014 as the basis for its issuing activity. It means that most housing banks now publish a base prospectus instead of a stand alone prospectus, which is restricted to the issuance of one specific security. This sector of the Austrian banking industry has thus now also been made more flexible with regard to the proposed timing of issues and the design of the securities, by way of depositing with the FMA final terms prior to making the public offering.

The number of approved supplements rose from 62 in 2013 to 205 in 2014, a figure decidedly unparalleled since the KMG entered into force in August 2005. Issuers attribute this substantial rise to the major change in circumstances resulting from amendments to the legislation applicable to credit institutions (Capital Requirements Regulation or CRR, Capital Requirements Directive or CRD IV, entry into force of the Federal Act on the Recovery and Resolution of Banks – BaSAG; *Bundesgesetz über die Sanierung und Abwicklung von Banken*), as well as to the downgrading of Austrian banks' credit standing by European credit rating agencies. The structural reform of the Austrian Volksbank sector also led to numerous supplements being submitted.

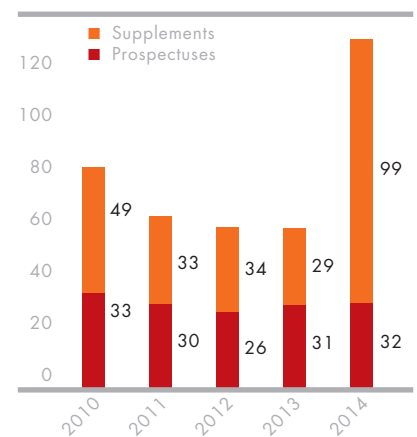
## EEA NOTIFICATIONS

The primary objective of the Prospectus Directive was to create a European passport for securities prospectuses. Accordingly, once a prospectus or a compulsory supplement is approved in one Member State of the European Economic Area (EEA) it is also valid, for the duration of its validity, for a public offering or admission to trading on a regulated market in any other EEA Member State. In order to use a prospectus or a supplement in another EEA Member State, the competent authority in the respective host country must first be notified. It should also be noted that the prospectus must be drawn up in an admissible prospectus language. In Austria, prospectuses must be drawn up in either German or English. It may be necessary to translate the summary into the particular language of the EEA Member State.

From Chart 30 it can be seen that the number of prospectuses from Austria notified in other EEA Member States between 2010 and 2014 was relatively constant, with the exception of 2012, a year in which the FMA generally approved fewer prospectuses. With regard to notifications of supplements to EEA partner authorities, the number jumped disproportionately in 2014 to 99 notifications, in line with the high number of supplement approvals. The majority of the outgoing notifications related to Germany. Some prospectuses or supplements were submitted to countries in Eastern Europe.

The number of prospectuses notified in Austria by other EEA Member States declined for the first time in 2014, having risen continuously between 2010 and 2013. In 2014 incoming notifications to the FMA amounted to 340 prospectuses, signifying a decline of around 14% (2013: 394 notified prospectuses). The drop in the number of notified supplements was even more marked, falling from an average of 2 265 (between 2010 and 2013) to 1 083 in 2014. This is mainly a result of the changed base prospectus regime with regard to three-part prospectuses. Most incoming notifications to the FMA were submitted by the competent authority in Luxembourg as well as by the German authority.

Chart 30: **Outgoing notifications 2010–2014** (source: FMA)



## INVESTIGATION OF BREACHES OF THE RULES ON PROSPECTUSES AND ADVERTISING

The FMA is additionally responsible for monitoring the Austrian financial market in order to identify any breach of statutory provisions that may occur in connection with the issuing and advertising of securities and investments. Investigations were completed in 24 such cases in 2014, representing an increase of 50% when compared with 2013 and the 16 procedures completed then.

## COMBATING UNAUTHORISED BUSINESS

**T**here are also providers on the market who avoid continued supervision by the FMA, and who offer and perform services that require a licence without being authorised to do so. Such providers pose a serious threat to the integrity of the Austrian financial market and could damage investor confidence, causing investors to doubt that the market is functioning as it should. The performance of services that require a licence without having the necessary authorisation is referred to as unauthorised business.

As well as identifying cases where business operations are being carried out without authorisation, the FMA also frequently encounters cases involving genuine financial crime during its investigations. The diverse range of cases shows that there are no limits to the imagination of the fraudsters behind these crimes.

Typical advance-fee scams involve the victims being presented with a fictitious set of circumstances and promises of absurdly high returns (up to 100% or even higher), and encouraged on this basis to make an advance payment to the providers. This is frequently done through a mass e-mail in which the sender claims to have knowledge of accounts held by former rulers or large corporations in developing countries and to require the recipient's help in transferring the six-figure sums abroad. The promised commissions entice the victims to make upfront payments, allegedly to cover fees, bribes, etc. The victims then wait in vain for the promised consideration.

Boiler rooms are call centres from which sellers attempt to persuade customers to enter into dubious investment transactions over the telephone. The sellers use high-pressure sales techniques as they attempt to coerce customers into buying shares in certain companies. Having transferred the money, the customer ends up with worthless shares, while the providers can no longer be reached.

Phishing is a type of online fraud whereby the fraudsters attempt to obtain access details to online bank accounts (user names, passwords, PINs and TANs) by means of phishing e-mails or trojans. These details are subsequently used to withdraw money from the accounts, with the funds being transferred abroad.

### OFFICIAL TASKS

#### INVESTIGATIONS

The suspicion that business operations are being carried out without authorisation is founded on:

- information, enquiries or complaints from market participants;
- information acquired by the FMA as part of its continued supervision of licensed companies;
- active observation of the market; or
- notifications from other authorities.

The FMA begins its investigations by carrying out research on the Internet, in the company register, trade register and register of residents, as well as in internal databases and enquiry tools. Subsequently, individuals may be called upon to submit a written statement or be summoned to appear at the FMA's premises for questioning. In addition, the FMA is entitled to obtain information from natural and legal persons and other entities

with legal personality, and to process the required data. This right also encompasses the FMA's power to carry out on-site examinations of documents and electronic data media, e.g. on the business premises of the suspected party and also on those of third parties.

In 2014 the FMA initiated a total of 230 investigations, 239 of which could be completed. Furthermore, 23 cases were examined on site.

#### PROCEDURES TO PROHIBIT BUSINESS OPERATIONS

Based on the results of its investigations, the FMA will introduce a procedure to prohibit business operations pursuant to Article 22d of the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*) in the event of a current case of unauthorised business. The first stage of this process involves the suspected party being called upon by means of a procedural order to remedy the situation such that it complies with the statutory provisions.

In 2014 a total of 22 parties were called upon by means of a procedural order pursuant to Article 22d FMABG to remedy the situation such that it complies with the statutory provisions. In one case an administrative decision prohibiting business operations, simultaneously threatening a coercive penalty, had to be issued due to non-compliance with the procedural order.

#### PUBLICATIONS

The provisions in the relevant supervisory laws (Article 4 para. 7 BWG, Article 64 para. 9 ZaDiG, Article 26 para. 9 E-GeldG, Article 92 para. 11 WAG 2007 and Article 4 para. 11 VAG) enable the FMA to inform the public, by making an announcement on the Internet, in the official gazette "Amtsblatt zur Wiener Zeitung", or in any newspaper with nationwide circulation, to the effect that a person is not authorised to carry out particular transactions that require a licence.

In total, 19 such announcements were made in 2014. Experience has shown that this is a very efficient way of tackling unauthorised business conducted via the Internet, as dubious providers can be countered with publicity.

#### ADMINISTRATIVE PENAL PROCEEDINGS

A key pillar in the fight against unauthorised business is also the rapid implementation of administrative penal proceedings based on the terms of the relevant supervisory laws, which provide for penalties of up to € 5 million or up to twice the amount of the benefit derived from the breach. Furthermore, there is the option of publishing penal decisions pursuant to Article 22c FMABG.

There were five cases of administrative penal proceedings being initiated in 2014. Ten penal decisions and five penal orders were issued. Seven penal decisions were not opposed by the parties concerned and thus became final, whilst appeals were lodged against three of the decisions.

#### ENFORCEMENT

In accordance with Article 22 para. 1 FMAGB, the FMA is responsible for enforcing its own administrative decisions, with the exception of administrative penal decisions. For this purpose – particularly in the case of coercive penalties – an application is made with the relevant court to initiate enforcement proceedings. The penal decisions are then enforced by the district administration authority responsible.

#### REPORTED OFFENCES AND REPORTS FORWARDED TO ADMINISTRATIVE AUTHORITIES

If an authority or public office becomes aware of a suspected criminal act that falls within its statutory remit, it

is obliged under Article 78 para. 1 of the Code of Criminal Procedure (StPO; *Strafprozessordnung*) to report the case in question to the criminal investigation department or public prosecutor's office. In cases involving cold calling (marketing calls without the participant's prior permission) or involving the sending of unsolicited electronic messages, including text messages, the FMA also forwards the relevant details of the case to the responsible telecommunication authorities, in addition to reporting the offence in question.

In 2014 the FMA submitted a total of 52 statements of the facts to the public prosecutors or police authorities and made 14 reports to the administrative authorities.

## COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

**T**he FMA monitors the companies under its supervision to ensure compliance with the due diligence and disclosure obligations aimed at combating money laundering and terrorist financing. These due diligence and disclosure obligations are based on internationally accepted standards, known as the Recommendations of the Financial Action Task Force (FATF Recommendations).

### OFFICIAL TASKS

#### ON-SITE INSPECTIONS AND COMPANY VISITS

The FMA conducts on-site inspections to verify that the supervised companies have implemented suitable systems for the prevention of money laundering and terrorist financing. In these inspections, the FMA evaluates the extent to which the implemented systems and control mechanisms are suited to ensuring effective prevention. This involves in particular inspecting in detail the IT systems that are deployed as a means of monitoring business relationships on an ongoing basis, verifying the effectiveness of the scenarios and related thresholds that have been defined as part of the monitoring systems. The system review also entails an in-depth inspection of the workflows and measures that the supervised companies have defined in order to safeguard compliance with due diligence requirements. Besides the system review, individual test cases are evaluated as a means of checking the performance of the implemented systems and measures.

For the purpose of preventing money laundering and terrorist financing, 54 on-site measures were carried out in total during 2014. Specifically, 24 on-site inspections were carried out within the framework of combating money laundering and terrorist financing during the year under review. These included 18 one-site inspections of credit institutions, two at insurance undertakings and four at investment firms. Additionally, in relation to preventing money laundering and terrorist financing, the FMA carried out a total of 30 company visits during the year under review. Of those visits, 26 were held at credit institutions and four at insurance undertakings.

#### SUPERVISORY PROCEDURES

If during the FMA's supervisory activities facts emerge in a specific case indicating that a supervised company has possibly violated due diligence or disclosure obligations aimed at combating money laundering and terrorist financing, an investigation is launched to examine and clarify the case. Where in the course of supervisory activities an existing situation of non-compliance with statutory provisions is identified, the FMA's primary interest is to take action to have legal compliance restored and the associated defects remedied. In so doing, the FMA conducts a procedure to restore legal compliance, in the framework of which the company concerned is confronted with the existing defects and called upon to define and implement measures towards remedying them. In this context, the FMA subsequently also examines the suitability of the measures. If any suspicion of systematic or serious violation of the due diligence requirements aimed at combating money laundering and

terrorist financing arises, it is unconditionally necessary to initiate administrative penal proceedings; a total of six related penal decisions were issued in 2014. In addition, the FMA filed suspicious transaction reports with the Financial Intelligence Unit in ten cases.

In 2014 there were 174 cases in total of supervisory procedures being initiated to prevent money laundering and terrorist financing. The procedures included 135 investigations, 29 procedural orders requesting compliance with statutory provisions to be restored and 10 cases of administrative penal proceedings.

#### EDUCATING AND INFORMING

To intensify the exchange of information and to strengthen cooperation with the supervised companies, the FMA took part in a substantial number of talks and discussions on how to prevent money laundering and terrorist financing. For instance, the FMA gave numerous talks at events organised by various seminar providers and at a range of events aimed at dealing with the issue in practice. In addition, the FMA also held the first practical conference dedicated to “Compliance and combating money laundering” on 23 October 2014.



## FINANCIAL REPORTING ENFORCEMENT

**T**he Accounting Control Act (RL-KG; *Rechnungslegungs-Kontrollgesetz*), Federal Law Gazette I No. 21/2013, introduced in Austria enforcement procedures for the financial reports prepared by capital market-based companies. The RL-KG entered into force on 1 July 2013 and was applicable for the first time to reports for financial years ending after 30 December 2013. Consequently, auditing activity began in practice in the spring of 2014. The companies affected are those whose securities are admitted to trading on a regulated market of the Vienna Stock Exchange.

Actual auditing activity, i.e. investigation of any relevant issues, is performed by a private-law association, the Austrian Financial Reporting Enforcement Panel (AFREP), and by the FMA in the capacity of control authority. The review benchmark is compliance with national and international accounting standards, in the form of the International Financial Reporting Standards (IFRS).

If it is found that an audited company's financial reports contain material errors, the FMA must issue an administrative decision ordering the company concerned to disclose the identified errors along with the significant reasons as specified in Article 10 para. 4 of the Capital Market Act (KMG, *Kapitalmarktgesetz*).

The FMA does not consider disclosure of past errors as the sole objective of its official enforcement activities. Rather, by providing preventive information with a view to the future, the quality of financial reporting is to be improved and kept at a continuously high level. To this end, enforcement processes also include instructions to companies on how to improve or optimise their financial reporting, with the FMA monitoring implementation in subsequent statements.

### OFFICIAL TASKS

Statutory auditing activity differentiates between sample audits and audits in response to current issues. In the case of current issue-related audits, substantiated information or specific irregularities are to be checked promptly. In the case of sample audits, a risk-based approach is applied to ensure that there is also more likelihood of randomly selecting companies with a higher risk than those with a lower risk. The combination of current issue-related and sample audits is to ensure that supervision can respond appropriately to peculiarities and indications of irregular accounting, and that official monitoring covers all listed companies over a maximum period of five to seven years.

The FMA is required to prepare an annual audit plan based on its annual audit priorities (the audit priorities for the 2014 reporting year can be downloaded at [www.fma.gv.at/fileadmin/media\\_data/3\\_Unternehmen/08\\_Emittenten/Enforcement/FMA\\_Pruefungsschwerpunkte\\_2014.pdf](http://www.fma.gv.at/fileadmin/media_data/3_Unternehmen/08_Emittenten/Enforcement/FMA_Pruefungsschwerpunkte_2014.pdf)). The AFREP may submit proposals for the audit plan and for audit priorities. The FMA publishes these audit priorities on its website, while taking account of the priorities determined by the European Securities and Markets Authority (ESMA).

A sample for the first year of operational enforcement activities was drawn jointly by the FMA and the AFREP, yielding a sample of 25 companies. This audit plan was expanded to include another six companies after a second sample was drawn on 9 October 2014.

Towards the end of 2014 the AFREP submitted seven reports on the results of the audits, with 24 reports pending as of the end of the year. In three cases, the AFREP had identified errors in the financial reports, which were accepted by the companies concerned in each case.

In some cases, the FMA initiated special audits. Such are frequently in response to external information submitted to the FMA (e.g. by whistleblowers) or ESMA requests issued to the FMA to investigate specific cases. Where (external) information proves to be unfounded or correct but of no further significance, the audits are discontinued and, where appropriate, the companies are advised to improve on the matters looked into. The cases of special audits where indications of significant errors were identified had not been completed by the end of the year.

It is often necessary to carry out several rounds of investigation to determine errors, while the companies need to be given sufficient time during the official process to make comments and be heard as parties, and the processes for determining and disclosing errors are two subsequent separate procedural steps. Consequently, the whole auditing process takes eight to twelve months on average, as previous experience has shown. In special cases the whole process may even extend over a longer period of time, for instance when specific issues need to be discussed in ESMA working groups or ESMA decides to submit the issue to the International Accounting Standards Board (IASB).

In two cases, accounting methods relating to critical data were clarified with the companies concerned by way of a pre-clearance process.

### PREVENTION, NATIONAL AND INTERNATIONAL WORKING GROUPS

The FMA endeavours to pursue a policy of pro-active dialogue relating to matters of financial reporting enforcement at national and international level. The authority therefore sits on a large number of working groups to coordinate and develop issues of financial reporting and attempts to prevent accounting errors by providing pre-clearance and information. At a national level, the FMA supports the Austrian Financial Reporting and Auditing Committee (AFRAC) as a member of the association and takes part in a large number of its working groups. In addition, the FMA cooperates intensively with federal ministries and the Austrian Federal Economic Chamber (WKO) on accounting matters and gives talks on relevant topics at academic conferences and roadshows.

### COOPERATION AT EUROPEAN LEVEL

With regard to international cooperation and coordination of enforcement activities, the FMA also regularly participates in committees and working groups set up by ESMA and in reviews and analyses subsequently carried out at European level, while also contributing to new developments spanning several sectors and requiring international coordination.

The FMA is responsible for international cooperation in enforcement. At European level, the legal basis for this cooperation is provided by Article 2 of the ESMA Regulation, which calls for cooperation based on trust and mutual respect, and the exchange of information among all of the authorities and with ESMA. The ESMA Regulation is only applicable to authorities; the FMA informs AFREP, which is a private-law association, of international cooperation.

### ENFORCEMENT GUIDELINES

On 10 July 2014, ESMA published accounting enforcement guidelines, the "Guidelines on enforcement of financial information". The ESMA Regulation requires all Member States to comply with these guidelines. It is consequently expected that they will contribute significantly to the coordination and standardisation of enforcement processes conducted in the various Member States. Among other things, the guidelines are aimed at achieving uniform minimum standards for enforcers across the individual Member States, as well as harmonisation of enforcement in Europe and more comparable results of enforcement activities.



## LEGAL AND ENFORCEMENT AFFAIRS



With regard to the enforcement of supervisory laws, the FMA has administrative penal jurisdiction in the first instance and is therefore authorised to conduct administrative penal proceedings where provisions of the supervisory laws are breached.

As at the beginning of 2014, 125 proceedings were pending at the FMA. A further 345 administrative penal proceedings were initiated, and 279 cases were concluded with an administrative decision during the year under review. Of the administrative penal proceedings concluded, 128 resulted in penal decisions, 54 in penal orders and 97 in admonitions. Proceedings were dropped in 112 cases, while no penal proceedings were initiated in 206 cases. As at the end of 2014, proceedings were still pending in 112 cases.

In the case of a penal decision, an administrative decision imposing a fine is issued following investigation procedures. A penal order can be issued without any additional investigation procedures if the evidence for the offence is sufficiently unequivocal. In this case the fine must not exceed € 600 per violation, but fines incurred for several breaches may be imposed on a cumulative basis. Where the significance of the right protected under criminal law, the magnitude of the impairment resulting from the offence and the fault of the accused are negligible, the FMA may refrain from a penalty while issuing a formal admonition calling attention to the unlawfulness of the conduct.

In 2014 the FMA imposed 182 fines totalling € 763 400, of which € 746 500 related to penal decisions and € 16 900 to penal orders. The average fine resulting from a penal decision was thus € 7 858 in 2014, with fines from penal orders averaging € 512. The overall average was € 5 964, with the highest fine imposed amounting to € 84 000.

Article 98 para. 6 of the Austrian Banking Act (BWG; *Bankwesengesetz*), Article 190 para. 7 of the 2011 Investment Fund Act (InvFG 2011; *Investmentfondsgesetz*), Article 95 para. 12 of the 2007 Securities Supervision Act (WAG 2007; *Wertpapieraufsichtsgesetz*) and Article 67 para. 12 of the Payment Services Act (ZaDiG; *Zahlungsdienstegesetz*) entered into force on 1 January 2014; as a result, failure to comply with certain notification obligations is no longer a criminal offence provided that institutions subsequently comply with the obligations before the FMA becomes aware of non-compliance. In this context, a resulting decrease in "minor" proceedings could be observed, while in a substantial number of cases the penalty was replaced by a positive incentive for the company concerned to make up the notification, which is lastly also in the interests of supervision. At 15 penal orders and 11 penal decisions, the total number of penalties imposed due to notification obligations remained significantly below that tallied in previous years.

Some of the laws included in the FMA's supervisory remit also cover criminal offences. Where the FMA has reasonable grounds to suspect the breach of such a law, a report must be filed with the public prosecutor's office or the criminal investigation department. The courts of law are then responsible for imposing any sanctions. Examples of such offences include insider dealing as prohibited by the Stock Exchange Act (*BörseG; Börsegesetz*) and the public offering of investments without submitting a prospectus as required by the Capital Market Act (*KMG; Kapitalmarktgesetz*). In the course of supervisory duties, the FMA is also frequently confronted with circumstances justifying suspicion of a breach of criminal law, which must also be reported.

Chart 31: Administrative penal proceedings 2010–2014 (source: FMA)

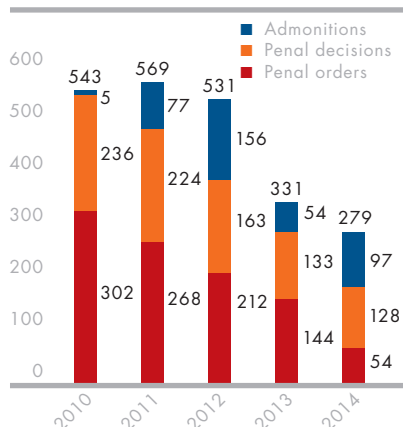


Chart 32: Facts reported to public prosecutors 2010–2014 (source: FMA)

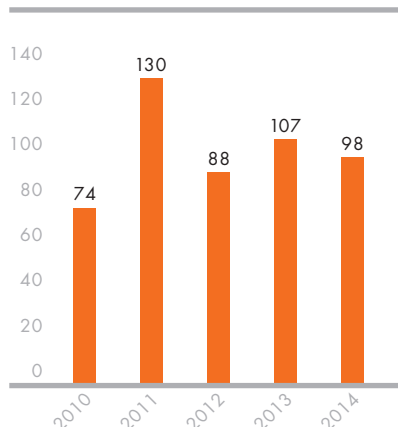
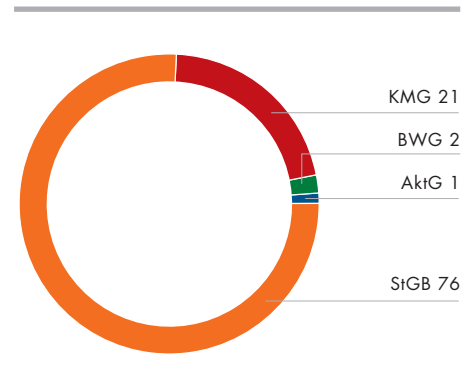


Chart 33: Facts reported to public prosecutors by subject (in %; source: FMA)



The most frequent cases of this type involve suspected breaches of trust and/or fraud. In 2014 the FMA forwarded 98 statement of facts to the public prosecutor’s office, three of which related to suspected insider dealing as defined in the BörseG. Some 21% of the facts reported related to suspected breaches of provisions contained in the KMG. 2% of the reports were made on suspicion of breaches of the BWG, 76% concerned suspected breaches of the Criminal Code (StGB; *Strafgesetzbuch*) and 1% were based on suspected breaches of the Stock Corporation Act (AktG; *Aktiengesetz*).

**SELECTED PENAL DECISIONS ACCORDING TO AREA OF THE LAW CONCERNED<sup>1</sup>**

**MONEY LAUNDERING PROVISIONS**

During the year under review the FMA issued five penal decisions against the parties responsible at credit institutions or investment firms due to failure to comply with money laundering provisions. On the one hand, they were unable to demonstrate to the FMA that appropriate measures, as based on the risk analysis, had been taken to avoid the risks of money laundering and terrorist financing. On the other hand, when registering new customers, they did not adequately verify whether customers represented politically exposed persons.

**SECURITIES SUPERVISION ACT (WAG)**

Of the 43 penal decisions issued in response to breaches of the terms of the WAG 2007, 36 concerned credit institutions and seven involved other investment service providers. The decisions affecting credit institutions related in particular to a lack of appropriate measures to prevent personal transactions, a lack of appropriate measures for identifying potential conflicts of interest arising from the performance-based remuneration system in place at the institution, and the provision of dishonest, unclear or misleading information. Another main category comprised penal decisions issued in response to poorly defined internal auditing or unclear separation from the compliance role. The penal decisions involving investment firms and investment service providers sanctioned in particular the provision of insufficient information in advertising and the failure to comply with minimum capital requirements, as well as failure to publish the financial statements on schedule.

**STOCK EXCHANGE ACT (BörseG)**

26 penal decisions were issued in response to breaches of the terms of the BörseG. The penalty in eight cases

<sup>1</sup> Some of the penal decisions relate to breaches of different material laws.

Table 36: Administrative penal proceedings concluded 2010–2014 (by law)

|  | 2010       | 2011       | 2012       | 2013       | 2014       |
|--|------------|------------|------------|------------|------------|
| <b>BWG</b>   |            |            |            |            |            |
| Violations of notification obligations                       | 103        | 113        | 93         | 64         | 37         |
| Violations of reporting requirements                         | 43         | 37         | 81         | 51         | 14         |
| Unauthorised business  | 38         | 63         | 55         | 22         | 17         |
| Money laundering   | 17         | 21         | 37         | 29         | 10         |
| Owner control  | 8          | 25         | 22         | 18         | –          |
| Deckungsstock  | 6          | 6          | 22         | 8          | 46         |
| Presentation obligations                                     | 4          | 2          | –          | –          | 1          |
| Consumer protection provisions                               | 1          | –          | 2          | –          | 2          |
| Bank auditor provisions                                      | –          | –          | –          | –          | –          |
| Protection of designations                                   | –          | 2          | 1          | –          | –          |
| Accounting   | –          | –          | 16         | 11         | 14         |
| Deposit guarantee and investor compensation                  | –          | –          | 4          | 2          | –          |
| <b>ZaDiG</b>   |            |            |            |            |            |
| Consumer protection  | 7          | 4          | 4          | 1          | 20         |
| Unauthorised business  | –          | 5          | 3          | 1          | –          |
| <b>PKG</b>   |            |            |            |            |            |
| Unauthorised pension company business                        | 3          | –          | –          | –          | –          |
| Violations of investment provisions                          | –          | –          | 5          | –          | –          |
| Violations of notification obligations                       | –          | 3          | –          | –          | –          |
| Violations of information requirements                       | –          | 3          | –          | –          | –          |
| Approval requirements  | –          | –          | 3          | –          | –          |
| Protection of designations                                   | –          | –          | –          | –          | 4          |
| <b>VAG</b>   |            |            |            |            |            |
| Violations of notification obligations                       | –          | 32         | 12         | 10         | 13         |
| Instructions   | –          | –          | –          | –          | 2          |
| Unauthorised business  | –          | –          | –          | –          | 1          |
| <b>InvFG</b>   |            |            |            |            |            |
| Violations of advertising provisions                         | 112        | 51         | 10         | 3          | 2          |
| Violations of notification obligations                       | 39         | 17         | 17         | 9          | 6          |
| Protection of designations provisions                        | 5          | 13         | 7          | 1          | 3          |
| Protection of investors' interests/<br>investment provisions | 5          | 17         | 6          | 57         | 67         |
| Accounting   | –          | –          | 14         | 5          | 2          |
| Organisational requirements                                  | –          | –          | –          | 5          | 10         |
| Fund rules   | –          | –          | –          | –          | 2          |
| <b>ImmInvFG</b>  |            |            |            |            |            |
| Violations of advertising provisions                         | 34         | 5          | 4          | –          | –          |
| Protection of designations                                   | –          | 2          | –          | –          | –          |
| <b>BeteilFG</b>  |            |            |            |            |            |
| Violations of protection of designations provisions          | 21         | 10         | –          | –          | –          |
| <b>WAG</b>   |            |            |            |            |            |
| Organisational requirements                                  | 20         | 53         | 40         | 26         | 27         |
| Conduct of business  | 19         | 33         | 55         | 23         | 28         |
| Owner control  | 24         | 11         | 4          | 8          | –          |
| Violations of notification obligations                       | 4          | 6          | 5          | 10         | 4          |
| Capital requirements   | –          | 6          | 3          | 2          | 4          |
| Unauthorised business  | 1          | 7          | 2          | 1          | 3          |
| <b>BörseG</b>  |            |            |            |            |            |
| Violations of obligation to report holdings                  | 29         | 28         | 33         | 22         | –          |
| Market manipulation  | 25         | 18         | 7          | 9          | 22         |
| Violations of periodic disclosure obligation                 | 37         | 15         | 7          | 3          | 7          |
| Directors' dealings  | 4          | 9          | 3          | 5          | 8          |
| Non-disclosure of inside information                         | 10         | 29         | 15         | 4          | 10         |
| Violations of Vienna Stock Exchange trading rules            | 8          | 17         | 6          | –          | –          |
| Other violations   | 17         | 6          | 7          | 1          | 1          |
| <b>KMG</b>   |            |            |            |            |            |
| Violations of advertising provisions                         | 33         | 6          | –          | 1          | –          |
| Other violations of prospectus rules                         | 5          | 33         | 25         | 5          | 4          |
| <b>Total</b>   | <b>682</b> | <b>708</b> | <b>630</b> | <b>417</b> | <b>391</b> |

was for trade-based market manipulation, in the majority of the cases specifically due to cross-trading carried out negligently in non-liquid markets. In one instance, misleading statements suited to manipulating markets were made during a newspaper interview. Seven penal decisions were issued in response to a violation of directors' dealings requirements. The subject of two cases was the failure to comply with the rules on periodic disclosure. The penalty in one case was in response to the failure to mention a conflict of interests in an analysis. Seven penal decisions were imposed in two sets of cases, where inside information was not disclosed to the public in time and where the postponement of publication of inside information was not disclosed in time.

## INVESTMENT FUND ACT

(InvFG 2011)

34 penal decisions were issued in response to breaches of the terms of the InvFG 2011. The main subject of the penal decisions was an active breach of investment rules (25 penal decisions). The subject of other penal decisions was in particular failure to meet organisational requirements or to comply with provisions governing designations or advertising.

## CAPITAL MARKET ACT (KMG)

There were three penal decisions issued in response to breaches of the terms of the KMG. Penalties were imposed due to offering securities or investments without an adequate prospectus as defined in the KMG, or where the prospectus was not prepared in accordance with the regulations set out in the KMG.

## SELECTED PROCEEDINGS BEFORE THE FEDERAL ADMINISTRATIVE COURT (BVwG)

During the BVwG's first year of activity, the main subject of the decisions handed down by the court concerned issues falling within the InvFG 2011 and the WAG 2007.

According to the BVwG, holding additional liquid funds as specified in the InvFG 2011 is equivalent to an investment and not simply of a "technical nature" as claimed, with such additional liquid funds representing investment fund assets that momentarily become "available" because of not getting around to re-investing them soon enough.

The BVwG ruled that the investment limits laid down in the InvFG 2011 were immovable and that the exception specified in Article 79 InvFG was made principally with investors' interests in mind. It was found that avoiding concentrations of investors' assets with one and the same credit institution was intended to protect investors and to distribute (default) risk. The court pointed out that, in the event of a total default on the part of the custodian bank (i.e. bankruptcy), the investors' assets would not have been protected.

With regard to complaint management, the BVwG sees statutory provisions as requiring legal entities to handle any complaints that are lodged on the basis of the WAG 2007 in accordance with a previously defined standard. The court ruled that a competent system of complaint management required, among other things, that complaints be processed by persons not directly involved in the complaint case and thus never by the employee normally advising that particular customer.

According to the BVwG, once a company reached a certain size, having one employee in the double role of internal auditor and financial services assistant no longer qualified in order to meet the criteria of "objectivity and independence" as set out in Article 20 WAG 2007. Compliance was inadequate where the managing director checked the files of customers served by the auditor/financial services assistant, the court observed.

The BVwG ruled that exclusively internal documentation of the venues of order execution as specified for system technology, which is not forwarded to customers, contradicted the special due diligence obligations relating to relationships with retail customers and the specific mandatory specifications concerning the best possible provision of services as set out in Article 52 WAG 2007.

Regarding the professional experience required to manage a company providing investment services, the BVwG stated that such experience would have to have been gathered within the scope of business activities for which the company applied for a licence, especially considering the fast pace of change in the securities market. In the view of the BVwG, professional activities limited to management consulting, tax consulting, insurance mediation and accompanying a managing director to customer meetings was by no means enough to fulfil the qualifications requirement.

In an extensive set of related cases concerning complaints filed by three directors of a credit institution, the BVwG confirmed the penalties that the FMA had imposed on account of numerous violations of money laundering provisions.

Various other cases were confirmed in the area of ownership control regulations for credit institutions (failure to notify the intention to acquire qualifying holdings) as well as cases of unauthorised business operations (especially relating to deposit and credit transactions); in some cases only preliminary oral confirmation has been given.

## SELECTED PROCEEDINGS BEFORE THE COURTS OF PUBLIC LAW

In one case of proceedings on account of market manipulation, the Administrative Court (VwGH) ruled that, where the manipulation was obvious to a stockbroker, they could not appeal to the fact that a customer order existed, in view of their responsibility as joint perpetrators according to administrative penal law. The court noted that legislators had declared such conduct punishable regardless of whether any or any specific amount of profit resulted from the transactions.

In the context of the obligation to disclose major holdings as specified in the BörseG, the VwGH ruled that for

the disclosure obligation it was immaterial whether one or more companies were established as intermediates between the company with a controlling interest and the firm holding an interest in the issuer, as long as a controlling interest existed at each level of the company group.

The VwGH also rejected the high-court appeal filed by one party; the company had argued that 1.1m cabinets separated the two office areas and the individual desks of the two departments were not immediately adjacent, so that adequate separation of the two areas of confidentiality (trading for account of customers and for the company's own account) was ensured.

The VwGH rejected an interpretation of the WAG 2007 according to which the policy for executing orders did not require the mention of the names of the specific institutions to which orders were forwarded but rather only the type of institutions executing third-party transactions (e.g. "appropriate banks, financial service providers and brokers"); the court found this interpretation to oppose the purpose of the provision, stating that in this context the legal entity could comply with its duties only by individually specifying the institutions.

In another ruling the VwGH found that it was not permissible to postpone the processing of customer orders for up to two days while waiting for the brokering fee to be remitted to the company account. The court stated this as being a mandatory right from which no exception was possible, even where the customer gave blanket consent.

In one specific case the VwGH ruled that there was no legal basis for the FMA to associate an order as specified in Article 70 para. 4 no. 1 BWG with the threat of revoking the licence, because the authority had not verified whether other measures as specified in the BWG (or WAG 2007) were capable of ensuring the functioning of the legal entity.

The VwGH confirmed the FMA's legal opinion that persons responsible for self-dealing at the stock exchange as a result of faulty programming and a failure to monitor the automated trading system could be punished for market manipulation through negligence.

In the opinion of the VwGH, the requirement for the individual and the consolidated financial statements of a company to be printed together results from Article 82 para. 4 BörseG.

The VwGH confirmed the FMA's legal opinion that the requirements applying to the documents presented for the purpose of customer identification were more exacting, the greater the risk entailed in the business relationship; this meant that private or non-certified documents might not be sufficient in the individual case, while this depended on the customary practices in the country too. Where registers were public or at least accessible for the legal person concerned, an extract from a register taken even only a few days earlier might be regarded as not being a "meaningful supporting" document in the individual case.

In cases of what is referred to as "chains of representation", it was ruled in favour of the FMA's legal opinion that each power of representation had to be ascertained individually by means of appropriate certificates. The argument given was that, where the identity of every natural or legal person with a power of representation had not been ascertained, it was not possible to judge whether the person appearing before the credit institution was indeed authorised to represent the customer.

In one case involving unauthorised business in deposit-taking (for the purpose of erecting a photovoltaic system), the Constitutional Court (VfGH) refused to handle the complaint.





## INTERNATIONAL COOPERATION

In the age of a globalised financial economy, cross-border cooperation between the regulatory and supervisory authorities is becoming ever more important. This is because the regulatory standards are being prepared and imposed increasingly frequently at international level rather than on a national basis. It is therefore particularly important that the specific features of the Austrian economy and legal culture are taken into account so that the regulations devised can subsequently be applied accordingly. In addition, cooperation is ever more important because the national competent authorities are increasingly, as they perform their day-to-day supervisory role, finding themselves confronted by cross-border activity on the part of financial service providers, be this in the form of the cross-border provision of financial services or through the presence of subsidiary institutions or branches abroad.

With this in mind, the FMA is a member of many European, global and transnational organisations and associations, enabling it to represent its interests and the interests of the Austrian market and its providers on these bodies. FMA employees are permanently involved in around 180 different international organisations, committees and working groups, the most important of which are described in brief below.

### GLOBAL COOPERATION

#### INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS (IAIS)

The International Association of Insurance Supervisors (IAIS) has members from approximately 140 different countries. Austria is represented by the FMA in the person of Peter Braumüller, Director of the Insurance and Pension Supervision Department, who holds voting rights.

As in previous years, the IAIS focused on the issue of global financial market stability during 2014. On the basis of the IAIS methodology for identifying global, systemically important financial institutions, the Financial Stability Board (FSB) updated the list of systemically important insurance undertakings in June 2014. Because these institutions will be subject to enhanced supervision, the IAIS is developing supervisory standards to be applied to insurance groups with international operations and systemically important insurers. To this end, and in addition to the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame), tools such as the Systemic Risk Management Plan (SRMP), Basic Capital Requirements (BCR), higher loss absorbency requirements (HLA) and, finally, a risk-based group-wide global insurance capital standard (ICS) are to be developed over several stages between now and the end of 2016. The first of these international standards, the Basic Capital Requirements, was adopted in late 2014 with a corresponding impact on the reporting obligations of global, systemically important insurers (G-SIIs). Alongside work on the capital standards, the IAIS also continued to focus on the worldwide implementation of the Insurance Core Principles (ICPs) during 2014.

As of December 2014, supervisory authorities from 41 jurisdictions, among them the FMA, had signed the IAIS Multilateral Memorandum of Understanding (IAIS MMoU), designed to promote the exchange of information and cooperation between IAIS members.

The IAIS held its 2014 General Meeting and Annual Conference in Amsterdam. The theme of the event was “Enhancing policyholder protection and financial stability through governance and risk management”. The Association’s 2015-19 Strategic Plan and Financial Outlook was also adopted at this event. Further information on the IAIS is available at [www.iaisweb.org](http://www.iaisweb.org).

#### INTERNATIONAL ORGANISATION OF PENSION SUPERVISORS (IOPS)

The International Organisation of Pension Supervisors (IOPS) comprised 83 members and observers from 72 countries at the end of 2014, thereby bringing together under one roof a very diverse range of national pension and supervision systems, particularly in terms of pension funds and Pensionskassen.

During the reporting year, IOPS Working Papers were published on the subjects of “Fees and Charges” and “Stress Testing and Scenario Analysis of Pension Plans”. Reports entitled “Role of Pension Supervisory Authorities in Automatic Enrolment” and “Supervising the Distribution of Annuities and Other Forms of Pension Payout” were also completed during 2014, and IOPS launched new projects in the form of studies into “Target Retirement Income” and “The Role of Actuarial Calculations in the Pension Supervision”.

The FMA was elected on to the IOPS Executive Committee in October 2014.

Further information on the IOPS is available at [www.iopsweb.org](http://www.iopsweb.org).

#### INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS (IOSCO)

IOSCO, the International Organization of Securities Commissions, has a current membership of 126, with the FMA representing Austrian interests. In total, 103 members have already signed the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMoU), which lays the foundation for the worldwide exchange of information in relation to securities supervision. The FMA acceded to the IOSCO MmoU in 2009.

The 2014 Annual Conference of IOSCO highlighted the following priorities in particular:

- improvement of the quality of audits;
- market-based financing for SMEs;
- cooperation with the Basel Committee in the development of securitisation markets.

These initiatives are based on the resolutions adopted by the G20, the leaders of the world’s major economic powers, in a bid to strengthen global economic growth.

Further information on IOSCO is available at [www.iosco.org](http://www.iosco.org).

#### FATF - MONEYVAL - AMLC

The FMA is represented in a number of international working groups dedicated to the prevention of money laundering and the financing of terrorism. It is a member of the Austrian delegation to the FATF, to the Expert Group on Money Laundering and Terrorist Financing (EGMLTF), to the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and to the Anti-Money Laundering Sub-Committee (AMLC), an expert group of the Joint Committee of the three European Supervisory Authorities, namely EBA, EIOPA and ESMA.

Once the new International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation – the FATF Recommendations, and the related methodology, had been adopted, the main focus of the FATF’s work during the past year was discussion of the first country reports for the fourth round of mutual evaluations. The methodology for evaluating effectiveness in implementing the standards is based on a catalogue of objectives that encompasses three levels. At the highest level, the objective is that: “Financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security”. The

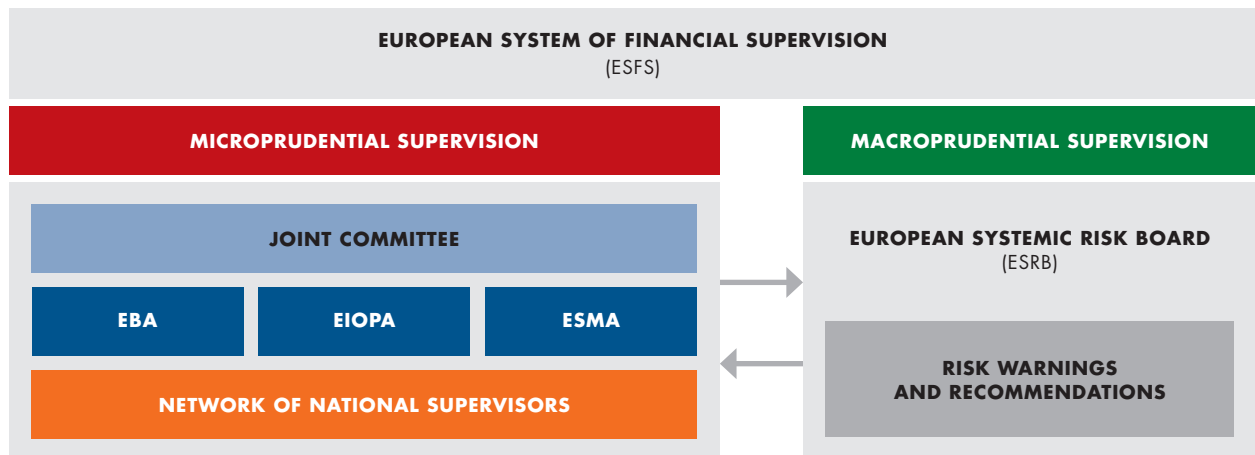


Figure 2: Model of the European supervisory architecture

fourth country evaluation of Austria was postponed until autumn 2015. At European level, lawmakers reached agreement in relation to the Fourth Money Laundering Directive at the end of 2014. The Directive proposes a comprehensive risk-based approach founded on risk assessment and integrates many of the recent international standards.

## EUROPEAN COOPERATION

The European System of Financial Supervision (ESFS) consists of three components:

- macroprudential supervision through the European Systemic Risk Board (ESRB);
- microprudential supervision through the European Supervisory Authorities (ESAs);
- the national competent authorities (NCAs), which continue to be responsible for the ongoing supervision of individual institutions/groups of institutions.

The ESRB, an independent body, is based at the European Central Bank (ECB). Its role lies in assessing and monitoring systemic risks in the financial system in order to strengthen the financial markets' ability to withstand shocks. To this end, the ESRB provides the Council of the European Union with regular assessments of the current situation, as well as providing warnings or recommendations as and when required to the EU, one or more Member States, ESAs or NCAs.

Microprudential supervision at European level is the role of:

- the European Banking Authority (EBA) in London;
- the European Insurance and Occupational Pensions Authority (EIOPA) in Frankfurt; and
- the European Securities and Markets Authority (ESMA) in Paris.

A Joint Committee coordinates cooperation between the ESAs and deals with cross-sectoral issues in four Sub-Committees: financial conglomerates, anti-money laundering, microprudential analyses of cross-sectoral developments, and consumer protection and financial innovation.

This system ensures that microprudential and macroprudential supervision mesh together perfectly.

In terms of their organisational structure, the ESAs share the same features. The Board of Supervisors (BoS) is the decision-making body, on which the FMA is represented as a voting member. With regard to the EBA, the OeNB is also a non-voting representative. The BoS sets the guidelines for the authority's work, draws up its work programme and makes the regulatory decisions. The BoS is headed in each case by a full-time chair who is elected by the BoS members and represents the ESA externally. The current chairs are Andrea Enria (EBA), Gabriel Bernardino (EIOPA) and Steven Maijoor (ESMA).

The BoS elects a Management Board, composed of the Chairperson and six further voting members of the Board of Supervisors. Meanwhile, an Executive Director is responsible for the administrative management of

the authority, preparing the work of the Management Board. The current Executive Directors are Adam Farkas (EBA), Carlos Montalvo (EIOPA) and Verena Ross (ESMA). A Board of Appeal has been set up to decide on appeals against decisions of the ESAs. Stakeholder Groups have also been created to facilitate the process of consulting stakeholder representatives.

The ESAs are authorities with legal personality and both administrative and financial autonomy. They are accountable to the European Parliament and the Council, and have been entrusted with the following responsibilities and powers:

- preparing Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS);
- issuing guidelines and recommendations;
- verifying and enforcing supervisory convergence; and
- consumer protection.

In this way they have a key role to play in creating a level playing field for financial services in the European single market.

For the purposes of securing financial stability, half-yearly financial stability reports are prepared by the ESAs and the Joint Committee for the attention of the Financial Stability Table (FST) of the EU's Economic and Financial Committee.

With effect from 4 November 2014, operational banking supervision in the euro area has been restructured, with the setting up of the Single Supervisory Mechanism (SSM) headed by the ECB. The SSM forms part of the ESFS. However, the members of the national competent authorities continue to hold the voting rights in the Board of Supervisors of the EBA.

In August 2014 the European Commission published its evaluation report on the European System of Financial Supervision (ESFS), three years after its entry into force on 1 January 2011. The report basically praises the way in which the ESAs have been established quickly and effectively, while flagging up a need for improvement in some areas, among them consumer protection, the internal organisation of the ESAs and their financing.

## EUROPEAN BANKING AUTHORITY (EBA)

The EBA's remit, particularly with the creation of the SSM, is focused on regulation. The Authority therefore plays a central role in the development of the Single Rulebook, contributing to the creation of a level playing field for financial institutions throughout the European Economic Area (EEA). In this regard, the EBA has fleshed out the detail of some of the key provisions of the new capital regime for banks (CRD IV, CRR) and the new European Bank Recovery and Resolution Directive (BRRD) in the form of draft technical standards, which have been presented to the European Commission for adoption. These include in particular the Regulatory Technical Standards in relation to own funds, credit and market risk, large exposures, remuneration, and bank recovery and bail-in. Meanwhile, the EBA is also working on the development of a Single Supervisory Handbook bringing together all best practices and driving forward the harmonisation of supervision within the EU.

In 2014 the EBA carried out another EU-wide stress test of banking groups with significant cross-border operations, publishing its results on 23 November. This test was conducted in close cooperation with the European Central Bank (ECB) for the most important banking groups operating within the euro area. The ECB had already subjected these groups to a comprehensive assessment in the run-up to the introduction of the Single Supervisory Mechanism (SSM). Responsibility for developing the stress test methodology and for the EEA-wide coordination of its implementation lay with the EBA. The stress testing of the euro area banks was based on the results of the asset quality review (AQR) conducted by the ECB. This health check of the major banking groups in the European Union provided an unparalleled level of transparency, with all of the collated data being published not just in aggregated form but also on an individual basis for each bank. All of the major Austrian banks with the exception of ÖVAG, already subject to restructuring measures at the time, passed the test.

With regard to consumer protection, EBA adopted a guideline regarding the security of Internet payments.

## EUROPEAN SECURITIES AND MARKETS AUTHORITY (ESMA)

As far as ESMA was concerned, 2014 was a year dominated by the development of the regulatory framework for Europe's securities markets. The Authority's work focused on the Markets in Financial Instruments Directive (MiFID 2) and the Markets in Financial Instruments Regulation (MiFIR), the Market Abuse Regulation (MAR) and the Central Securities Depositories Regulation (CSDR), for which numerous consultation papers, technical standards and technical advices were prepared. Given that MiFID and MiFIR cover both market and investor protection issues, ESMA's Secondary Markets and Investor Protection and Intermediaries Standing Committees, the Commodity Derivatives Task Force and the Market Data Reporting Working Group were all involved in this process. The FMA is represented on all of these groups.

In addition to regulatory tasks, one of ESMA's main focuses is the direct supervision of credit rating agencies and of trade repositories. In the event of breaches of the statutory provisions, ESMA may introduce drastic measures ranging from public notification of the breach to fines or the withdrawal of registration. On 3 June, ESMA issued a public notice censuring Standard & Poor's for its erroneous announcement of a downgrading of France's rating.

Supervisory convergence is one of the European Commission's top priorities with regard to the work of the ESAs. Alongside the preparation of guidelines, peer reviews are another particularly effective tool for achieving this goal. In 2014 ESMA published reports on two subject areas that are particularly important to investors:

- MiFID – Conduct of Business, fair, clear and not misleading information
- Best execution under MiFID

The Multilateral Memorandum of Understanding on Cooperation Arrangements and Exchange of Information (ESMA MMoU), adopted during the reporting year and replacing the 1999 MMoU of the predecessor organisation, the CESR (Committee of European Securities Regulators), is particularly important to cooperation between the EU supervisory authorities. The new MMoU deals in detail with the exchange of information and cooperation on cross-border investigations.

FMA Executive Director Klaus Kumpfmüller, the Austrian member of the Board of Supervisors (BoS) of ESMA, is also an elected member of ESMA's Management Board, which has key decision-making powers with regard to budget, HR planning and ESMA's work programme.

## EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA)

The work of the European Insurance and Occupational Pensions Authority (EIOPA) in 2014 again focused on preparations for the new supervisory regime for insurance undertakings, Solvency II, which will enter into force in 2016. The first set of Implementing Technical Standards (ITS) dealt with aspects relating to undertaking-specific parameters, the matching adjustment, ancillary own funds or even special purpose vehicles. Work also focused on securing a uniform approach by supervisory authorities to the approval of internal models and to the supervision of insurance groups, and a Legal Entity Identifier (LEI) was established. The year 2014 also saw extensive developments with regard to the EIOPA guidelines. The first set of guidelines was published, while the second is currently under public consultation. These covered, among other things, the working methods of the colleges of supervisors, the system of governance, the own risk and solvency assessment (ORSA) and the issue of considering contract boundaries. Further guidelines dealt with the application of the life underwriting risk module, the health catastrophe risk sub-module and the treatment of market and counterparty risk exposures in the standard formula.

With regard to pensions, EIOPA drew up ITS on the form and formats of certain documents to be presented to the national competent authorities. Additionally, reports were prepared on a joint market for personal pensions, on Member States' practices for the pension payment phase, and on an analysis of aspects that could harm beneficiaries. The annual report on the development of the cross-border activity of *Pensionskassen* was also published. In relation to consumer protection, EIOPA drew up reports on consumer trends, a good practices report on comparison websites, a report on the implementation of the Test Achats ruling of the ECJ into national legisla-

tion and an overview of national General Good provisions. In addition to the Guidelines on Complaints-Handling by Insurance Undertakings, Guidelines on Complaints-Handling by Insurance Intermediaries were also adopted. Ongoing analysis of the financial markets and of sector-based and cross-sectoral risks was carried out during the reporting year.

The large European insurance undertakings were subjected to a stress testing, which focused on the impact of the low interest rate environment, and in which two Austrian insurance groups took part. The FMA is represented on the Board of Supervisors by its Director for Insurance and Pension Supervision, Peter Braumüller, who has also been one of the six elected members representing the national supervisory authorities on the Management Board of EIOPA since 2011.

### SINGLE SUPERVISORY MECHANISM (SSM)

As of 4 November 2014 the European Central Bank assumed responsibility for the supervision of all banks in the euro area. Pursuant to European laws, the ECB is required to exercise this responsibility together with the national banking supervisors in the context of the Single Supervisory Mechanism (SSM). Those banks with cross-border operations that are classed as “significant credit institutions” are subject to direct supervision by the ECB while other credit institutions continue to be supervised directly by their national supervisors. The ECB indirectly safeguards its responsibility for supervision by making sure that these “less significant institutions” are still supervised according to uniform criteria.

Decision-making within the SSM takes the form of a two-stage process, known as the non-objection procedure. This procedure was introduced by the policyholder in order to uphold the legally required division between the banking supervision and the monetary policy functions of the ECB. The SSM Supervisory Board prepares complete draft decisions on the basis of a majority vote. These must then be confirmed by the ECB Governing Council. However, the latter only holds a right of objection and must justify any rejection of a decision.

Consequently, it is the Supervisory Board that is the foremost body within the SSM. The Supervisory Board is independent and only accountable to the European Parliament. It is a collegial body composed of the following members: a Chair (Danièle Nouy), Vice-Chair (Sabine Lautenschläger), four permanent ECB representatives and representatives from the banking supervisors of all of the participating Member States. Executive Director Helmut Ettl represents the FMA, and OeNB Vice-Governor Andreas Ittner is a non-voting member. The Supervisory Board makes decisions on supervision issues affecting the significant credit institutions, which currently number 119, by means of a simply majority.

It is also responsible for planning and implementing supervisory tasks. The Supervisory Board generally meets every two weeks in Frankfurt am Main. Its first meeting was held on 30 January 2014. Up until the SSM was officially launched on 4 November 2014, the Supervisory Board was primarily concerned with organisational structure and the SSM processes. Its Rules of Procedure, the SSM Framework Regulation and the Supervisory Manual were all adopted. Before the ECB took on responsibility for supervision in the context of the SSM, the Supervisory Board was concerned with the comprehensive assessment carried out up until October 2014, comprising an asset quality review (AQR) and related stress testing with strict criteria. The AQR was the most comprehensive and in-depth review ever carried out of the essential bank assets of all of the institutions classed as “significant” and subject to direct supervision by the ECB with effect from 4 November 2014.

In 2014 the Supervisory Board held a total of 23 meetings and since 4 November 2014 has also been responsible for individual supervision decisions relating to the significant institutions.

## BILATERAL AND MULTILATERAL COOPERATION

### MEMORANDA OF UNDERSTANDING

The FMA has entered into bilateral cooperation agreements (Memoranda of Understanding – MoU) with for-

Table 37: **Bilateral Memoranda of Understanding concluded**  
(incl. year of conclusion)

| Country                | Banking   | Insurance | Securities | AIFMD-MoU   |
|------------------------|-----------|-----------|------------|-------------|
| Albania                |           | 2009      |            |             |
| Australia              |           |           |            | 2013        |
| Bermuda                |           |           |            | 2013        |
| British Virgin Islands |           |           |            | 2013        |
| Bulgaria               | 2005      |           |            |             |
| Canada                 |           |           |            | 2013        |
| Cayman Islands         |           |           |            | 2013        |
| China                  |           |           | 2008       |             |
| Croatia                | 2005      | 2008      | 2000       |             |
| Cyprus                 | 2007      |           | 2002       |             |
| Czech Republic         | 2001      | 2004      | 1999       |             |
| Dubai                  |           |           |            | 2013        |
| France                 | 1995      |           |            |             |
| Germany                | 2000      |           |            |             |
| Guernsey               |           |           |            | 2013        |
| Hong Kong              |           |           |            | 2013        |
| Hungary                | 2001      | 2002      | 1998       |             |
| Isle of Man            |           |           |            | 2013        |
| Italy                  | 1998      |           |            |             |
| Japan                  |           |           |            | 2013        |
| Jersey                 |           |           |            | 2013        |
| Liechtenstein          | 2009      |           |            |             |
| Macedonia              |           | 2010      |            |             |
| Malaysia               |           |           |            | 2013        |
| Malta                  | 2007      |           |            |             |
| Montenegro             |           | 2009      |            |             |
| Netherlands            | 1997      |           |            |             |
| Poland                 |           |           | 1999       |             |
| Romania                | 2006      | 2005      |            |             |
| Russian Federation     | 2010      |           |            |             |
| Serbia                 |           | 2009      |            |             |
| Singapore              |           |           |            | 2013        |
| Slovakia               | 2003      | 2002      |            |             |
| Slovenia               | 2001      |           | 2001       |             |
| Switzerland            | 2012      | 2006      |            | 2013        |
| Thailand               |           |           |            | <b>2014</b> |
| United Kingdom         | 1994/1998 |           |            |             |
| USA                    |           |           |            | 2013        |

eign supervisory authorities. These make practical supervisory activities in cross-border cases simpler and swifter. They also serve as a confidence-building measure, towards non-EEA Member States in particular, and as an instrument in the FMA's efforts to continually strengthen operational cooperation with its partner authorities, mainly those situated in Central, Eastern and South-Eastern European countries. The main function of the MoUs is to define in practical terms the responsibilities and obligations in relation to cross-border cooperation with the other supervisory authority in question.

An MoU on cooperation and the exchange of information related to the supervision of alternative investment fund managers (AIFMs) was concluded with the Securities and Exchange Commission Thailand in 2014.

Multilateral Memoranda of Understanding (MMoU) are also concluded with multilateral bodies in the interests of international cooperation on supervision. Of particular importance are those MMoUs that place the exchange of relevant information on a multilaterally agreed basis and thus help to harmonise and simplify the exchange of information between the participating authorities. The IOSCO MMoU in relation to the securities sector and the IAIS MMoU covering the insurance sector are particularly relevant to the FMA.





## BODIES

**T**he executive bodies of the FMA comprise the Executive Board and the Supervisory Board. The Executive Board is responsible for managing the entire operation as well as the FMA's business transactions in accordance with the law and the Rules of Procedure. The Supervisory Board is responsible for monitoring the management and business operations of the FMA.

### EXECUTIVE BOARD

In accordance with the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*), the Executive Board consists of two members with equal rights, one of whom is nominated by the Federal Minister of Finance and the other by the Oesterreichische Nationalbank (OeNB). Both are to be appointed by the Federal President upon the proposal of the Federal Government for a five-year term of office, and may be reappointed for a second term. During the year under review, Helmut Ettl and Klaus Kumpfmüller made up the Executive Board of the FMA.

### SUPERVISORY BOARD

The Supervisory Board of the FMA is composed of eight members. Of these, the Federal Minister of Finance (BMF) as well as the OeNB appoint three members each, who are eligible to vote, while the Austrian Federal Economic Chamber (WKO) nominates two co-opted members without voting rights to represent the supervised companies. The latter members have clearly delineated rights to obtain information. The ordinary members of the Supervisory Board are to be appointed by the BMF, whilst the members nominated by the WKO are co-opted by the Supervisory Board itself.

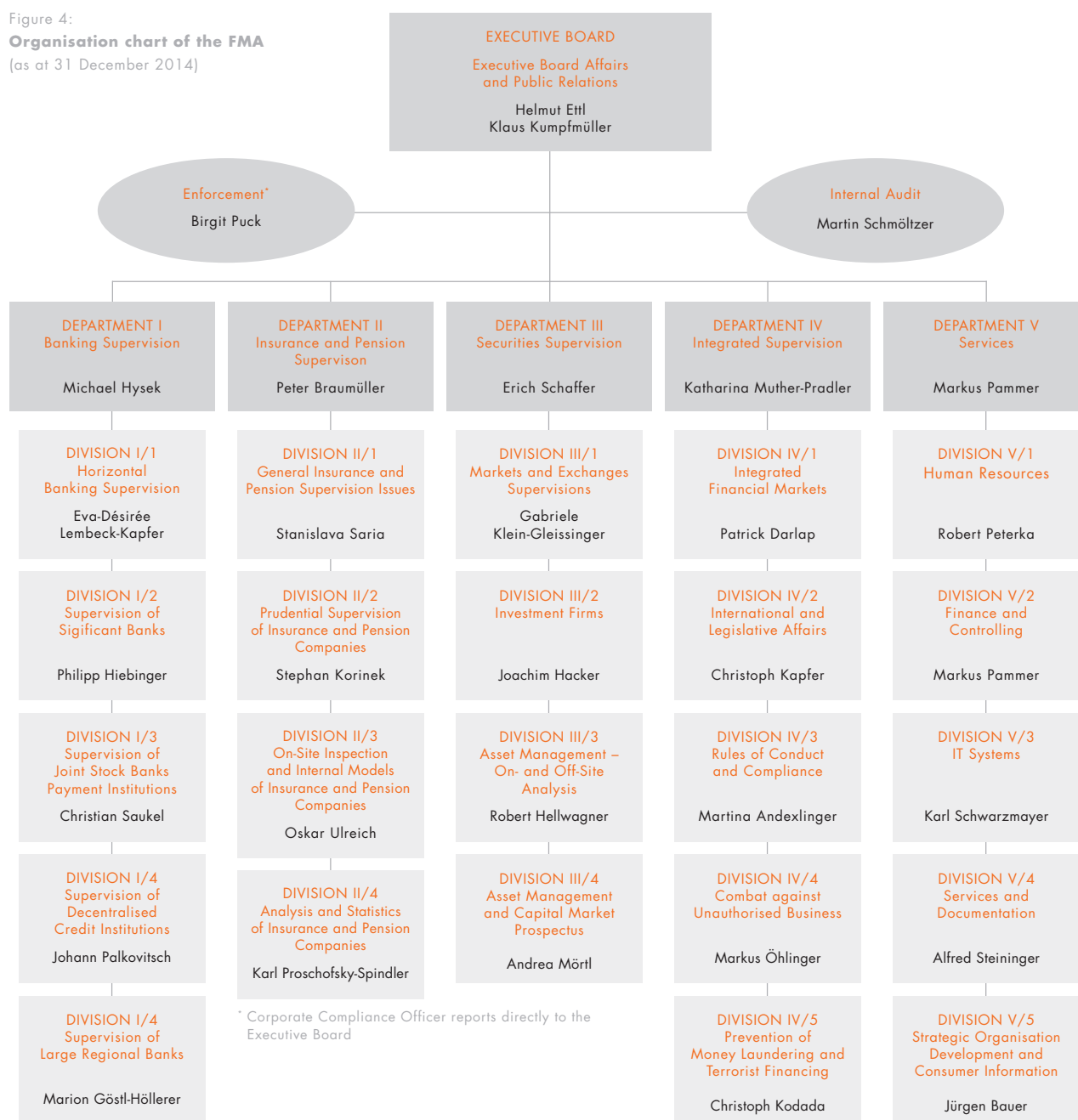
Pursuant to Article 10 para. 2 FMABG, the following measures require the approval of the Supervisory Board:

- the financial plan to be drawn up by the Executive Board including the investment and staff plan;
- investments, to the extent that they are not authorised in the investment plan, and the taking out of loans that exceed € 75 000 each;
- the acquisition, disposal and encumbrance of real estate;

Figure 3: **Supervisory Board of the FMA**

| APPOINTED BY THE BMF  | APPOINTED BY THE OeNB   | APPOINTED BY THE WKO             |
|---|---|----------------------------------|
| Alfred Lejsek<br>(CHAIR)<br>Beate Schaffer<br>Gerhard Zotter ▶<br>(until 17 March 2014)<br>▶ Bernhard Perner<br>(from 1 April 2014) | Ewald Nowotny<br>(DEPUTY CHAIR)<br>Andreas Ittner<br>Friedrich Karrer ▶<br>(until 31 January 2014)<br>▶ Gabriela De Raaij<br>(from 1 February 2014) | Franz Rudorfer<br>Walter Knirsch |

Figure 4:  
**Organisation chart of the FMA**  
 (as at 31 December 2014)



- the financial statements to be drawn up by the Executive Board;
- the Rules of Procedure pursuant to Article 6 para. 2 and changes thereto;
- the Compliance Code pursuant to Article 6 para. 4 and changes thereto;
- the appointment of employees of the FMA to leading functions directly subordinate to the Executive Board (second management level), as well as their dismissal and termination of employment;
- the Annual Report to be drawn up pursuant to Article 16 para. 3;
- the conclusion of collective bargaining and works agreements.

In accordance with Article 9 para. 1 FMABG, the Supervisory Board is obliged to hold meetings at least once every calendar quarter. In 2014, the Supervisory Board convened on 3 March, 23 June, 15 September and 28 November.

At its meeting on 23 June 2014, the Supervisory Board unanimously discharged the Executive Board for the 2013 financial year pursuant to Article 18 para. 4 FMABG.

## STAFF

## NUMBER OF STAFF

The Supervisory Board had approved a staffing target of 362 full-time equivalents (FTEs) for 2014. The actual number of staff employed by the FMA as at 31 December 2014 was 354.72 FTEs, which corresponds to 380 employees (excluding those on leave). A breakdown of the planned distribution of staff among the individual departments compared with the actual figures is shown in Table 38.

The staff turnover rate fell further during the year under review, at 4.09%. This compares with a figure of 5.68% in 2013 and 9.43% in 2012, not including those employees whose fixed-term contracts expired during the year. The turnover rate shows that the staff retention measures that the FMA has been implementing for years are having an impact. These measures include in particular the FMA's attractive performance-based salary scheme, its broad and far-reaching programme of training and career development measures, support for staff who wish to add an international element to their careers, and measures designed to help employees reconcile work and family life.

The number of civil servants assigned to duty at the FMA by the Federal Ministry of Finance remained unchanged compared with the previous year, at 18.20 FTEs. The proportion of civil servants at the year-end dipped from 5.44% to 5.13%. There was a slight increase in the number of contractual employees, up from 5.50 to 5.68 FTEs. Nevertheless, the proportion of contractual employees, based on the total FMA staff, dropped from 1.64% to 1.60%.

The average age of FMA employees increased from 38 to 39, primarily due to the low level of staff turnover and the hiring of predominantly experienced experts. The share of part-time employees was 18.95% in 2014; most of these were parents taking part-time leave. Women accounted for 52.11% of the total workforce, a slight increase compared with 51.67% in the previous year, and made up 39.08% of all managerial positions. The share of university graduates was stable, at a high 72.11%. The proportion of employees with additional qualifications, such as a second degree, a postgraduate qualification, or professional qualifications

in law or tax accountancy, was 36.32% in 2014. Including those 52 employees who graduated from the two-year postgraduate, vocational university programme in Financial Market Supervision, developed jointly by the FMA, Oesterreichische Nationalbank and Vienna University of Economics and Business (WU), the percentage rises to 50%.

Table 38: Planned and actual staffing levels in FTEs in 2014\*

|   | Planned staffing level<br>as at 31 Dec. | Actual staffing level<br>as at 31 Dec. | Difference<br>in % |
|---|---|--|--------------------|
| Executive Board Affairs, Enforcement<br>and Law, Internal Audit | 25.00                                   | 25.00                                  | 0.00               |
| Banking Supervision Department                                  | 74.50                                   | 72.70                                  | -2.42              |
| Insurance and Pension Supervision Department                    | 60.00                                   | 58.08                                  | -3.20              |
| Securities Supervision Department                               | 83.15                                   | 80.90                                  | -2.71              |
| Integrated Supervision Department                               | 67.25                                   | 66.53                                  | -1.10              |
| Services Department   | 52.10                                   | 51.51                                  | -1.13              |
| <b>Total</b>  | <b>362.00</b>                           | <b>354.72</b>                          | <b>-2.01</b>       |

\* Rounding differences are ignored.

## TRAINING AND CAREER DEVELOPMENT

As an expert organisation, the FMA highly values the provision of training and career development for its employees. Its training programme encompasses a range of measures for the different target groups and training needs:

- the university programme in Financial Market Supervision offered in conjunction with the OeNB (starting in 2010), which has been upgraded to an MBA course (starting in 2013);
- the executive development programme (since 2011);
- the FMA Academy (since 2005);
- international seminars organised by the European Supervisory Authorities (ESAs); and
- third-party seminars offered individually.

### EXECUTIVE DEVELOPMENT PROGRAMME

The “Basic and Advanced Leadership” executive development programme, developed specifically for the FMA, has been offered since 2011. More than 75% of all executives have now successfully completed the four modules that make up the programme. Having successfully completed the modules, these executives will have the opportunity from 2015 onwards to participate in a new programme for managers. The aim is to tackle the current challenges facing executives at the FMA.

### FMA ACADEMY

The seminars offered by the FMA Academy are grouped around target groups and subject areas:

- |                                |   |
|--------------------------------|---|
| ■ New employees/basic seminars | ■ Specialist knowledge  |
| ■ Assistants                   | ■ IT seminars   |
| ■ Trainees                     | ■ Language skills   |
| ■ Heads of Office              | ■ E-learning  |
| ■ Specialists                  | ■ Decentralised measures  |
| ■ Executives                   | ■ International seminars  |
|                                | ■ Study visits and staff exchange   |
|                                | ■ University programme in Financial Market Supervision and upgrade to MBA programme |

In 2014 the FMA Academy organised a total of 134 seminars, workshops and lectures in which 1 955 individuals participated. In addition to these centrally organised seminars, FMA staff attended more than 420 specialised training courses at third-party educational establishments targeted at individual career development in their specific fields.

### INTERNATIONAL SEMINARS

Through participation in seminars on the European System of Financial Supervision, the focus during 2014 lay on specific training programmes for employees involved in the Single Supervisory Mechanism (SSM) of the ECB, and particularly those employees who have been working in the Joint Supervisory Teams since November 2014. Alongside specialist seminars, training in management skills and methods relating to international cooperation was also a key priority.

## INTERNATIONAL COOPERATION

### COOPERATION WITH THE EUROPEAN CENTRAL BANK (ECB)

Cooperation with the ECB continued in 2014 in relation to the personnel issues associated with the Single Supervisory Mechanism (SSM). The main priorities remained recruitment, as well as the establishment of gen-

eral guidelines for the purposes of harmonisation in a range of areas (e.g. travel expenses, target setting, training). The FMA is involved in the process by taking an active part in Human Resources Committee meetings (in SSM composition) and motivates staff to work at the ECB within the scope of SSM by offering favourable secondment conditions and regular information on the matter. Two employees from the FMA's Banking Supervision Department are now on fixed-term secondments at the ECB. Three further employees were sent on temporary secondment to the ECB in 2014.

## COOPERATION WITH EUROPEAN PARTNER AUTHORITIES

### OUTGOING STUDY VISITS

Eleven FMA employees took part in study visits at international partner authorities during the year under review. Five employees from Securities Supervision, Integrated Supervision and Enforcement spent time at the German Federal Financial Supervisory Authority (BaFin) in Frankfurt am Main, thereby stepping up cooperation. Two further employees from Securities Supervision took part in an exchange with their counterparts from the Netherlands Authority for the Financial Markets (AFM), while another FMA member of staff was involved in an exchange with the Commission de Surveillance du Secteur Financier (CSSF) in Luxembourg. One FMA employee from Public Relations worked at the European Central Bank (ECB). A further employee from Integrated Supervision completed a secondment at the Financial Conduct Authority (FCA) in London, while a member of staff from Insurance Supervision spent time at the Swiss Financial Market Supervisory Authority (FINMA).

### INCOMING STUDY VISITS

In return, the FMA provided two employees from Deutsche Bundesbank with the chance to complete a work placement, which counted towards their bachelor's degree in Central Banking from the Deutsche Bundesbank University.

## GLOBAL COOPERATION

One FMA employee from Banking Supervision and another from Integrated Supervision continued their secondment, begun during the previous year, at the International Monetary Fund (IMF) in Washington, USA in 2014.

## RECONCILIATION OF WORK AND FAMILY LIFE

Enabling employees to reconcile their work and family life is an important priority for the FMA. The authority has its own workplace kindergarten and supports its employees with regard to childcare during the summer holidays. New fathers are also entitled to one month's paternity leave following the birth of their child. An FMA teleworking guideline developed by an in-house project group gives staff the option of flexible working including periods of home working to take employees' family obligations into account. The FMA's efforts to enable its staff to combine working and family life have also resulted in the award of the *berufundfamilie* certificate, confirming its family-friendly approach.

## FINANCING AND CONTROLLING

### FINANCING

**T**he FMA is financed from three sources, as stipulated in the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*):

The Republic of Austria makes a “federal contribution” in the amount of € 3.5 million pursuant to Article 19 para. 4 FMABG, the FMA itself levies “other income”, primarily in the form of specific fees for supervisory services, and the supervised companies must bear the remaining costs.

The share of supervised entities liable to pay costs must be divided pursuant to Article 19 FMABG among four accounting groups:

- Banking Supervision
- Insurance Supervision
- Securities Supervision
- Pension Supervision

and according to the share incurred in each case.

Article 19 FMABG also stipulates a differentiation between costs that can be allocated directly and those that cannot:

- Directly allocable supervisory costs should be allocated to the accounting groups directly, as far as possible.
- Those costs that cannot be allocated directly to the accounting groups are to be divided by means of a ratio, which is based on the direct costs apportioned between the accounting groups.

### TIME AND PERFORMANCE TRACKING

The time and performance tracking system is used to allocate personnel expenses to the accounting groups according to the share incurred. The working time of employees is precisely recorded down to the last minute by means of electronic terminals. Every employee must record their effective working time, shown in the time administration system, in 30-minute units on their PC and assign activities to specific accounting groups using a standardised product list.

The reports generated from these activity recordings are checked on a quarterly basis to verify completeness, proper assignment to accounting groups and plausibility. They serve as a basis for apportioning costs according to the share incurred in each case and as a control and management instrument.

### NOTICES OF PAYMENT DUE

Article 19 FMABG stipulates that supervised companies are to reimburse the FMA for its costs. The financial statements along with the statement of costs form the basis for determining these costs. The amount to be paid

by each individual entity is determined on the basis of the data reported by the supervised companies themselves or by the Vienna Stock Exchange.

The FMA Cost Regulation (FMA-KVO; *FMA-Kostenverordnung*) contains provisions on the reimbursement of costs (calculation of actual costs), the implementation of advance payments per accounting group and apportionment among the entities liable to pay costs, including deadlines for the notices of payments due and for payments.

The FMA sent out the payment notices for the actual costs incurred by the FMA in the 2013 financial year as well as the advance payments for the 2015 financial year in November 2014. In line with 2013 levels, approximately 1 900 payment notices had to be issued in 2014. The costs in the 2013 financial statements of the FMA less the 2013 advance payments result in the need for additional payments of about € 3.6 million to cover actual costs. These payments are made by the entities liable to pay costs.

## FINANCIAL STATEMENTS

Pursuant to Article 18 FMABG the Financial Market Authority is required to draw up financial statements for the previous financial year in the form of an annual balance sheet and an income statement as well as notes, as stipulated in Chapter III of the Corporate Code (UGB; *Unternehmensgesetzbuch*).

Article 18 para. 3 FMABG stipulates a period of five months from the end of the particular financial year (i.e. by 31 May), during which the FMA Executive Board must submit to the FMA Supervisory Board the financial statements including statement of costs as audited by an auditor or a certified auditing firm.

The Supervisory Board, in turn, must approve the financial statements including the statement of costs so that the Executive Board is able, within six months of the previous financial year-end, to submit the financial statements including statement of costs to the Federal Minister of Finance and to publish them on the FMA website (pursuant to Article 18 para. 6 FMABG) as well as to announce them in the "Wiener Zeitung" newspaper.

The statutory audit of the financial statements and statement of costs for 2013 was carried out by IB Interbilanz Wirtschaftsprüfung GmbH. Upon completion of the audit of the 2013 financial statements including the statement of costs and management report, the auditor issued an unqualified opinion confirming compliance with the statutory provisions.

At its meeting on 23 June 2014 the Supervisory Board approved the 2013 financial statements.

Following approval, the 2013 financial statements were sent to the Federal Minister of Finance and the Court of Audit and were published on the FMA website and announced in the "Wiener Zeitung" by the required deadline.

## FINANCIAL PLANNING

Article 17 FMABG stipulates that a financial plan including an investment and staff plan is to be submitted to the Supervisory Board of the FMA by 31 October of each year for the following financial year. The Supervisory Board must approve the financial plan by no later than 15 December.

Financial planning is based on the FMA's goals, which are defined and detailed every year in a strategy meeting. The impact of the future goals on financial planning were broadly discussed in meetings with the Executive Directors and the Directors of the Departments and could thus be included in the financial plan.

It was assumed during the planning process that the FMA would take over the additional role of national resolution authority in accordance with the Federal Act on the Recovery and Resolution of Banks (BaSAG; *Bundesgesetz über die Sanierung und Abwicklung von Banken*). In future, if an institution fails or threatens to fail, the FMA must ensure that the resolution process, where specific public interests require it, takes place in an orderly fashion. For all expenses and income concerning the work as resolution authority, a separate accounting subgroup was established as part of the Banking Supervision accounting group. Accordingly, the Banking Supervision accounting group consists of an accounting subgroup to which the entities liable to pay costs pursuant to the BaSAG are allocated and another subgroup for those that do not fall under the BaSAG.



On the basis of an analysis carried out with respect to personnel resources, the staff required to work for the national resolution authority in 2015 was found to be eight full-time equivalents, on the premise that they would mostly deal with the preparation of resolution plans. The actual resolution work to be carried out was not considered however, such as in the case of HETA Asset Resolution AG, where the procedure pursuant to the BaSAG was launched on 1 March 2015. For this purpose, the Supervisory Board of the FMA approved an increase in the number of staff for the Banking Supervision Department from 18 to 26 at its meeting on 10 March 2015.

Personnel expenses are planned centrally by the controlling division and allocated to the accounting groups using data provided by the time and performance tracking system.

The controlling division planned income, material expenses and investments in consultation with the persons in charge of the accounting groups.

Furthermore, write-downs and allocations to the reserve established in accordance with Article 20 FMABG were also computed. The expenses and income were apportioned to the accounting groups as referred to in Article 19 FMABG, which enabled an estimate to be prepared of the share of the entities liable to pay costs for each accounting group.

The 2015 financial plan also includes a liquidity calculation, comprising a transparent breakdown of income and expenditures as well as an estimate of the liquidity balance as at 31 December 2015.

The 2015 financial plan was presented to the Supervisory Board at the end of October 2014, and was discussed and approved by the Supervisory Board at its meeting on 28 November 2014.

## **TARGET AND PROJECT CONTROLLING**

During their annual strategy meeting, FMA managers agree on the medium and long-term strategic direction of the FMA, devise the annual targets for the following year and, on this basis, the relevant objectives for the departments and divisions. A survey of the current status is taken twice a year to determine, on the basis of a progress analysis, the extent to which the annual targets have been achieved in practice. The FMA Executive Board is kept up to date on the progress made and on whether goals are being achieved or missed.

Activities that do not figure in the FMA's regular remit but that meet certain criteria laid down in the FMA's project standard are defined and handled as projects within the FMA. They are subject to the FMA's project controlling, which includes quarterly reporting (details on content, goals, timing and resources) and updating the Executive Board on the status and completion of FMA projects.

## 2014 PRELIMINARY FINANCIAL STATEMENTS

According to Article 18 FMABG, the Executive Board has to submit the audited financial statements including the statement of costs to the Supervisory Board for approval within five months of the previous financial year-end.

Since the 2014 financial statements have not yet been approved by the auditor, the balance sheet and income statement figures given below are provisional and may still change.

The most important items of the 2014 preliminary financial statements can be summarised as follows:

- Aside from the fact that both other income and operating expenses increased by some € 38.1 million as a consequence of the comprehensive assessment, other operating income climbed year-on-year by some € 2.7 million with expenses also up (personnel expenses approx. € 3.5 million, other operating expenses approx. € 1.7 million, depreciation approx. € 0.2 million), augmenting the share of entities liable to pay costs by around € 2.7 million.
- The rise in other operating income, by some € 40.8 million, is due to income in relation to the comprehensive assessment carried out in 2014 (approx. € 38.2 million) and to higher income from fees.
- Personnel expenses (approx. € 3.5 million) rose compared with 2013, primarily due to the increased staff level (on average by some 21 employees or FTEs) and due to the annual salary adjustments.
- The increase in other operating expenses in the 2014 reporting year, by some € 39.8 million to around € 58.2 million, is attributable to the costs entailed with the comprehensive assessment (approx. € 38.2 million), and particularly to the items membership fees, other external services, external supervisory services OeNB, continuing professional development, and external IT services.

The 2014 financial statements will be published on the FMA's website after they have been audited by the auditor and approved by the Supervisory Board. The audited 2013 financial statements can be found in the Annex to this Annual Report.

Table 39: 2014 preliminary balance sheet

BALANCE SHEET AS AT 31 DECEMBER 2014 (preliminary amounts in €)

## A S S E T S

Previous year  
in € thousands**A. Fixed Assets**I. Intangible fixed assetsIndustrial property rights and similar rights  
as well as related licences

414 042.86

364

II. Tangible fixed assets

1. Buildings on third-party land

1 238 553.85

1 328

2. Other equipment, operating  
and office equipment1 528 805.76

1 323

2 767 359.612 651

3 181 402.47

3 016**B. Current assets**I. Services not yet invoiced to entities liable to pay costs

46 153 360.07

43 473

II. Receivables and other assets

1. Trade receivables

811 097.75

2 316

2. Other receivables and assets

18 454 237.301 776

19 265 335.05

4 092

III. Cash at bank and in hand22 712 989.08

20 461

88 131 684.2068 027**C. Prepaid expenses**

1 106 296.52

1 046

**92 419 383.19****72 089**

Table 40: 2013 income statement

PRELIMINARY INCOME STATEMENT FOR THE FINANCIAL YEAR FROM 1 JAN. TO 31 DEC. 2014 (preliminary result, amounts in €)

|  |                       | Previous year<br>in € thousands |
|--|-----------------------|---------------------------------|
| 1. Federal Government contribution pursuant to Article 19 FMABG  | 3 500 000.00          | 3 500                           |
| 2. Other operating income  |                       |                                 |
| a) Income from and write-ups of fixed assets<br>except for long-term financial assets                                | 21 518.00             | 3                               |
| b) Income from the release of provisions   | 467 193.12            | 890                             |
| c) Other   | <u>44 406 174.70</u>  | <u>3 167</u>                    |
|  | 44 894 885.82         | 4 060                           |
| 3. Personnel expenses  |                       |                                 |
| a) Salaries  | -27 530 444.70        | -24 878                         |
| b) Expenses for severance pay and contributions<br>to corporate staff provision funds                                | -535 108.77           | -428                            |
| c) Expenses for old-age pensions   | -965 517.80           | -855                            |
| d) Cost of statutory social security, payroll-related taxes<br>and mandatory contributions                           | -5.582 213.54         | -5 013                          |
| e) Other social costs  | <u>-328 742.11</u>    | <u>-309</u>                     |
|  | -34 942 026.92        | -31 483                         |
| 4. Amortisation and write-downs of intangible fixed assets,<br>depreciation and write-downs of tangible fixed assets | -1 287 759.25         | -1 082                          |
| 5. Other operating expenses  |                       |                                 |
| Other  | <u>-58 190 288.47</u> | <u>-18 401</u>                  |
| <b>6. Subtotal of items 1 to 5</b>   | <b>-46 025 188.82</b> | <b>-43 405</b>                  |
| 7. Other interest income   | 32 950.16             | 88                              |
| 8. Interest expense  | -1 013.69             | 0                               |
| <b>9. Subtotal of items 7 to 8</b>   | <b>31 936.47</b>      | <b>88</b>                       |
| 10. Appropriation to reserve pursuant to Article 20 FMABG  | -160 107.72           | -156                            |
| <b>11. Share of entities liable to pay costs</b>   | <b>46 153 360.07</b>  | <b>43 473</b>                   |
| <b>12. NET RESULT</b>  | <b>0.00</b>           | <b>0</b>                        |

## EQUITY AND LIABILITIES

Previous year  
in € thousands

|   |                     |                      |               |
|---|---------------------|----------------------|---------------|
| <b>A. Reserve pursuant to Article 20 FMABG</b>            |                     | 2 556 087.81         | 2 396         |
| <b>B. Provisions</b>                                      |                     |                      |               |
| 1. Provisions for severance pay                           | 1 264 114.45        |                      | 1 094         |
| 2. Other provisions                                       | <u>6 507 763.77</u> |                      | <u>5 387</u>  |
|   |                     | 7 771 878.22         | 6 481         |
| <b>C. Liabilities</b>                                     |                     |                      |               |
| 1. Advance payments received pursuant to Article 19 FMABG | 42 957 816.28       |                      | 40 254        |
| 2. Trade payables   | 32 898 513.91       |                      | 17 778        |
| 3. Other liabilities                                      |                     |                      |               |
| a) Taxes  | 624 045.82          |                      | 541           |
| b) Social security and similar obligations                | 606 436.68          |                      | 553           |
| c) Actual cost accounting for previous years              | 519 518.25          |                      | 1 344         |
| d) Other  | <u>3 925 511.53</u> |                      | <u>2 175</u>  |
|   | 5 675 512.28        |                      | 4 614         |
|   |                     | 81 531 842.47        | 62 646        |
| <b>D. Deferred income</b>                                 |                     | 559 574.69           | 566           |
|   |                     | <b>92 419 383.19</b> | <b>72 089</b> |

## IT SYSTEMS

A

number of important IT projects were implemented at the FMA in 2014. The main aims were to ensure the stability of the IT services and data provided and to optimise processes in general.

### CLIENT 2014

FMA staff members mainly use notebooks and devices referred to as “thin clients”. Desktop PCs are used only in exceptional cases, when necessary to meet special software requirements. In addition to putting into operation a new system solution for distributing notebook and PC software, the system for managing end user devices (EUDs) was completely revamped. By standardising procedures as much as possible, the workflows and processing times for hardware and software installation and for device rollouts have been substantially reduced. Other activities included ensuring transparency and optimised use of the active licence management system. Licence evaluations and analyses provide the basis for annual financial planning for software licences.

### WIRELESS LOCAL AREA NETWORK (WLAN/WIFI)

A system was put into place which allows safe and secure use of mobile devices and notebooks in WiFi networks outside the FMA. While providing higher bandwidths, the system saves costs – particularly in other countries. A WiFi network was also installed for use within the FMA. The result is an optimum and flexible means of working with mobile devices, which provides significant benefits particularly in meetings held at the FMA or externally. In implementing the system, special attention was given to data security.

### EMERGENCY WORKPLACES

Within the Business Continuity Management (BCM) project, emergency workplaces were planned for 40 individuals, designed to allow emergency operations to be maintained in the event of a disaster. These workplaces must be made available within four hours when required. An emergency exercise held in late 2014 demonstrated effective operation of the system.

### EUROPEAN SOFTWARE PROJECTS

In the area of IT and data processing, very close coordination and cooperation is required for the common European system of banking supervision, within the framework of the Single Supervisory Mechanism (SSM) under the European Central Bank, as well as for the joint efforts of the three European Supervisory Authorities (ESAs), specifically the European Securities and Markets Authority (ESMA), the European Banking Authority

(EBA) and the European Insurance and Occupational Pensions Authority (EIOPA). While numerous projects were implemented in the year under review, three in particular are highlighted below.

#### ADAPTATION OF INFRASTRUCTURE FOR THE SINGLE SUPERVISORY MECHANISM (SSM)

As part of the SSM, the FMA's existing infrastructure system needed to be expanded to allow users at the FMA to access all of the services and applications of the European System of Central Banks (ESCB). The FMA is connected to the applications and services provided by the ECB via a previously established dedicated link with the Oesterreichische Nationalbank.

#### NEW INSURANCE REPORTING SYSTEM FOR SOLVENCY II

Solvency II has resulted in a new reporting system for insurance providers, a large portion of which was implemented in 2014. When a report is submitted, several hundred thousand data items are transmitted via a predefined XBRL interface (eXtensible Business Reporting Language). With trial runs taking place under authentic conditions in 2015, the system is required to be online by 1 January 2016.

#### TRANSACTION DATA FROM TRADE REPOSITORIES (TRS)

Within the framework of EMIR, the European Market Infrastructure Regulation, supervised companies report data on transactions in derivative financial instruments to the trade repositories authorised by ESMA. For this purpose, a system has been implemented at the FMA which automatically inputs the data from those trade repositories to the analysis system of the Markets and Exchanges Supervision Division.

## PUBLIC RELATIONS

**T**he FMA faced major communication challenges in 2014. It was a year of intense public debate about the ways and means of regulation and supervision, triggered by the global financial crisis and by the resulting market turbulence and difficulties encountered by financial institutions. It was also a year in which the lessons learned from that crisis resulted in sweeping changes to regulation and the supervisory structure, imposing additional tasks on the FMA and massively increasing the requirements made of it. Major examples in this regard include:

- Preparations for and creation of the Single Supervisory Mechanism (SSM), the Europeanisation of banking supervision under the leadership of the European Central Bank (ECB), with unprecedented cooperation between the euro area supervisors. By way of preparation, the 130 most significant banking groups in the euro area, among them six Austrian groups, were subjected to a three-part comprehensive assessment comprising a risk assessment, balance sheet assessment and stress test.
- Assumption of responsibility for supervising alternative investment fund managers (AIFMs) by the FMA.
- Assumption by the FMA of the role of authority responsible for financial reporting enforcement with regard to capital market-based companies.
- Finalising of work to create the new supervisory regime for insurance undertakings, Solvency II, to enter into force on 1 January 2016.
- Preparation for the new European recovery and resolution regime for banks, with the FMA assuming the role of national resolution authority.

### MEDIA RELATIONS

Given that the FMA, in its capacity as an authority that is self-financed by the supervised entities, has an obligation to be frugal, it has no financial resources at its disposal for use in advertising, information or PR campaigns. Its most important form of communication is therefore classic media work. The FMA has set itself the goal, within the scope of its statutory framework and whilst meeting its legal obligations to maintain official secrecy, of always pursuing a communications policy that is as open as possible in order to reinforce confidence in the Austrian financial marketplace. To this end, whilst implementing this communications strategy, the FMA utilises traditional PR tools such as press releases, press conferences, background discussions, presentations and the availability of Executive Directors for individual interviews by selected media.

The FMA published a total of 33 press releases during the reporting year (2013: 37). These were sent out via the Austria Press Agency (APA) and the FMA's own media distribution list, to which any journalist can sign up via the FMA website. They are also promptly published on the FMA website in German and English.

The FMA also published 19 official announcements in the official gazette "Amtsblatt zur Wiener Zeitung" in 2014 (2013: 26). These usually take the form of investor warnings, informing investors that a named provider is not authorised to offer particular financial services that require a licence in Austria. This information was also made available on the FMA website at the same time. In addition, the FMA website is also available for the pub-

lication of investor warnings issued by partner organisations. Over the years a very comprehensive database of dubious providers of financial services has been built up in this way, with easy access for any interested parties. The broadest media coverage was achieved by the press events with the FMA Executive Directors, which were held on eight occasions in 2014 (2013: 6) and focused on the following issues:

- 10 February 2014, Press meeting at the Economic Writers' Club: "Financial reporting enforcement" and "Single Supervisory Mechanism – The role of the FMA in the new European banking supervision system under the leadership of the European Central Bank (ECB)"
- 14 February 2014, Press breakfast: "The FMA's new whistleblowing system"
- 21 May 2014, Balance sheet press conference: "Presentation of the FMA's Annual Report for 2013"
- 7 July 2014, Background talk: "Market abuse in trading in listed securities – Challenges for supervision" and "Towards European banking union"
- 28 August 2014, Press meeting at the Alpbach Forum: "The FMA's role in the new European recovery and resolution regime" and "The role of the FMA in the new European system of supervision"
- 29 September 2014, Background talk with Sabine Lautenschläger, Member of the ECB's Executive Board, at the FMA Supervision Conference: "The comprehensive assessment of every significant European banking group to be subject to the direct supervision of the ECB within the SSM"
- 30 September 2014, Press talk with Andrea Enria, Chair of the European Banking Authority (EBA) at the FMA Supervision Conference: "The EBA's 2014 stress test" and "The EBA and the SSM"
- 2 December 2014, Press talk: "Investment firms in Austria: facts and figures", as well as "The FMA's balance sheet in money-laundering prevention" and the presentation of the second volume in the FMA publication series entitled "Money laundering"

All of these events met with a high level of interest from journalists, who reported on them widely.

## EVENTS

The FMA Executive Directors and staff members regularly participated in discussions or appeared as speakers at many events again in 2014 in order to communicate the Authority's remit and goals, as well as technical and specific issues, to selected target groups. At the same time, the FMA itself organised various events on specific topics. For example:

The annual "WPDLU-Forum" was held in May 2014, providing investment service providers with the opportunity to discuss current topics and challenges.

The FMA's annual Supervision Conference was held on 30 September 2014 in Vienna's Reed Exhibitions Congress Center. The theme of the Conference, namely "National supervision within a European system – Getting the balance right", attracted keen interest from the more than 900 delegates.

The FMA also held its first practical conference in October 2014, entitled "Compliance and combating money laundering". Issues relating to compliance and money-laundering prevention from a supervisory perspective were presented and discussed in detail by the more than 500 participants.

## PUBLICATIONS

The FMA Annual Report 2013 was submitted to the Supervisory Board by the statutory deadline. It was approved by the Board and then submitted to the Finance Committee of the National Council. The Executive Directors of the FMA presented the major key figures at the annual balance sheet press conference.

The Annual Report 2013 was only printed in German. The electronic version is available in German and English, and can be accessed from the FMA website ([www.fma.gv.at](http://www.fma.gv.at)). Both language versions of the report are also available on CD-ROM.

The second volume in the FMA publication series was released during the reporting year, devoted to the topic of combating money laundering and the role of the FMA. The "Money Laundering" manual provides a particu-

larly informative and easy-to-follow introduction to the subject, and also brings together all of the relevant statutory texts and rules in one single volume.

The FMA also published quarterly reports on the development of foreign currency loans to Austrian households, the performance of insurance undertakings and *Pensionskassen*, and the supervision of capital market prospectuses.

## **WEBSITE**

In early 2014 a whistleblowing system was added to the FMA homepage. This system can be used by any member of the public to report malpractice within a company or on the financial or capital market to the FMA anonymously and without being able to be traced back. Preparations are being made for a website relaunch with a view to ensuring that the FMA website can keep pace with the ever growing demands and challenges facing the FMA's Internet presence.



## CENTRAL COMPLAINTS SYSTEM AND CONSUMER INFORMATION

One of the FMA's most important goals is to reinforce confidence in the ability of the Austrian financial market to function, as well as to protect investors, creditors and consumers, in accordance with provisions of law. The FMA, like the legislative authorities, takes as its premise the responsible consumer and assumes that every consumer should be free to choose from the products offered in the financial markets the one that best matches the individual's expectations, requirements and risk propensity.

To enable such choices, the FMA offers consumers the services of the Consumer Information Division, a specialised centre for such issues. Here the FMA, in its role as expert organisation, makes its expertise available to the public in the form of information that is objective and not sales-driven. High standards of valid information ensure that the markets will function efficiently in the interests of consumers, in this way reinforcing consumer confidence in Austria's financial market.

The processing of complaints by the FMA's consumer information team is not just a service benefiting consumers. The numerous reports received are also distilled regularly to provide the FMA with valuable information for its supervisory duties. At the same time the complaints system serves as an example for supervised companies to follow as they deal with complaints.

The European Supervisory Authorities have issued Guidelines on Complaints-Handling, which require the national competent authorities to ensure that the supervised companies have effective and transparent procedures in place to process any complaints lodged by consumers appropriately and swiftly.

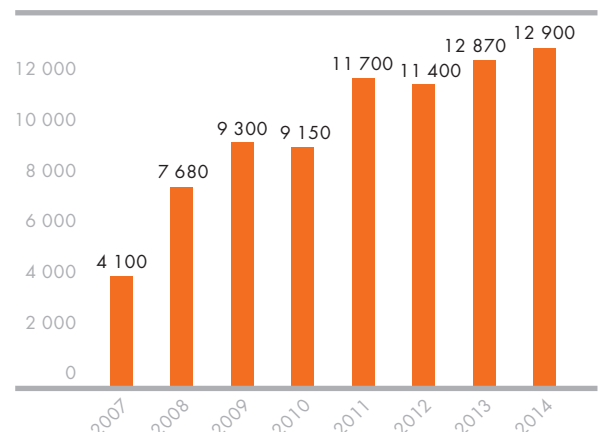
Already for several years the FMA has had a central complaints system that complies with the Guidelines on Complaints-Handling, in this way providing a best-practice example for supervised companies. The FMA has printed guidelines defining complaint procedures and giving information on the responsible individuals whom complainants can contact; the guidelines are published on the FMA website.

### COMPLAINT PROCEDURES

The FMA evaluates complaints as to whether they are relevant to supervisory activities and requests the supervised companies to respond to complaints in writing. On receiving responses and all other documents, the FMA evaluates the legal aspects of the case based on supervisory laws. As far as permissible in accordance with the obligation to maintain official secrecy, the complainant is informed of the outcome and the results once the authority has processed the complaint.

There were a total of 12 900 reports in 2014, 9 311 of which concerned enquiries and complaints to be handled (see Chart 34). Of the enquiries and complaints received,

Chart 34: Number of reports received from 2007 to 2014



46% related to banking supervision, 31% to insurance supervision, 9% to securities supervision, 5% to integrated supervision and 10% to consumer information.

The enquiries and complaints covered a wide range of issues:

- In banking supervision, the issues specifically included foreign currency loans and the related repayment vehicles, as well as the time taken for transfers according to the Payment Services Act (ZaDiG; *Zahlungsdienstegesetz*), issues related to the fight against money laundering and the related obligations concerning identification and proof of identity, in particular for members of savings associations, and the modalities of deposit guarantee schemes.
- In insurance supervision, the main issues were insurers paying out only partial benefits or none at all, doubts as to the accuracy of calculations, termination of the contract, and exemption from or discounts on premiums.
- In securities supervision, the issues focused on failure to observe rules of conduct, lack of proper advice, failure to protect investors' interests, and investment of funds at an inappropriate level of risk.
- There was again a sharp increase in the number of enquiries and complaints related to unauthorised business operations; these especially concerned cases of illegal cold calling, i.e. cases of unsolicited phone calls, fax messages or e-mails offering financial products.

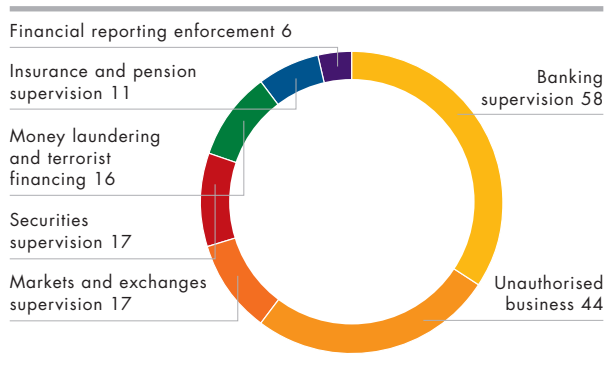
## WHISTLEBLOWING

Since the start of 2014 the FMA has an IT-supported whistleblowing system in place, accessible via the FMA website. It provides persons who have knowledge or reasonable suspicion of a violation of any law falling within the FMA's supervisory competence with a means of reporting the information anonymously, without being able to be traced back. The service is primarily intended for employees of supervised companies such as banks, insurance undertakings, *Pensionskassen* and investment firms. It may of course also be used by anyone else who has gained knowledge of an abuse or an administrative offence in the financial and capital

market sector. The whistleblowing system has been established in compliance with the specifications of the European Union.

Already 169 reports had been received through the system as of 31 December 2014. About 60% of the reports can be considered relevant to supervision. In 118 cases, the whistleblower additionally set up a "postbox" within this electronic system to enable anonymous communication without allowing the whistleblower's identity to be traced back. By enabling the FMA to obtain additional information, this arrangement significantly facilitates the investigation of reports.

Chart 35: Distribution of reports by main issue





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## LIST OF ABBREVIATIONS

|               |   |               |  |
|---------------|---|---------------|--|
| ABGB          | <i>Allgemeines Bürgerliches Gesetzbuch</i> (General Civil Code)   | ComFrame      | Common Framework for the Supervision of Internationally Active Insurance Groups  |
| AFM           | Autoriteit Financiële Markten; Netherlands Authority for the Financial Markets  | COREP         | Common Solvency Ratio Reporting  |
| AFREP         | Austrian Financial Reporting Enforcement Panel  | CRD           | Capital Requirements Directive   |
| AIF           | Alternative Investment Fund   | CRR           | Capital Requirements Regulation  |
| AIFM          | Alternative Investment Fund Manager   | CSDR          | Central Securities Depositories Regulation   |
| AIFMD         | Alternative Investment Fund Managers Directive  | CSSF          | Commission de Surveillance du Secteur Financier (Luxembourg)   |
| AIFMG         | <i>Alternative Investmentfonds Manager-Gesetz</i> (Alternative Investment Fund Managers Act)  | DAX           | German stock index   |
| AMA           | Advanced Measurement Approach   | EBA           | European Banking Authority   |
| AMLC          | Anti-Money Laundering Sub-Committee   | ECB           | European Central Bank  |
| APA           | Austria Press Agency  | EEA           | European Economic Area   |
| AQR           | Asset Quality Reviews   | EGMLTF        | Expert Group on Money Laundering and Terrorist Financing   |
| ARFAC         | Austrian Financial Reporting and Auditing Committee   | EIOPA         | European Insurance and Occupational Pensions Authority   |
| BaFin         | Federal Financial Supervisory Authority (Germany)   | EMIR          | European Market Infrastructure Regulation  |
| BaSAG         | <i>Bundesgesetz über die Sanierung und Abwicklung von Banken</i> (Federal Act on the Recovery and Resolution of Banks)                        | ESA           | European Supervisory Authority   |
| BCM           | Business Continuity Management  | ESFS          | European System of Financial Supervision   |
| BET           | Bucharest Stock Exchange Trading Index  | ESMA          | European Securities and Markets Authority  |
| BeteilFG      | <i>Beteiligungsfondsgesetz</i> (Equity Fund Act)  | ESRB          | European Systemic Risk Board   |
| BIS           | Bank for International Settlements  | EURIBOR       | Euro Interbank Offered Rate; three-month interbank rate  |
| BIST          | Borsa Istanbul  | EURO STOXX 50 | Stock index of the 50 largest listed companies in the euro area  |
| BKS           | <i>Bank für Kärnten und Steiermark</i> (Austrian bank)  | EuSEF         | European Social Entrepreneurship Funds   |
| BMF           | Federal Ministry of Finance   | EuVECA        | European Venture Capital Funds   |
| BMSVG         | <i>Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz</i> (Company Employee and Self-Employment Provisions Act, as amended)           | EXAA          | Energy Exchange Austria ( <i>Abwicklungsstelle für Energieprodukte AG</i> )  |
| BMWFJ         | Federal Ministry of Economy, Family and Youth   | FATF          | Financial Action Task Force on Money Laundering  |
| BoE           | Bank of England   | FCA           | Financial Conduct Authority (UK)   |
| BörseG        | <i>Börsegesetz</i> (Stock Exchange Act)   | Fed           | Federal Reserve  |
| BoS           | Board of Supervisors  | FINMA         | Swiss Financial Market Supervisory Authority   |
| bp            | Basis points  | FINREP        | Financial Reporting  |
| BRRD          | Bank Recovery and Resolution Directive  | FKG           | <i>Finanzkonglomeratengesetz</i> (Financial Conglomerates Act)   |
| BTS           | Binding Technical Standards   | FMA           | Financial Market Authority   |
| BVQA-V        | <i>Betriebliche Vorsorgekassen-Quartalsausweisverordnung</i> (Regulation on the Quarterly Financial Statements for Corporate Provision Funds) | FMABG         | <i>Finanzmarktaufsichtsbehördengesetz</i> (Financial Market Authority Act)   |
| BVwG          | <i>Bundesverwaltungsgericht</i> (Federal Administrative Court)  | FSB           | Financial Stability Board  |
| BWG           | <i>Bankwesengesetz</i> (Austrian Banking Act)   | FSSA          | Financial System Stability Assessment  |
| CA            | Comprehensive Assessment  | FST           | Financial Stability Table; EU Economic and Financial Committee   |
| CAC           | Cotation Assistée en Continu (French stock index)   | FTE           | Full Time Equivalent   |
| CCP.A         | Central Counterparty Austria GmbH   | FTSE 100      | Financial Times Stock Exchange Index (UK)  |
| CCPs          | Central Counterparties  | FX            | Foreign exchange/foreign currency loans  |
| CDI           | Compliance Decree for Issuers   | G20           | Group of the twenty most important industrialised nations and emerging markets   |
| CDS           | Credit Default Swaps  | GDP           | Gross Domestic Product   |
| CEA           | Comité Européen des Assurances; European insurance and reinsurance federation   | GewO          | <i>Gewerbeordnung</i> (Trade Act)  |
| CEESEG        | CEE Stock Exchange Group  | GKM-V         | <i>Großkreditmeldungs-Verordnung</i> (Regulation on Major Loan Reporting)  |
| CEGH          | Central European Gas Hub AG   | GmbH          | <i>Gesellschaft mit beschränkter Haftung</i> (limited liability company)   |
| CESEE EEA     | Central, Eastern and South-Eastern Europe – European Economic Area  | HTM valuation | To reach an investment income that is as stable as possible, a valuation deviating from the principle of current values can be used for certain securities with a high credit rating (e.g. debt securities issued by the Federal Government) held as direct investments (held to maturity or HTM). |
| CESEE NON-EEA | see <i>CESEE EEA</i>  | IAIS          | International Association of Insurance Supervisors   |
| CESEE         | Central, Eastern and South-Eastern Europe   |               |  |
| CESR          | Committee of European Securities Regulators   |               |  |
| CET1          | Common Equity Tier 1  |               |  |
| CIS           | Commonwealth of Independent States  |               |  |

|                       |   |          |  |
|-----------------------|---|----------|--|
| IASB                  | International Accounting Standards Board  | SSM      | Single Supervisory Mechanism                                       |
| IBEX 35               | Iberia Index; Spanish stock index   | StPO     | <i>Strafprozessordnung</i> (Code of Criminal Procedure)            |
| IFRS                  | International Financial Reporting Standards   | TAN      | Transaction Authentication Number                                  |
| IMF                   | International Monetary Fund   | UCITS    | Undertakings for Collective Investments in Transferable Securities |
| ImmoInvFG             | <i>Immobilien-Investmentfondsgesetz</i> (Real Estate Investment Fund Act)                                     | UGB      | <i>Unternehmensgesetzbuch</i> (Corporate Code)                     |
| InvFG                 | <i>Investmentfondsgesetz</i> (Investment Fund Act)  | VAG      | <i>Versicherungsaufsichtsgesetz</i> (Insurance Supervision Act)    |
| IOPS                  | International Organisation of Pension Supervisors   | VERA     | Asset, income and risk statements                                  |
| IOSCO                 | International Organization of Securities Commissions  | VfGH     | <i>Verfassungsgerichtshof</i> (Constitutional Court)               |
| IRB approach          | Internal Ratings Based Approach; formula to calculate capital requirements for credit institutions – Basel II | VStG     | <i>Verwaltungsstrafgesetz</i> (Administrative Penal Act)           |
| IRB                   | Internal Ratings Based  | VSTOXX   | EURO STOXX 50 volatility index                                     |
| IRG                   | Investment and risk sharing group   | VwGH     | <i>Verwaltungsgerichtshof</i> (Administrative Court)               |
| JRAD                  | Joint Risk Assessment and Decision Process  | WAG 2007 | <i>Wertpapieraufsichtsgesetz</i> (2007 Securities Supervision Act) |
| JSTs                  | Joint Supervisory Teams   | WIG      | Warsaw Stock Exchange Index  |
| KIID                  | Key Investor Information Document   | WKO      | Austrian Federal Economic Chamber                                  |
| KMG                   | <i>Kapitalmarktgesetz</i> (Capital Market Act)  | WKStA    | Central Public Prosecutor for Economic Crime and Corruption        |
| KVO                   | <i>Kostenverordnung</i> (Cost Regulation)   | XBRL     | eXtensible Business Reporting Language                             |
| LDR                   | Loan Deposit Ratio  | ZaDiG    | <i>Zahlungsdienstegesetz</i> (Payment Services Act)                |
| LLFSR                 | Loan-to-Local Stable Funding Ratio  |          |  |
| LSI                   | Less Significant Institutions   |          |  |
| MAR                   | Market Abuse Regulation   |          |  |
| MBA                   | Master of Business Administration   |          |  |
| MCP                   | Management Company Passport   |          |  |
| MiFID                 | Markets in Financial Instruments Directive  |          |  |
| MiFIR                 | Markets in Financial Instruments Regulation   |          |  |
| MMoU                  | Multilateral Memorandum of Understanding  |          |  |
| MONEYVAL              | Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism       |          |  |
| MoU                   | Memorandum of Understanding   |          |  |
| MTF                   | Multi-Trading Facility  |          |  |
| NCA <sub>s</sub>      | National Competent Authorities  |          |  |
| NMS                   | New Member States (EU)  |          |  |
| OeKB                  | Oesterreichische Kontrollbank AG  |          |  |
| OeNB                  | Oesterreichische Nationalbank   |          |  |
| ORSA                  | Own Risk and Solvency Assessment  |          |  |
| PIN                   | Personal Identification Number  |          |  |
| PK                    | <i>Pensionskasse</i> (pension company)  |          |  |
| PKG                   | <i>Pensionskassengesetz</i> ( <i>Pensionskassen Act</i> )   |          |  |
| PR                    | Public Relations  |          |  |
| PRA                   | Prudential Regulation Authority (UK)  |          |  |
| PRIPs                 | Packaged Retail Investment Products   |          |  |
| PSI 20                | Portuguese Stock Index 20   |          |  |
| PTSC                  | Post Trading Standing Committee   |          |  |
| PX Index              | Prague Stock Exchange Index   |          |  |
| QE                    | Quantitative Easing   |          |  |
| QIS                   | Quantitative Impact Studies   |          |  |
| RIMAV-PK              | <i>Risikomanagement-Verordnung Pensionskassen</i> (Risk Management Regulation for Pensionskassen)             |          |  |
| RL-KG                 | <i>Rechnungslegungs-Kontrollgesetz</i> (Accounting Control Act)   |          |  |
| ROA                   | Return on Assets  |          |  |
| S&P                   | Standard & Poor's   |          |  |
| SARIS                 | Suspension and Restoration Information System   |          |  |
| SEC Thailand          | Securities and Exchange Commission Thailand   |          |  |
| Security-oriented IRG | Security-oriented investment and risk sharing group   |          |  |
| SEE                   | South-Eastern Europe  |          |  |
| SI                    | Significant Institutions  |          |  |
| SOFIX                 | Bulgarian Stock Exchange – Sofia index  |          |  |
| SRB                   | Single Resolution Board   |          |  |
| SRM                   | Single Resolution Mechanism   |          |  |

