



# 2019

ANNUAL REPORT  
OF THE FINANCIAL  
MARKET AUTHORITY

## Key figures of the Austrian financial sector 2015–2019

	2015	2016	2017	2018	2019 (prel.)
<b>BANKING SECTOR</b>					
<i>Capital base<sup>1</sup></i>					
Common Equity Tier 1 (in € billions)	69.0	65.8	70.0	71.7	75.8
Tier 1 capital (in € billions)	69.3	66.1	71.5	74.6	79.3
Common Equity Tier 1 capital ratio (CET1, in %)	12.8	14.9	15.6	15.4	15.6
Tier 1 capital ratio (in %)	12.9	14.9	15.9	16.0	16.3
Solvency ratio (in %)	16.3	18.2	18.9	18.6	18.7
Leverage ratio (in %)	6.3	7.6	7.7	7.4	7.5
Liquidity coverage ratio (LCR, in %)	–	145.2	148.8	150.6	148.7
<i>Development of assets and liabilities, non-consolidated (in € millions)</i>					
Total assets <sup>1</sup>	824 656	798 208	777 213	814 606	848 379
Claims on credit institutions	179 439	168 242	163 319	167 952	167 211
Claims on non-banks	425 228	422 923	418 645	445 510	466 015
Debt securities and other fixed-income securities	54 154	47 742	40 236	43 330	44 656
Shares and other variable-yield securities	9 948	11 283	10 095	10 000	10 489
Other assets	155 887	148 017	144 918	147 814	160 009
Liabilities to credit institutions	179 391	157 185	157 028	160 744	159 418
Liabilities to non-banks	371 869	387 941	390 407	414 379	428 387
Securitised liabilities	142 971	128 581	114 009	123 317	137 045
Other liability items	130 425	124 500	115 769	116 166	123 528
<i>Sustainability of business activity, non-consolidated</i>					
Loan-to-deposit ratio (non-banks, in %)	114.3	109.0	107.2	107.5	108.8
Foreign currency loans (as % of loans to households)	16.9	14.5	10.9	9.5	8.3
Non-performing and irrecoverable loans (as % of total loans)	4.0	3.2	2.5	2.0	1.8
<i>Earnings situation, non-consolidated<sup>1</sup> (in € millions)</i>					
Net interest income	8 818	8 361	7 885	8 290	8 295
Operating income	20 373	18 582	18 848	18 646	18 892
Operating expenses	13 478	13 334	12 454	12 644	13 651
Operating result	6 895	5 248	6 394	6 003	5 241
Net income for the year <sup>1</sup>	3 257	4 219	5 137	5 636	4 553
Cost-income ratio (in %)	66.16	71.76	66.08	67.81	72.26
<i>Market shares of banks (as % of total assets)</i>					
Joint stock banks	29.7	28.6	28.4	26.9	26.5
Savings banks	17.7	18.5	19.6	20.3	20.0
Mortgage banks	7.1	7.0	6.7	6.6	6.4
Raiffeisen cooperatives	31.7	32.3	32.8	33.6	34.5
Volksbank cooperatives	4.0	4.0	4.0	4.0	3.9
Building societies	2.8	2.8	2.9	2.7	2.6
Special-purpose banks <sup>2</sup>	7.0	6.7	5.6	5.9	6.1

Source: OeNB (2015–2018 financial statement figures, 2019 asset, trading and risk statements).

<sup>1</sup> Excluding branches from EEA countries in Austria (Article 9 BWG), credit guarantee banks and corporate provision funds.

<sup>2</sup> Excluding credit guarantee banks as specified in Article 5 no. 3 KStG.

## Key figures of the Austrian financial sector 2015–2019

	2015	2016	2017	2018	2019
<b>INSURANCE SECTOR</b>					
<i>Premiums written in Austria (direct gross amount, in € millions)</i>	17 342	16 915	16 975	17 178	17 555
<i>Life insurance</i>	6 695	6 038	5 732	5 516	5 396
<i>Health insurance</i>	1 959	2 051	2 129	2 220	2 328
<i>Non-life/accident insurance</i>	8 688	8 826	9 115	9 442	9 832
<i>Technical account balance</i>	475	560	581	507	618
<i>Financial result</i>	3 216	3 051	2 815	2 528	3 118
<i>Result from ordinary activities</i>	1 354	1 414	1 244	1 168	1 695
<b>PENSIONS KASSEN</b>					
<i>Assets under management (in € millions)</i>	19 646	20 839	22 323	21 404	24 295
<i>Investment performance (in %)</i>	2.3	4.2	6.1	-5.1	11.6
<b>CORPORATE PROVISION FUNDS</b>					
<i>Assets (in € millions)</i>	8 306	9 423	10 610	11 496	13 304
<i>Performance (in %)</i>	1.2	2.2	2.2	-2.0	5.7
<b>INVESTMENT FUNDS</b>					
<i>Assets under management (in € millions)</i>	162 697	167 099	175 439	164 561	184 894
<i>Money market funds</i>	82	73	54	32	-
<i>Short-term bond funds</i>	7 634	7 405	6 890	6 231	5 990
<i>Bond funds</i>	63 100	62 896	64 008	60 047	62 072
<i>Equity funds</i>	23 749	25 334	28 394	25 890	32 954
<i>Mixed funds</i>	67 780	71 136	75 817	72 112	83 548
<i>Hedge funds of funds</i>	155	156	148	136	137
<i>Derivative funds</i>	198	98	127	112	195
<i>Annual net growth/net outflows</i>	3 522	-643	5 058	4 167	3 587
<i>Real estate funds</i>	5 558	6 699	7 471	8 341	9 185
<i>Alternative investment funds by AIFMs licensed or registered pursuant to the AIFMG only</i>	990	984	886	868	923
<b>CAPITAL MARKET</b>					
<i>ATX at year-end</i>	2 396	2 618	3 420	2 746	3 187
<i>ATX performance (in %)</i>	11.0	9.2	30.6	-19.7	16.1
<i>Market capitalisation (in € millions)</i>	86 162	93 341	123 799	100 333	117 085
<i>Market capitalisation equity segment (as % of GDP)</i>	25.0	26.2	33.5	26.3	30.4
<i>Sales equity segment (in € millions, double counting)</i>	58 384	55 930	66 709	70 409	61 960
<i>Sales bond segment (in € millions)</i>	218	348	277	635	659
<i>Sales structured products.at (in € millions)</i>	530	427	554	744	733
<i>Average government bond yields weighted by outstanding amounts (in %, year-end)</i>	0.37	0.08	0.16	0.25	-0.17
<i>Number of issuers (regulated market)</i>	141	134	118	112	115

## Key figures FMA 2015–2019<sup>1</sup>

	2015	2016	2017	2018	2019
<b>INCOME (in € millions)</b>					
Federal contribution (Article 19 para. 4 FMABG)	3.5	4.0	4.0	4.0	4.0
Income from entities liable to pay costs	53.1	56.5	57.6	60.1	62.4
Income from fees, other income	4.7	4.1	4.8	5.2	5.9
<b>Total</b>	<b>61.3</b>	<b>64.6</b>	<b>66.4</b>	<b>69.3</b>	<b>72.3</b>
<b>EXPENSES (in € millions)</b>					
Personnel expenses	37.8	39.5	41.3	43.7	45.5
Material expenses	21.7	23.2	23.2	23.9	24.9
Depreciation and amortisation, other expenses	1.7	2.0	1.9	1.7	1.9
<b>Total</b>	<b>61.3</b>	<b>64.6</b>	<b>66.4</b>	<b>69.3</b>	<b>72.3</b>
Employees at year-end in FTEs	373.31	379.79	380.03	379.34	381.0

<sup>1</sup> Due to the figures summed up in € millions, there might be some rounding differences.  
Figures without special effects owing to 2015 Asset Quality Review and reimbursement of costs pursuant to Article 74 para. 5 no. 2 BaSAG.

## Supervised companies 2015–2019

	2015	2016	2017	2018	2019
<b>CREDIT INSTITUTIONS</b>					
Joint stock and special-purpose banks	76	75	72	70	69
Savings banks	49	49	49	49	49
Raiffeisen cooperatives	488	448	419	399	380
Volksbank cooperatives	42	20	14	9	9
Mortgage banks	10	10	9	8	8
Building societies	4	4	4	4	4
(Real estate) investment fund management companies	29	26	23	21	19
Corporate provision funds	9	8	8	8	8
Exchange offices / remittance services	3	4	4	4	4
EU branches	30	28	27	25	22
<b>Total</b>	<b>740</b>	<b>672</b>	<b>629</b>	<b>597</b>	<b>572</b>
Payment institutions	3	4	5	5	6
<b>INSURANCE UNDERTAKINGS</b>					
Mutual associations (excluding small mutuals)	6	7	7	6	6
Joint stock companies	35	31	30	29	29
Small mutual associations	52	50	49	49	47
<b>Total</b>	<b>93</b>	<b>88</b>	<b>86</b>	<b>84</b>	<b>82</b>
EEA insurers in Austria (operating through branches)	30	29	29	30	29
Mutual associations dealing in asset management / private foundations	6	6	6	6	6
<b>Business areas:</b>					
Life	27	23	23	22	22
Non-life and accident	35	33	32	30	30
Health	9	9	9	9	9
Reinsurance only	2	3	2	1	1
<b>PENSIONSKASSEN</b>	<b>13</b>	<b>12</b>	<b>10</b>	<b>9</b>	<b>8</b>
<b>CORPORATE PROVISION FUNDS</b>	<b>9</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>
<b>ASSET MANAGERS</b>					
Investment fund management companies pursuant to InvFG	24	21	18	16	14
Licensed AIFMs	27	26	25	23	23
Real estate investment fund management companies pursuant to ImmoInvFG	5	5	5	5	5
Registered AIFMs	21	20	24	27	28
EuVECA managers	3	4	6	7	9
<b>INVESTMENT SERVICE PROVIDERS</b>					
Investment firms	66	60	60	61	65
Investment service providers	57	51	51	45	43
<b>Total</b>	<b>123</b>	<b>111</b>	<b>111</b>	<b>106</b>	<b>108</b>

# **ANNUAL REPORT OF THE FINANCIAL MARKET AUTHORITY 2019**

**PURSUANT TO ARTICLE 16 PARA. 3 FMABG**



## THE FMA

is Austria's independent, autonomous and integrated supervisory and resolution authority. As an integrated authority our overall perspective of the Austrian financial market enables us to conduct consistent and efficient supervision. We are part of the European System of Financial Supervisors (ESFS) and actively contribute with expertise and practical experience.

With competence, control and consistency, we pursue the aims of contributing towards the stability of Austria as a financial market and reinforcing confidence in the ability of the Austrian financial market to function, while acting in a preventive manner with respect to compliance with supervisory standards, and also protecting investors, creditors and consumers alike.

## COMPETENCE

We use a risk-based and solution-oriented approach to address complex issues and apply our knowledge in a target-oriented manner in the interest of integrated supervision. Furthermore, we create a positive and constructive working environment and constantly invest in training and further education. We base our actions on the principles of objectivity and independence, and excel as a result of our commitment to act both quickly and appropriately in a constantly changing environment.

## CONTROL

We monitor the Austrian financial market and ensure compliance with regulatory requirements. We fulfil our mandate responsibly, safe in the knowledge of the significance of our work for financial market stability. At the same time we act in a preventive manner and conduct constructive dialogue with market participants.

## CONSISTENCY

We demand that all market participants conduct their business in a law-abiding manner, and work towards necessary and sustainable behavioural change. In the event that breaches of legal provisions nevertheless occur, we deploy the supervisory tools and resolution actions that are at our disposal. Violations are punished consistently.

*PUBLISHER INFORMATION*

*Published by: Austrian Financial Market Authority  
(FMA)*

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*Sources (unless otherwise stipulated): FMA*

*Errors and omissions excepted.*

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## FINANCE MINISTER'S FOREWORD



Ladies and gentlemen

The Austrian Federal Government's overriding priority in the current situation is tackling the coronavirus crisis. We will do everything in our power to protect the health of the people in our country, to secure jobs and to stabilise our economy and our financial market. This is why we acted quickly to provide the healthcare sector with financial support whilst also putting in place a relief package for the Austrian economy worth € 38 billion. We will do whatever it takes.

### **WORKING TOGETHER TO COMBAT THE CRISIS**

We need the FMA now more than ever to be an anchor of stability and an efficient supervisory body in this time of crisis. Our financial market has a key role to play in ensuring that all economic operators have confidence in the measures taken to tackle coronavirus and that investors are protected during this turbulent time.

The banking and lending sector also has an important role to play in overcoming the crisis. It is a sector that has prepared well, and the financial institutions are ready to face the current challenges. I am in intensive talks with representatives of Austrian banks. One of the things I have asked them to do is to pay particularly close attention to IT systems, making sure that transactions can continue to be processed smoothly. Ensuring a stable supply of cash, an essential aspect of maintaining consumer confidence in our economic system, is another very important issue.

While the current focus lies on financial support, we also need non-bureaucratic relief measures. This also means showing goodwill and flexibility in how we apply the rules. A crisis is no time for excessive red tape. We need to be as flexible as possible in order to help as quickly as possible. Time is of the essence.

The value of a robust financial centre is becoming very clear to us now. The Austrian financial sector's resistance has also been acknowledged by the International Monetary Fund (IMF) in its report on its assessment of Austria in 2019. The stability and resistance to shocks of the Austrian financial sector were praised, as was the FMA's supervisory activity.

### **CLEAR BASIC PARAMETERS FOR THE DIGITALISATION OF THE FINANCIAL SECTOR**

Digitalisation is more present than ever in this crisis. It is therefore gratifying that, as shown again last year, digitalisation has long become an established part of Austria's

financial sector and is increasingly changing it. This is why we also want to make Austria more attractive to innovative financial start-ups as a base for business. An advisory committee has already been set up in the form of the FinTech Advisory Board, the remit of which is to steer financial market developments around digital financial services, as well as ICOs and cryptocurrencies, in the right direction and to provide those starting new businesses with legal security. In order to support continued innovation and growth in the financial sector, the FMA is setting up a tie-in licensing procedure known as a regulatory sandbox. This will give FinTechs and innovative business models from established financial institutions access to a quick and secure approval and licensing process. Our aim during the current legislative period is to create the required legal foundation for this.

For now, however, our full attention is focused on the crisis. And as I already mentioned, the FMA has a particular role to play, since an attractive and well-functioning capital market is not only contributing to stability right now but will also be crucial after this difficult phase as we look to create a new upturn and growth in jobs and prosperity. The FMA is excellently positioned in this regard.

Finally, I would like to thank all of the employees at the FMA for the professionalism and dedication to which we have become accustomed but which they are continuing to display under the current very difficult conditions. I look forward to continuing our successful working relationship with the FMA. Together, we will help people, the financial market and the Republic of Austria to overcome the crisis. I wish you all strength, confidence and, above all, good health.

*GERNOT BLÜMEL*

## EXECUTIVE DIRECTORS' FOREWORD



One of the most important and uppermost tasks of regulators and supervisors should be to work hard during the good times so that the financial market is always prepared for the difficult times. While the upturn lost some of its momentum during 2019, any slowdown during the reporting year ultimately proved to be relatively moderate in nature: global growth was +2.9%, with the eurozone countries expanding by +1.1% in real terms and Austria's gross domestic product (GDP) up by +1.5%.

We used the good years to ensure that our supervised entities are more robust and resistant to crisis across all of the supervised sectors. We have done this, firstly, by insisting on consistently tackling the damage left behind by the global financial crisis. Secondly, we have prioritised improving the sustainability of business models.

And this has been successful. To name just a few telling examples: Austrian banks have doubled the size of their capital buffer compared with pre-crisis levels, from around 8% to approximately 16% currently, while at the same time dramatically improving the quality of their capital resources, more than 90% of which now comprises CET1 capital with full loss-absorbing capacity. The banks have also slashed their portfolios of non-performing loans to around two per cent of their total volume of outstanding credit. The capital buffer that has been built up during the upturn in order to help cushion and smooth out the effects of any economic dips, or even slumps, totalled approximately € 21 billion by the end of 2019. This means that, should the need arise, banks would be able to mobilise capital of € 38 billion while still complying with the statutory requirements. They could do so to cushion any losses or in order to provide the real economy with financial and active support in both good and bad times. This also means that banks as a whole could initiate a credit volume of close to € 400 billion.

Meanwhile, the solvency ratio for Austrian insurance undertakings is almost 250%. This means that the value of their assets is nearly twice as high as the value of their total contractual obligations. Additionally, during this period of persistently low interest rates, the life insurance sector has allocated more than € 1.2 billion to its provision to cover the rates of return that were guaranteed when rates were high. And these are just a few striking examples.

Austria's financial service providers are stable and robust. They are currently well prepared to take on the challenges of a crisis while providing the real economy with financial and active support, even when faced with an economic crisis on the scale of the COVID-19 pandemic.

Government and supervisors are also playing their part. We learned the lessons of the global financial crisis more than ten years ago, taking the appropriate regulatory and institutional steps.

We have consistently made our systems of regulation and supervision more European, working on the basis of harmonised rules within the European Economic Area, and, together with our European partners, lending the supervised entities our close support as they operate across borders and on foreign markets, be this through the European Systemic Risk Board (ESBR), the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) or the European Securities and Markets Authority (ESMA). Within the euro countries, we also cooperate fully in the operational supervision and resolution of banks within the Single Supervisory Mechanism (SSM) and Single Resolution Mechanism (SRM) headed by the European Central Bank (ECB) and the Single Resolution Board (SRB).

We have made the sustainability of business models a priority for the supervised entities, ensuring that financial operators do not get carried away when the economy is doing well, taking their eye off the ball or neglecting their risk management systems. It is also important that they face up to the challenges of technological change even when markets are booming, embracing the opportunities and addressing the risks.

We have always adhered to and driven forward the principle of integrated supervision through which the FMA supervises all of the financial market. After all, it is this approach that proved its worth during the global financial crisis as a contemporary, efficient and effective way of dealing with a small, open and closely linked national economy such as ours. It is also the ideal basis for embedding supervision in the wider European system of regulation and supervision. The integrated approach to supervision is also conducive to the creation of a level playing field for all, ensuring fair competition across all product, sector and technological borders. Our approach has also proven successful in protecting consumers, savers, investors and borrowers. With our concept of collective consumer protection, we ensure that these groups are provided with accurate, fair and comparable information on the products and financial services on offer to them, enabling them to make well-informed decisions in line with their financial needs.

None of this would be possible without our partnership and good, trust-based working relationship with our European and our national partners. Our gratitude and thanks go to our stakeholders, in particular our colleagues at the Federal Ministry of Finance and at Oesterreichische Nationalbank.

The FMA is an expert organisation and our most valuable asset is our employees. Thanks to their expertise and dedication to their work, the FMA is able to fulfil its role as an integrated supervisory authority for the Austrian financial market in a European context. To you we owe particular thanks!

*EDUARD MÜLLER, HELMUT Ettl*

# PRIORITIES FOR SUPERVISION AND INSPECTIONS IN 2019

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he Financial Market Authority (FMA) set itself six medium-term strategic objectives in 2018, drawing on its medium-term risk analysis for the years from 2019 to 2023:

- **Accompanying digitalisation on the financial market:** supporting digital change, managing the risks
- **Securing the sustainability of business models during a period of growth:** looking ahead and pursuing a counter-cyclical approach
- **Further improving corporate governance:** strengthening resilience in a changing risk environment
- **Further developing risk monitoring:** using strong compliance and consistent anti-money laundering measures to improve the stability of supervised entities
- **Expanding collective consumer protection:** targeted information to create greater risk awareness, product transparency to improve trust, top quality in sales for greater fairness
- **Improving readiness for future crises:** improving the ability of the FMA and Austria as a financial centre to withstand difficult periods.

Based on these medium-term strategic supervision objectives, the FMA defined specific priority areas for its supervision and inspection work in 2019, and communicated these to all financial market participants in its “Facts and figures, trends and strategies 2019” publication in line with its commitment to maximum transparency.

The individual strategic objectives are explained in brief below, including a description of the derived specific priorities for supervision and inspections in 2019.

## OBJECTIVE: ACCOMPANYING DIGITALISATION ON THE FINANCIAL MARKET – SUPPORTING DIGITAL CHANGE, MANAGING THE RISKS

As the digitalisation of society progresses, all areas of the economy, including the financial market, are being fundamentally overhauled. Digital change – the fourth industrial revolution – brings new opportunities for everyone who participates in the financial market, but it also poses completely new risks. New technologies are set to bring sweeping changes to many business models. Digital channels are being used in addition to personal contact between providers and consumers, and increasingly even replacing personal contact altogether. The concept of big data is turning customer data into a new asset. By linking up and evaluating a range of data sources on

customers' status, behaviour and preferences, the financial products on offer can be tailored more effectively to individual customers' requirements. Digitalisation is also increasingly providing companies with the opportunity to make their internal processes quicker and more efficient, and thus to cut costs.

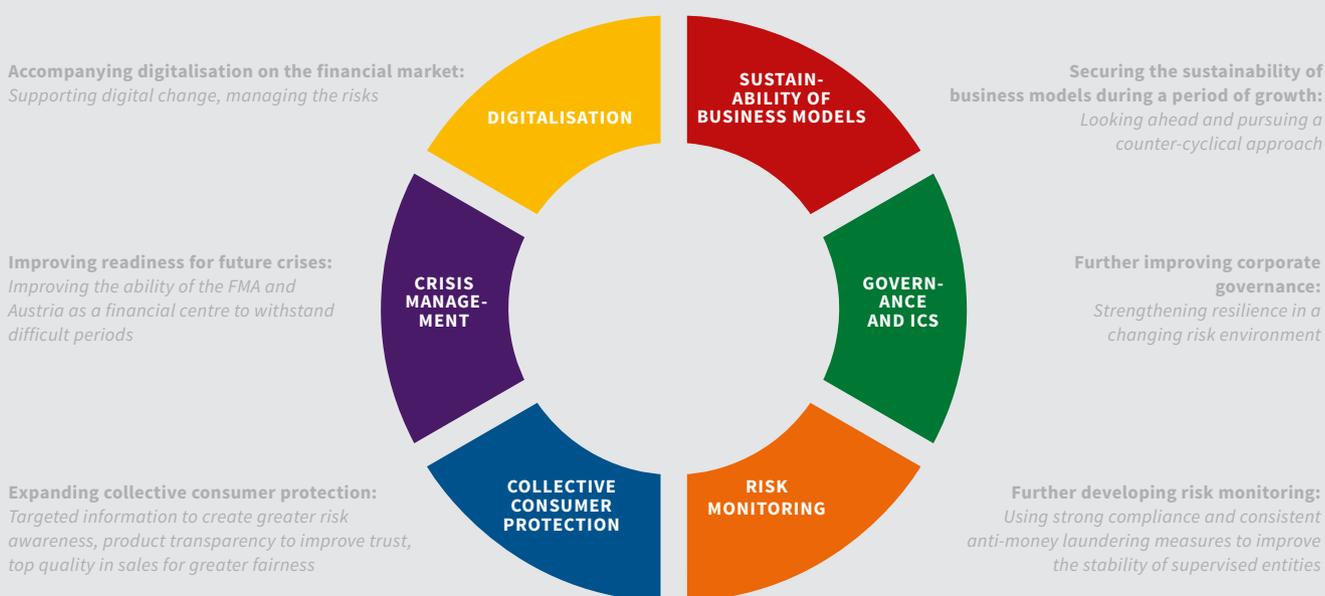
For companies that are already established on the financial market, this transformation forces them to question whether their existing business models are still fit for purpose in a digital world or whether changes are needed to keep them competitive. Often, major investment in IT infrastructure, knowledge and corporate processes is needed in order to fully exploit the opportunities presented by digitalisation.

FinTech companies, more than companies already operating on the market, can focus all of their efforts on new, digital business models. This makes them important drivers of innovation. The question for them, however, as they enter the market, is the extent to which their business models are subject to financial market regulation. Obtaining a licence as a financial company brings with it wide-reaching conditions, which are frequently a particular challenge for this type of company.

In light of the digital change on the financial market, the FMA has committed to the principle of technology neutrality. The same business models and the same risks must be subject to the same regulatory and supervisory requirements, regardless of the technology being used. Yet, for the FMA, technology neutrality does not mean technology passivity. Rather, the FMA has assumed a proactive role, helping to shape digital change on the Austrian financial market. One of its main tasks lies in creating the regulatory and supervisory framework for the digitalisation of those business models that are being used by companies already under supervision, eliminating any obstacles where possible. In terms of the FMA's contact with FinTech companies, this means acting as a non-bureaucratic point of contact for the regulatory and supervisory requirements upon market entry.

The use of modern information technologies involves both opportunities and risks. IT

Figure 1: Priorities for Supervision and inspections in 2019



and cyber risks are taking on new importance, and are now ranked by companies and customers alike as among the top categories of risk. While digital processes can improve efficiency, they can also become the target of cyber attacks. Large volumes of customer data offer huge possibilities. But that data is also sensitive and must be protected in order to maintain customer confidence. Companies operating on the financial market must focus correspondingly strongly on IT and cyber risks and be able to adequately identify, monitor and control such risks.

The FMA therefore made digitalisation a priority area for its supervision and inspection activities in 2019. Specifically, it analysed companies' business models in this regard and looked into how they dealt with IT and cyber risks.

#### **FOCUS: IMPACT OF DIGITALISATION ON BUSINESS MODELS**

Current business processes and models are being transformed by digital change while new models are also being created. The accompanying adjustment and market entry processes were tackled in a structured way together with the supervised entities:

- The FMA provided proactive regulatory and supervisory support to companies as they made this transition.
- The FMA further intensified its communications with the corporate sector on the basic regulatory and supervisory parameters associated with this change.
- Effects of digitalisation on business models were considered for companies' individual risk assessment processes.
- With regard to the use of robo-advisors (automated systems used to provide investment services), the FMA placed particular emphasis on adherence to the rules of conduct applicable to the sale of securities.

In terms of payment services, the FMA focused on the licensing and registration of the payment initiation and account information services, as introduced by the revised Payment Services Directive (PSD2<sup>1</sup>). Providers of these services are now entering the Austrian market for the first time.

Cryptoassets form the basis of many new business ideas. These must be assessed on a case-by-case basis to determine whether they are subject to financial market regulation and thus supervision by the FMA.

- Consequently, the FMA focused on analysing these business models in terms of the applicability of financial market regulation, thereby improving the transparency and legal security of this market's regulatory and supervisory environment.
- The EU's Fifth Anti-Money Laundering Directive also requires certain cryptoasset providers to meet due diligence obligations in relation to the prevention of money laundering. These requirements were implemented in Austria through an amendment to the Financial Markets Anti-Money Laundering Act (FM-GwG; *Finanzmarkt-Geldwäschegesetz*). The new provisions only apply from 2020. However, since they entail compulsory registration for certain providers, the FMA, in its capacity as the competent authority, began preparing for the new rules in 2019. For example, it has been possible to submit registration applications since October 2019, enabling the continued provision of the financial service in 2020 without any interruptions. The FMA particularly focused on making sure that these providers of cryptoasset services adhere to the obligations to identify and know their customers (KYC prin-

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L2366&qid=1585644307768&>.

principle) as part of their business models. For the purposes of these anti-money laundering requirements, custodian wallet providers and platforms engaged in crypto-asset exchange services in particular will be monitored from 2020 onwards.

#### **FOCUS: IT SECURITY AND CYBERSECURITY**

In 2018 the FMA published guides on IT security for all sectors of the financial market. The aim of these is to provide the supervised companies with transparency regarding the FMA's requirements for their organisational structure and processes in relation to IT security and cybersecurity.

- In order to ensure that market participants and customers can rely on uniform standards of protection, a review of the practical implementation of the requirements set out in the FMA guides has been made a priority.
- IT risks and IT security were the main areas of focus during on-site inspections.
- The FMA focused particularly on outsourced functions and cloud computing, which is a special form of outsourcing. As with any type of outsourcing, cloud computing must take place within a clearly defined structure and not involve companies handing over business areas or applications to a black box, where there is no supervisory control, and failing to fulfil their overall responsibility.

In 2019 the FMA also made operational IT security and cybersecurity one of its priorities. To this end, it performed its first cybersecurity stress test together with the OeNB in the form of a cyber war game for the banking sector (*see Priority for supervision on page 67*).

#### **OBJECTIVE: SECURING THE SUSTAINABILITY OF BUSINESS MODELS DURING A PERIOD OF GROWTH – LOOKING AHEAD AND PURSUING A COUNTER-CYCLICAL APPROACH**

The last few years have seen a period of economic recovery in Europe in general and Austria in particular. Economic growth in the EU and in the eurozone has been based on a broad foundation. The EU's GDP figures have grown consistently for five years, with four years of growth recorded for the eurozone. The first interest rate hikes by the US Federal Reserve, coupled with the announcement of further, moderate increases, and the state of the economy and inflation in the eurozone itself pointed to a gradual move away from the ECB's very laid-back monetary policy.

Economic growth and persistently low interest rates have contributed to high rates of credit growth. Banks are able to expand their lending business across all sectors. Real estate loans have been rising strongly in Austria for some years now. At the same time, property prices have been increasing since 2011, including in Austria and mainly in the conurbations. For the first time in many years, there was positive growth in consumer lending in 2017. There are also structural reasons for this development, which is a direct result of digitalisation. The fact that loans are available via websites and apps means that credit can be obtained anywhere at any time. It has never been as easy for consumers to borrow money from a bank. More than at any other time, during periods of low interest rates banks must ensure that they grant credit responsibly and in compliance with risk-based standards. Particularly as far as long-term real estate finance is concerned, there must be a guarantee that the customers will still be able to repay the loan out of their disposable income when interest rates start creep-

ing up again. In Austria, not least as a result of pressure from the FMA, the proportion of new variable-interest loans has fallen dramatically. Increasingly, new loans are being offered on a fixed-rate basis, providing borrowers with some insurance against rising rates.

It is not just banks that face risks from the market environment. Insurance undertakings too are affected, with the need to finance long-term guarantees from the return made on their investments, while the long phase of low rates also presents a particular challenge for *Pensionskassen* (pension companies) and fund companies. The pressure to generate a return cannot mean that high investment standards are sacrificed.

Sustainable business models avoid a situation in which errors committed during an upturn place a burden on the financial market during more difficult times. Major efforts have been made in the European banking sector over recent years to eliminate the impact of the financial crisis. Nevertheless, many banks still have large portfolios of non-performing loans (NPLs). Tackling the issue of credit quality is therefore one of the main priorities facing the European Supervisory Authorities and the eurozone's Single Supervisory Mechanism (SSM) in particular. Austrian banks have already successfully reduced their NPL portfolios. In a positive economic environment in particular, it is the role of the FMA to adopt a counter-cyclical approach and to prevent large stocks of non-performing loans from being built up again.

Given the indicators of a normalisation in monetary policy during the reporting year, the companies on the financial market had to face up to the potential impact on their business models of an interest rate hike, and prepare accordingly. The financial market must remain stable and resistant even when the basic parameters change, maintaining its functions for companies and consumers.

As part of its focus on strengthening the sustainability of business models during a period of growth, the FMA introduced the following measures in 2019:

#### **FOCUS: DEVELOPMENT OF RISK ON THE REAL ESTATE MARKET**

Given the rise in property prices and increasing volume of real estate loans, the lending standards applied to the financing of private and commercial real estate must be closely monitored.

- Risk indicators, developed on the basis of a market analysis, should be incorporated into the assessment and analysis of lending standards and practices.
- The supervisory reporting system for these standards should be expanded.
- The FMA needs to review the long-term granting of real estate loans, including from the perspective of collective consumer protection.

#### **FOCUS: RISKS ASSOCIATED WITH PERSISTENTLY LOW INTEREST RATES**

With interest rates remaining low, it is important to check that supervised companies are continuing to operate a sustainable risk policy.

- Changes in insurance undertakings' risk appetite in terms of their investments and product policy were reviewed in terms of risk-bearing capacity and risk management.

#### **FOCUS: PREPARING FOR A NORMALISATION OF MONETARY POLICY**

The FMA implemented a range of measures to prepare supervised companies for a

potential interest rate hike and a change in the ECB's liquidity policy in the medium term.

- Stress tests were conducted in order to review the resistance of banks, insurance undertakings and asset managers to interest rate and liquidity shocks.
- Particular attention was paid to the management of interest rate risks in the banking book.

#### **FOCUS: ANALYSIS OF THE SHADOW BANKING SECTOR**

- The FMA analysed the situation in Austria with regard to the shadow banking sector and attempts to escape the regulation and supervision associated with regulated banking.
- Based on this analysis, the FMA investigated possible contagion risks to determine whether risks from the shadow banking sector could spread to the regulated financial sector, and then incorporated the results into its supervision activities.

#### **OBJECTIVE: FURTHER IMPROVING CORPORATE GOVERNANCE – STRENGTHENING RESILIENCE IN A CHANGING RISK ENVIRONMENT**

Governance, and in particular clearly defined internal decision-making structures and processes, strong risk management, and fit and proper members of executive bodies and key persons, are all critical to the stability and resilience of the supervised companies. The global financial crisis showed that weaknesses in companies' governance can very often be the reason behind financial problems, imbalances and collapses. Consequently, high standards of corporate governance are imperative when it comes to guaranteeing the stability of the Austrian financial market and its ability to function properly. Yet good governance also means curbing the appetite for risk in a market environment featuring an economic upturn and persistently low interest rates, and maintaining a sustainable business policy. Risks change, and new risks also emerge. Systems of governance must be able to cope with new risks by detecting, measuring and managing them.

The FMA considers governance in its entirety, as a system of effective checks and balances that ensures proper, transparent decision-making and due process. The governance system in the supervised entities is therefore located upstream of FMA supervision and forms part of the multi-layer model of supervision in place in Austria.

The FMA expects good governance from the supervised companies to mean that:

- Decision-making and workflows in these companies are not impeded or disrupted by conflicts of interest
- Particularly during a time of external change, companies' risk management policies are able to identify, measure and manage all risks comprehensively
- Key areas such as compliance, money laundering prevention, risk management and internal audit are equipped with the necessary resources and able to operate independently
- The managerial and supervisory functions of the supervised entities are able to fulfil their tasks with the requisite degree of autonomy
- There is a guarantee that those in managerial and supervisory functions, and also other key personnel, have the personal and specialist skills needed to perform their role.

For the FMA, governance is not simply a formality. In formulating and enforcing its governance requirements, it is consistently risk-oriented in its approach, based on the principle of proportionality. Depending on a company's individual risk, size and business model, the requirements made in terms of governance will vary in degree. Larger, more complex businesses and those with more risky business models are required to comply with more stringent standards.

#### **FOCUS: INTRODUCTION OF THE FOLLOWING GOVERNANCE MEASURES IN 2019**

- Governance workshops were held with selected supervised companies in order to demonstrate best practice and to integrate findings into the companies' overall risk assessment.
- The compliance officer and internal audit functions, in the capacity of internal governance functions, are key contact points for the supervisory authority. Cooperation with these functions was stepped up.
- Good governance must be a daily reality in order to be effective. Consequently, the FMA focused specifically on insurance undertakings and reviewed whether their key functions were actually performing their role in practice. This involved checking whether the defined decision-making processes are being observed and whether all relevant key functions were being involved.
- With regard to asset management, a priority was governance in management companies, encompassing checks on the management of delegation processes (the outsourcing of services) and the overall integration of risk management into the investment process.
- The FMA tightened up its requirements of the new function of compliance officer in banks pursuant to Article 39 para. 6 of the Austrian Banking Act (BWG; *Bankwesengesetz*) and engaged in transparent market communication.
- With regard to the fit and proper nature of those in executive and key functions, the FMA focused on compliance with the new fit and proper guidelines used to assess the suitability of members of the executive body and holders of key functions.

#### **OBJECTIVE: FURTHER DEVELOPING RISK MONITORING – USING STRONG COMPLIANCE AND CONSISTENT ANTI-MONEY LAUNDERING MEASURES TO IMPROVE THE STABILITY OF SUPERVISED ENTITIES**

Conduct risks arise when companies on the financial market fail to comply with the rules and regulations governing:

- The distribution of financial products to customers
- Transparency and conduct on the capital market, with regard to securities trading for example
- The prevention of money laundering and the financing of terrorism.

In relation to product distribution and conduct on the capital market, the FMA also considers conduct risks from the perspective of the customer (*see also Priority on collective consumer protection: market monitoring, page 77*). There is however also another side to conduct risks which is increasingly neglected, namely that, if they do materialise, they can have a significant impact on a company's reputation and economic stability, ultimately also posing a threat to financial market stability.

The potential costs of fines have long ceased to be the only fall-out from conduct and money laundering risk. A lack of measures to prevent money laundering and the financing of terrorism in financial companies is no longer tolerated on the market and could result in a direct loss of confidence.

The conventional separation of stability-related solvency risks and behaviour-based conduct risks is no longer appropriate. Conduct and money laundering risks form part of companies' business risk and must be considered in the context of an integrated risk assessment. In extreme cases, conduct and money laundering cases could even damage confidence in the financial market as a whole and thus take on systemic relevance.

In its capacity as an integrated supervisory authority, the FMA recognised at an early stage the need for diverse risks to be considered in an integrated way and for these different risks to be incorporated into the supervision strategy for the companies that it supervises. In particular, the FMA supports a zero tolerance policy in relation to the misuse of the Austrian financial market by supervised entities for the purposes of money laundering and the financing of terrorism. This is a view that is also gaining traction at European level. The European Banking Authority (EBA), for instance, has incorporated conduct risks into its regular stress testing of banks.

#### **FOCUS: INTRODUCTION OF THE FOLLOWING CONDUCT RISK MEASURES IN 2019**

- The FMA focused even more strongly on the interactions between conduct, money laundering and solvency risks. Analysis results were used to raise awareness among the supervised companies and incorporated into supervisory measures.
- In line with the integrated approach to overall risk, the tried-and-tested single point of contact (SPOC) concept was extended to include every single supervised company, merging the supervisory findings from all sectors into SPOC.
- As part of this integrated approach, supervised entities were now called upon to reflect conduct and money laundering risks in their risk management processes too.
- The FMA's comprehensive experience of linking up conduct, money laundering and solvency risks was fed into the international debate on developing supervision of money laundering prevention as best practice.

#### **OBJECTIVE: EXPANDING COLLECTIVE CONSUMER PROTECTION – TARGETED INFORMATION TO CREATE GREATER RISK AWARENESS, PRODUCT TRANSPARENCY TO IMPROVE TRUST, TOP QUALITY IN SALES FOR GREATER FAIRNESS**

Consumer confidence in the Austrian financial market and its providers is not just a pillar of financial market stability but a key condition for economic growth. This trust in regulated financial markets and their providers was severely shaken by the global financial crisis of 2008.

In order to rebuild and foster investor and consumer confidence again, a raft of new legislation has been introduced in the EU in the years following the crisis in the form of the Markets in Financial Instruments Directive (MiFID II)<sup>2</sup>, the Insurance Distribution

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<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0065&qid=1585644665311&>

Directive (IDD)<sup>3</sup> and the Regulation on packaged retail and insurance-based investment products (PRIIPs)<sup>4</sup>. This legislation has been in force since early 2018 and has considerably strengthened collective consumer protection. This protection begins with the companies and obliges them, when concluding transactions with retail customers, to provide all relevant information, to give fair and transparent advice and only to offer financial products that will suit them. At the same time, the supervisory authorities have been given more scope to tackle providers who act unfairly. They may impose sanctions with a deterrent effect where necessary and introduce restrictions or bans if companies are engaging in damaging business practices or offering inappropriate products.

Alongside the fall-out from the financial crisis, digitalisation of customer business is also bringing new challenges. Financial transactions are increasingly being offered and taken up online. This means that the relationship of trust built up between the financial service provider and the customer through personal contact is less defined. New and innovative products, and globalised financial markets are also presenting investors and consumers with new opportunities. Yet these also involve new and complex risks. Consequently, collective consumer protection must keep pace with the markets, tackling new developments such as digitalisation and financial innovations so that investors are protected and can have greater confidence in the financial market again.

In order to meet these challenges, the FMA addressed the risks associated with certain products for consumers in the reporting year, while also focusing on market transparency and information obligations, as well as on high, uniform standards governing the distribution of financial products.

#### **FOCUS: RISKS OF CERTAIN FINANCIAL PRODUCTS FOR CONSUMERS**

Consumer lending has soared over the past few years. One of the reasons is that access to loans is growing ever simpler and quicker thanks to the range of digital offerings and proactive advertising. The danger in such an environment is that consumers are increasingly taking on loans to buy non-durable consumer goods and are then struggling to make the subsequent repayments.

- In the form of an awareness campaign, the FMA informed consumers about the specific risks of consumer credit and tried to raise awareness of the issues at stake.
- The FMA paid greater attention to the consumer credit market and engaged in supervisory dialogue to address any specific irregularities detected in relation to individual banks.

As a result of digitalisation, new opportunities to invest have emerged in the crypto economy that partly resemble investment products on the regulated financial market. More recently, such products have proved to be highly speculative and volatile. There has been an above-average number of incidents of fraud in connection with these cryptoassets. Although this is not an area that is regulated or supervised by the FMA, negative developments could very quickly damage consumer confidence in financial products in general. Targeted public information is a tried-and-tested way of highlighting consumer trends and specific risks quickly, even in unsupervised areas.

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<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0097&>.

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R1286&>.

- The FMA therefore further expanded its targeted consumer communication measures in the area of market innovations as part of its preventive activities.

#### **FOCUS: MARKET TRANSPARENCY AND INFORMATION OBLIGATIONS**

Good, easy-to-understand information from providers about their financial products forms the basis of informed, independent decision-making by consumers on whether to invest.

- The supervisory focus in 2018, namely compliance with the information obligations arising from MiFID II, the IDD and the PRIIPs Regulation in relation to securities and insurance-based investment products, was maintained. Following an initial phase in 2018, the focus during 2019 was, however, on how these requirements are implemented and enforced.
- A further priority was compliance with information obligations in the area of corporate provision funds (new severance pay scheme).

Cost transparency is an important aspect of market transparency. Particularly in the current environment of low interest rates, it is important that consumers are familiar with the cost structure of financial products as these can considerably shrink the return on the investment.

- The FMA therefore focused on the provision of transparent cost and fee information by insurance undertakings, *Pensionskassen* and investment funds.
- As far as Austrian investment funds are concerned, the FMA also paid close attention to the charging of management fees in cases where a passive investment strategy is offered (closet indexing) and to performance-based management fees. The FMA also took consistent action when it identified abusive practices.

Investment funds engage in securities financing and lending transactions during which they lend securities out of the fund assets to other financial companies, primarily banks, in exchange for a fee. Consumers who hold units in investment funds must be informed about these lending transactions and the associated risks for the fund assets.

- The FMA focused on ensuring that the management companies were adequately meeting these information requirements.

#### **FOCUS: STANDARDS FOR THE DISTRIBUTION OF FINANCIAL PRODUCTS**

In addition to market transparency and comprehensive information, consumers must also be able to rely on fairness and quality from their financial advisors. With regard to the distribution of financial products, the FMA continues to guarantee high and uniform standards across every sector of the financial market.

- In the context of its integrated sales supervision, the FMA focused on a review of the qualifications and training of sales staff in the supervised entities.

#### **OBJECTIVE: IMPROVING READINESS FOR FUTURE CRISES – IMPROVING THE ABILITY OF THE FMA AND AUSTRIA AS A FINANCIAL CENTRE TO WITHSTAND DIFFICULT PERIODS**

Regulation and supervision aim to make companies on the financial market as resistant as possible to shocks and crises so that they can continue to provide their services to corporate and retail customers during difficult periods. Over recent years, however,

the crises on the financial markets have highlighted the need for companies to prepare better for crisis situations. Companies are increasingly being required to prepare contingency or recovery plans setting out specific steps and measures that could be used to handle a crisis. Yet should these measures not suffice, companies must also be able to exit the market in an orderly fashion where necessary, without casting doubt on the stability of the market as a whole. This was the reason for the creation three years ago of the European resolution regime for the banking sector.

The national bank resolution authorities and the Single Resolution Mechanism (SRM) in the eurozone have been expanded and given more staff. The first development phases in the resolution plans, preparing for a bank's orderly exit from the market, have been concluded.

Nevertheless, the first instances of the resolution regime being applied to banks in the eurozone have demonstrated that the banks themselves and the resolution authorities need to step up their preparatory work for future resolution cases in order to make a substantial contribution to financial market stability.

#### **FOCUS: STRENGTHENING READINESS FOR RESOLUTION**

The FMA improved its readiness to deal with resolution cases in 2019, prioritising how to put the individual resolution tools into practical effect.

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#### **FOCUS: STRENGTHENING THE RESISTANCE OF THE SUPERVISED SECTORS AND COMPANIES TO CRISIS**

The FMA not only works to improve its own ability to act when faced with a bank resolution process, however. It also added to the measures in place to make the banking sector more resistant to crisis in 2019.

- The FMA implemented binding MREL (minimum requirement for own funds and eligible liabilities) rules in 2019 for the first time.
- A further priority was ensuring the ability of banks to provide data in the event of their resolution.
- The deposit guarantee schemes provided by the individual associations were replaced, with effect from 1 January 2019, by the common deposit guarantee scheme or by institutional protection schemes (IPS) if the latter are recognised by the FMA as deposit guarantee schemes. The FMA and the OeNB together reviewed the systems and processes involved in the new scheme to ensure that they function properly.

The first international experience of the resolution regime for banks has shown that close and ongoing liaison between banking supervision and banking resolution provides the basis for and is a basic prerequisite of effective and successful resolution.

- Consequently, the FMA expanded the benefits of an integrated supervisory authority to an even broader and greater extent in the reporting year, making substantial efforts to streamline the processes between the banking supervision and resolution functions.

Although banking regulation is already more advanced than the regulation of other sectors, with its own resolution regime and institutions, action is also needed beyond the banking sector to improve how prepared the corporate sector is for potential crises.

- The FMA therefore reviewed whether companies in the insurance sector are sufficiently well prepared for crises in terms of their contingency planning and consideration of new risks.
- The FMA also reviewed whether capital market infrastructures are prepared for crises.
- Previous crises have shown that certain capital market infrastructures have a central role to play in the successful resolution of banks. With this in mind, the FMA entered into dialogue with these significant infrastructures in order to define the requirements on these infrastructures so that potential bank resolutions under the bank resolution regime can be implemented efficiently.

# THE INTERNATIONAL PARAMETERS



# THE GENERAL ECONOMIC ENVIRONMENT

**T**he global economy developed slowly in 2019. Global economic growth was just +2.9%, according to calculations by the International Monetary Fund (IMF), the lowest growth rate since the economic crisis. The slackening economic activity affected not only the industrialised nations but also hit the developing countries and emerging markets particularly hard. The main obstacles to growth were international trade conflicts, political uncertainty and expanding military conflicts, specifically in the Arab world, combined with a heightened crisis in multilateralism. A lower propensity to invest and waning industrial output, specifically lesser demand in the automotive industry, also added to the economic cool-down.

In the USA, the geopolitical uncertainties impacted mainly on investment activity, while employment figures and public consumption continued to grow robustly. GDP growth in 2019 was +2.3%, with a significantly lower figure expected for 2020. In China, the economy has slowed down further. With GDP growth of around +6%, the country is finding itself at the lower end of its ambitious growth target. Falling consumption, the trade conflict with the USA and the rising political uncertainty caused by the protests in Hong Kong are some of the key factors that are causing the economy to cool.

## EUROPE

In the euro area, the economy grew in real terms by +1.2% in 2019 according to Eurostat. The weaker global demand for industrial goods had its greatest impact on German foreign trade, with losses in the automotive industry weighing the most heavily on the growth figures. Consequently, with a growth rate of just +0.6%, Germany's economic output was down on previous years. At +1.3%, inflation was also lower than one year earlier. The losses in value added in German industry could only be partly offset by favourable developments in the services and construction sectors.

The seemingly perpetual tug of war over the UK's withdrawal from the EU led to everyone involved feeling increasingly insecure, with corresponding economic consequences. In the second quarter of 2019, GDP in the UK dropped by -0.1% in a quarterly comparison.

In other important industrialised nations in the euro area, such as France, Italy and Spain, economic activity was also muted. The European economy was primarily based on a robust services sector and strong consumer demand. Unemployment rates remained more or less stable in Europe, but with rates falling slightly more slowly in

Chart 1: Year-on-year GDP growth 2015–2019 (in %; source: Eurostat, USBLS)

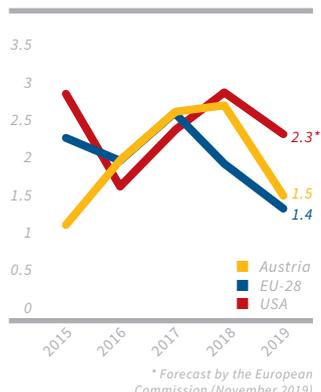
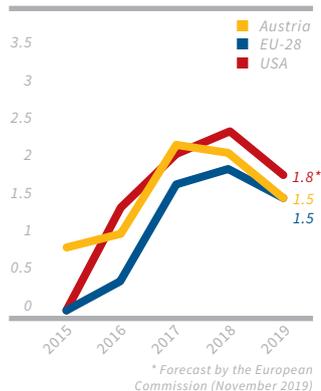


Chart 2: Year-on-year change in inflation 2015–2019 (in %; source: Eurostat, USBLS)



the countries most affected by the global financial crisis of 2008, namely Spain, Portugal, Ireland, Greece and Cyprus.

Meanwhile, economic growth in the Central, Eastern and South-Eastern European (CESEE) countries, which are particularly relevant to Austria’s financial sector, was solid. GDP in Hungary and Poland grew particularly strongly, at +4.9% and +4.1% respectively according to Eurostat. Consumer spending was the driver of this dynamic development in both countries, although growth was nevertheless down on the previous year. Other CESEE countries such as Slovenia (+2.4%), Slovakia (+2.3%), Romania (+4.1%), Bulgaria (+3.4%), the Czech Republic (+2.4%) and Croatia (+2.9%) also did well.

### AUSTRIA

With growth of just +1.6%, the Austrian economy clearly lost momentum in 2019. Unfavourable international conditions burdened the Austrian industry and exporting companies in particular, with domestic demand supported by consumer spending remaining robust and thus cushioning the difficulties experienced in other sectors. The flourishing construction sector and rising investment in housing construction also helped to support the economy. At +1.5%, inflation remained below last year’s level, which impacted positively on the development of real incomes. The biggest price increases were recorded in restaurants and hotels (+2.8%) as well as in the housing, water and energy sectors (+2.7%).

Private consumption was driven by the domestic labour market, which continued to perform well: employment figures rose further during 2019, while the jobless figures stabilised at a low level. The unemployment rate in 2019 was 7.4% (according to national definition), with labour supply remaining high.

# THE INTERNATIONAL FINANCIAL AND CAPITAL MARKETS

**T**he international financial and capital markets held their own in a challenging environment last year. Alongside central banks' monetary policies, the political uncertainty around Brexit and trade conflicts dominated the markets. Rising levels of borrowing, slackening economic activity and the risk of a sudden collapse in asset values posed a serious threat to financial stability in 2019. At the same time, structural changes such as rapid digitalisation and the spiralling importance of ESG factors (environmental, social and governance criteria) presented the real and the financial economy with huge challenges, not just from the perspective of business and investors, but also for regulators and supervisors.

## MONETARY POLICY AND CURRENCIES

The European Central Bank (ECB) continued with its expansionist approach to monetary policy in 2019. Its base rate and overnight lending rate were held at 0% and 0.25% respectively, while the deposit facility rate was cut by ten basis points to -0.5% in September 2019. The ECB also introduced a two-tier system for credit institutions' reserves held with the Bank. Since the end of October 2019, part of banks' excess reserve holdings (i.e. reserve holdings in excess of minimum reserve requirements) has been remunerated at a higher rate. The aim is to promote the bank-based transmission of monetary policy to the real economy. The ECB's Governing Council also made the decision in September to relaunch its asset repurchase programme that

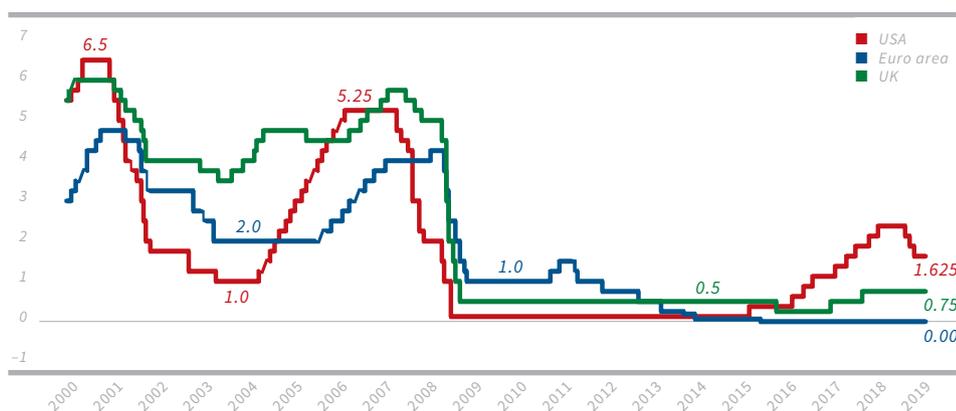


Chart 3: **Development of key interest rates 2000–2019** (in %; source: Eurostat, Bank of England, Board of Governors of the Federal Reserve System)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
USD/EUR	1.47	1.39	1.33	1.39	1.28	1.33	1.33	1.11	1.11	1.13	1.18	1.12
JPY/EUR	152.45	130.34	116.24	110.96	102.49	129.66	140.31	134.31	120.20	126.71	130.40	122.01
GBP/EUR	0.80	0.89	0.86	0.87	0.81	0.85	0.81	0.73	0.82	0.88	0.88	0.88
CNY/EUR	10.22	9.53	8.97	9.00	8.11	8.16	8.19	6.97	7.35	7.63	7.81	7.74
CHF/EUR	1.59	1.51	1.38	1.23	1.21	1.23	1.21	1.07	1.09	1.11	1.15	1.11

Table 1: Average exchange rates  
2008–2019 (source: ECB, annual  
average)

had expired at the end of 2018, engaging in net monthly purchases of € 20 billion as of November 2019. The principal payments from maturing bonds were, as previously, fully reinvested over the course of the year. The Governing Council also decided to implement a series of new, targeted and longer-term refinancing transactions between September 2019 and March 2021. These are referred to as TLTRO III (targeted longer-term refinancing operations).

In the USA, the Federal Reserve abandoned its more restrictive interest policy of earlier years, cutting its federal funds rate three times over the course of 2019, from an interest corridor of 2.25–2.50% to a range of 1.50–1.75% most recently. US key interest rates were also cut for the first time since the financial crisis. Additionally, the reduction of securities portfolios was stopped in August, two months earlier than planned, and the renewed purchase of shorter-term Treasuries was launched in October.

China responded to the pressure of an ailing economy by cutting its reserve requirement ratio three times in an attempt to help banks grant loans and thus take the sting out of the downturn. Some temporary weakness of the yuan was a further cause for concern, with the Chinese currency falling to a rate of approximately 7.2 yuan against the dollar at times during the third quarter. This was the first time since 2008 that the threshold of 7 yuan to the dollar had been exceeded.

The euro lost ground against the dollar during the first three quarters of 2019 but had been able to recover some of that territory by the end of the year. Exchange rates were affected by muted economic data and political uncertainty on either side of the Atlantic. The dollar fluctuated between 1.09 and 1.25 against the euro during the reporting year. Meanwhile, the yen and the Swiss franc strengthened as international trade conflicts intensified. The fate of sterling was dominated by Brexit. After hitting a low against the euro of 93 pence in August, the pound was able to recover somewhat by the year-end (at 84 pence against the euro).

## CREDIT MARKETS

A range of incentives on both the supply and the demand side contributed to positive credit growth once again in the euro area and in Austria during 2019. The ECB's current monetary strategy, more favourable loan terms, increasing digitalisation and positive employment figures all helped to stimulate the market. At the same time, low interest rates eased the burden on government budgets by helping to cut refinancing costs and making it easier to repay outstanding liabilities.

In the non-financial private sector, company borrowing rose much more strongly in Austria last year than the European average. Adjusted growth in lending<sup>1</sup> to non-

<sup>1</sup> Credit growth (portfolio) adjusted for depreciation, exchange rate fluctuations, loan transfers/reclassifications.

financial companies in Austria was up +6.9% in October compared with the previous year, while the equivalent figure for the eurozone as a whole was +3.8%. However, with lower economic growth expected for both the euro area and Austria over the coming years, demand for credit from non-financial companies is also likely to tail off. The picture with regard to borrowing by households is a similar one, albeit with less striking developments. In this segment, domestic lending over the reporting period was up +4.3%, while the comparable key figure for the euro area was somewhat lower, at +3.5%. The breakdown of lending to households by type shows a consistently higher level of growth in relation to housing loans in Austria. Loans to private consumers for housing purposes grew by +5.4% in October, compared with an increase of +2.1% for consumer credit. In the euro area, the equivalent figures for October were +3.7% for housing loans and +5.7% for consumer credit. Austria's banks were again able to make significant reductions to the volume of non-performing loans in 2019.

## EQUITY MARKETS

The equity markets performed consistently well in 2019. Supported by the central banks' more relaxed approach to monetary policy and sufficient supply of liquidity, the international benchmark indices notched up significant gains in some cases. In the USA, the S&P 500, which encompasses the shares of the 500 largest listed US companies, was up +28.88% as at the year-end. The Dow Jones Industrial Average and the NASDAQ-100 also posted respectable increases, up +22.34% and +37.96% in 2019 respectively. The MSCI Emerging Markets Index, a weighted indicator of the situation in a range of emerging markets, ended the year on 1 114.66 points, up +15.42% on the previous year-end.

In Europe, the stock markets also performed well, up substantially over the year as a whole despite political uncertainty and trade conflicts. The Vienna Stock Exchange's blue-chip index (ATX) gained +16.07% compared with the previous year-end to close on 3 186.94 points, a solid performance by European standards. In Germany, the DAX put on +25.48% over the reporting period, while the EURO STOXX 50, the leading index of eurozone stock exchanges, was up +23.30% compared with the last trading day of the previous year. The FTSE 100 in the UK also recorded a positive result (+12.10%), Brexit notwithstanding. Banking and insurance stocks were able to recover from the losses posted in 2018. The STOXX Banks ended 2019 up +8.22%. An even better result was recorded by the STOXX insurance index, rising by +24.44% year-on-year.

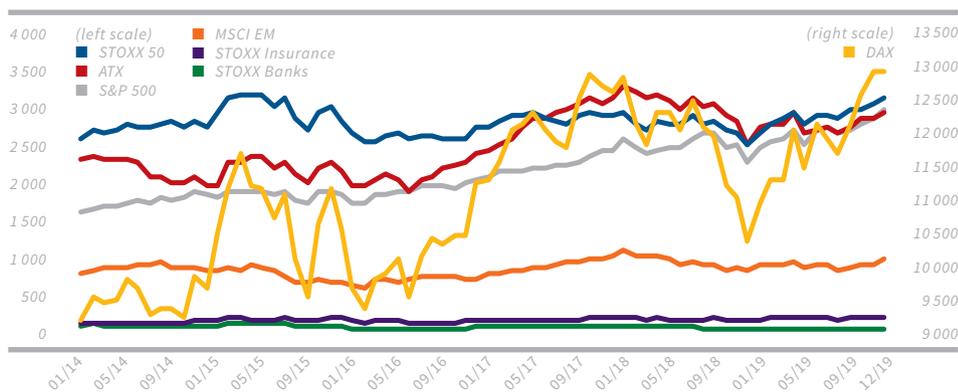
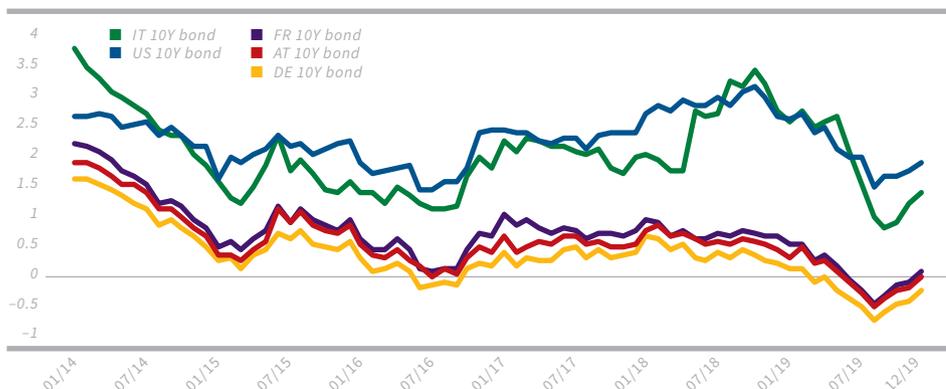


Chart 4: International equity markets 2014–2019

Chart 5: Yields on 10-year government bonds 2014–2019



## BOND MARKETS

It was a very eventful year on the bond markets. A lack of dynamic growth, coupled with the central banks' expansionist monetary policy decisions and the search for safe havens, generated an increase in the volume of bonds with negative yields. This peaked in the third quarter when the yields on around one third of all investment grade bonds had moved into negative territory. Measured in terms of market value, the global stock of such bonds is already in the region of 17 trillion US dollars<sup>2</sup>. These yields had begun to rise again by the end of the year, however.

On the European markets, the search for safe havens intermittently pushed the yield curve for German government bonds below zero for maturities of up to 30 years<sup>3</sup>. The yields on 10-year Bunds fell to their lowest point at -0.716% but were approaching positive levels again towards the end of the year. The yield on Austria's 10-year benchmark bond developed very similarly to that of its German equivalent. It bottomed out at -0.464%, before ending on +0.016%. Considering the corporate bond sector in Europe, a clear drop in the spreads between investment grade bonds and high-yield paper is also in evidence.

There was a further increase in green bonds in Europe. According to the European Securities and Markets Authority (ESMA)<sup>4</sup>, the outstanding volume of this type of bonds was in the region of € 270 billion, around half of which related to private-sector issuers. Overall, green bonds account for 2% of the total corporate bond sector in Europe and are on the increase.

<sup>2</sup> Bloomberg.

<sup>3</sup> Reuters.

<sup>4</sup> ESMA Report on Trends, Risks and Vulnerabilities No. 1, 2020.



# THE AUSTRIAN FINANCIAL MARKET

Companies  
supervised by the FMA:

**999**

Assets under  
management  
by Austrian  
financial  
institutions:

**€ 1133.6 billion**

Market  
capitalisation  
of Vienna  
Stock Exchange:

**€ 117.08 billion**

Claims paid out by Austrian insurers to policyholders:

**€ 14.8 billion**

Individuals receiving a supplementary  
pension from an Austrian *Pensionskasse*:

**111407**

Claims by Austrian credit institutions  
on non-financial companies:

**€ 161.4 million**

Claims by Austrian credit institutions  
on households:

**€ 162.8 million**

# THE AUSTRIAN CAPITAL MARKET

## THE PRIMARY MARKET – ISSUING ACTIVITY ON THE AUSTRIAN CAPITAL MARKET

**V**iewed across all categories of issuers, there was an increase in the issuing of interest-bearing securities in Austria, up from € 82.8 billion in 2018 to € 102.2 billion, a rise of around 23.4% (> Table 2).

Monetary financial institutions (banks in essence) are the most significant group of issuers in Austria. This group was able to maintain the positive trend of 2018 (+15.1%) during the reporting year, raising its issuing volume by some 11.8% to € 53.9 billion in 2019. The second-largest issuer, the Republic of Austria, also made greater use of the capital market. Compared with € 27.5 billion in 2018, the central government placed securities worth € 35.4 billion on the market in the year under review, a rise of 28.7%. Excluding the public sector's issuing activity, the gross issuing volume rose from around € 55.2 billion to approximately € 66.8 billion, with companies' issues growing by some 21%.

As can be viewed in Table 3, less than one third of all issuing activity was in foreign currency. The downward trend of earlier years therefore continued.

	2015	2016	2017	2018	2019
<i>MFIs (including the OeNB)</i> <sup>1</sup>	45 671	48 269	41 996	48 244	53 944
<i>Financial companies excluding MFIs</i> <sup>2</sup>	1 638	906	2 489	2 157	6 211
<i>Non-financial companies</i> <sup>3</sup>	6 412	4 461	6 225	4 804	6 623
<i>Central government</i>	28 743	42 288	40 977	27 333	35 395
<i>Other government</i>	505	451	621	308	58
<b>Total</b>	<b>82 968</b>	<b>96 377</b>	<b>92 302</b>	<b>82 845</b>	<b>102 227</b>

<sup>1</sup> Monetary financial institutions (MFIs) are financial institutions whose business is to receive deposits which are considered part of money supply according to ECB statistics definitions and to grant loans and/or make investments in securities.

<sup>2</sup> Investment funds, other non-monetary financial institutions, insurance undertakings and Pensionskassen.

<sup>3</sup> Corporations and partnerships that primarily produce goods or render non-financial services.

Table 2: Issuing activity in Austria 2015–2019 by category (in € millions, source: OeNB)

	2015	2016	2017	2018	2019
<i>In foreign currency</i>	29 217	29 275	30 105	28 043	31 273
<i>In €</i>	53 755	67 102	62 198	54 804	70 952
<b>Total</b>	<b>82 968</b>	<b>96 377</b>	<b>92 302</b>	<b>82 845</b>	<b>102 227</b>

Table 3: Issuing activity in Austria 2015–2019 by currency (in € millions, source: OeNB)

## THE VIENNA STOCK EXCHANGE

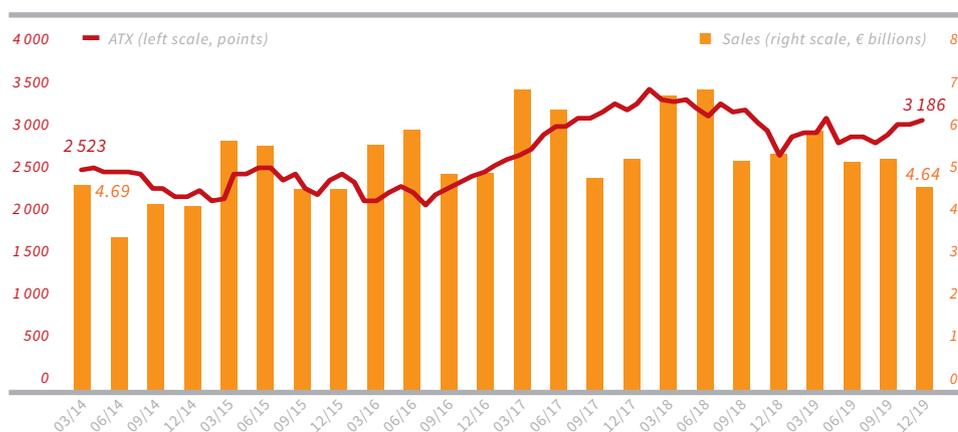
2019 was a consistently positive year for the Vienna Stock Exchange. The blue-chip equity index, the Austrian Traded Index (ATX), put on 16.07% over the year as a whole to end on 3 186.94 points. It hit its highest point in April, at 3 308.91 points, and tumbled to its lowest level of 2 681.37 points in August. The index remained a long way off its all-time high, however, having soared to 4 981.87 points back in 2007. While the central banks' expansionist monetary policies continued to generate momentum, political uncertainty around Brexit, international trade conflicts and news reports of falling economic indicators had a negative impact.

In all, 16 ATX stocks made year-on-year gains, while four shares ended 2019 with a loss. The biggest increases in the ATX were recorded by S Immo AG (+53.37%), Wienerberger AG (46.78%), and CA Immobilien Anlagen AG (+35.59%). Real estate stocks benefited particularly strongly from low interest rates and rising property prices. In contrast, the aviation, production engineering, technology, and machinery and plant sectors were all down. Alongside FACC AG (-15.86%), the companies Schoeller-Bleckmann Oilfield Equipment AG (-12.29%), Voestalpine AG (-4.75%) and Andritz AG (-4.29%) all ended the year lower than where they started. In terms of financial stocks, the general trend was positive, albeit to varying degrees. Insurance stocks in the form of Vienna Insurance Group AG (+25.25%) and Uniqa Insurance Group AG (+15.71%) recorded sharper rises than banking shares, specifically Erste Group Bank AG (+15.52%), BAWAG Group AG (+13.28%) and Raiffeisenbank International AG (+0.86%). In line with the broader international trend, the ATX benefited from the above-average performance of financial stocks, which are relatively heavily weighted in the index.

In the more diverse prime market, the following stocks recorded the biggest increases in addition to those mentioned – Warimpex Finanz- und Beteiligungs AG (+63.00%), UBM Development AG (+41.32%) and EVN AG (37.52.%) – while Kapsch Trafficcom AG (-13.68.%), Porr AG (-11.47%) and Addiko Bank AG (-10.00%) posted the biggest losses. Overall, eight shares in this market segment of the Vienna Stock Exchange recorded a negative performance, with the remaining 30 recording price gains compared with last year's final trading day.

As at the 2019 year-end, the market capitalisation of the Austrian stock market was approximately € 117.1 billion, which equates to around 30.4% of gross domestic prod-

Chart 6: **Development of the equity market.at segment of the Vienna Stock Exchange 2015–2019** (quarter-end results; source: Wiener Börse AG)



	2015	2016	2017	2018	2019
Capitalisation of domestic shares as at last trading day (in € billions)	86.16	93.34	123.80	100.33	117.08
Market capitalisation equity segment (as % of GDP)	25.03	26.20	33.47	26.26	30.36
Annual trading volume equity market (in € billions)	58.38	55.93	66.71	70.41	61.96
Daily average (in € millions)	235.42	224.62	270.08	285.06	245.80
Annual trading volume bond market (in € millions)	218.25	348.29	276.96	635.28	659.10
Annual trading volume structured products (in € millions)	529.88	426.94	553.94	743.60	733.14
ATX performance (in %)	10.97	9.24	30.62	-19.72	16.07

Table 4: **Business development of the Vienna Stock Exchange 2015–2019** (source: Wiener Börse AG)

	2015	2016	2017	2018	2019
<b>Number of issuers:</b>					
Regulated market	141	134	118	112	115
Third market as an MTF*	353	337	776	977	1.138
<b>Number of listed securities:</b>					
Regulated market	7 912	8 873	9 922	9 119	9 140
Third market as an MTF*	1 442	1 350	2 348	2 823	3 084

Table 5: **Structural data 2015–2019** (source: Wiener Börse AG)

\*From 2019 Vienna MTF

uct (GDP)<sup>1</sup>. This corresponds to a rise of around € 17 billion on the previous year. Trading volumes<sup>2</sup> in the equity market (across all market segments) totalled € 61.9 billion during the year under review, a fall of € 8.5 billion or 12% compared with 2018. The average daily trading volume was around € 245.8 million, also slightly down on the previous year's figure. There were three new listings over the course of the year, namely Marinomed Biotech AG, Frequentis AG and Addiko Bank AG.

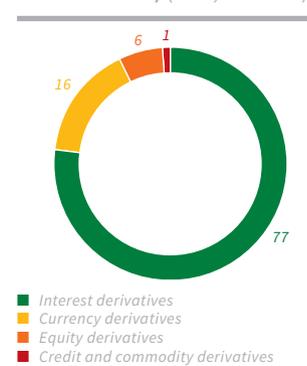
Trading continued on four public holidays in Vienna for the first time in 2019 (Ascension, Corpus Christi, Assumption Day, All Saints). According to Vienna Stock Exchange figures, this adjustment to the trading calendar generated an additional trading volume of € 807 million.

In the bond market.at segment, the issuing volume (including foreign bonds) totalled € 84.6 billion in 2019, € 26.8 billion of which was placed on the market by public-sector issuers. A further € 36.8 billion came from the financial sector and € 15.9 billion from non-financial companies.

## THE AUSTRIAN DERIVATIVE MARKET

The volume of outstanding derivatives with Austrian involvement (based on gross nominal value and the available EMIR<sup>3</sup> data) was around € 1 200 billion at the 2019 year-end. This figure includes derivatives traded both on-exchange and off-exchange. Off-exchange trading was the dominant form of trading in derivatives within the EU.<sup>4</sup> Similarly, in Austria 11% of the outstanding derivatives were traded on an exchange, compared with 89% on an over-the-counter (OTC)<sup>5</sup> basis.

Chart 7: **Outstanding derivatives by asset class (based on nominal value)** (in %, rounded)



Source: Trade repository reports in accordance with EMIR.

<sup>1</sup> Year-end GDP figure for 2018.

<sup>2</sup> Based on standard double counting, with one and the same trade being counted once as a sell and once as a buy trade.

<sup>3</sup> European Market Infrastructure Regulation. EMIR raw data has been gathered using a new interface since mid-2019, and the method used to adjust the data has also been revised. Any comparisons with the figures in the FMA Annual Report for 2018 should therefore be treated with caution.

<sup>4</sup> ESMA (2019). ESMA Annual Statistical Report on EU Derivatives Markets 2019.

<sup>5</sup> Over-the-counter in this context refers to any orders executed outside a trading venue in the sense of MiFID II and not to the definition pursuant to Article 2(7) of EMIR.

Measured in terms of nominal value, interest derivatives dominate, accounting for 77% of the total market value, followed by currency derivatives at 16%. Equity derivatives make up around 6% of the total nominal amount. The other classes, in the form of credit and commodity derivatives, each account for less than 1%.

The residual maturities reported varied according to asset class and contract type. With regard to standard contract types for credit and loan derivatives (credit default swaps and interest swaps), the average residual maturities were three and a half or six years respectively. In relation to currency derivatives, the residual maturity for the major contract type (forwards) averaged six months. Meanwhile, equity and commodity derivatives showed greater variation in terms of contract type. While options dominated the equity derivative segment, commodity derivatives tended to take the form of swaps, futures or forwards.

With regard to the underlyings of credit and equity derivatives, it was noticeable that the relatively small market of credit derivatives is predominantly focused on European credit default indices and German corporate bonds. Equity derivatives tend to be based on the EURO STOXX 50, the S&P 500 and the DAX. Derivatives with Austrian underlyings are mainly based on ATX heavyweights.

## MARKET INFRASTRUCTURES IN AUSTRIA

Since the middle of 2018, the Austrian financial market has been based on three licensed market infrastructures for the full process of stock exchange trading in Vienna – starting with trading on Wiener Börse AG (WBAG), through to clearing at Central Counterparty Austria (CCP.A) and finally settlement by Österreichische Kontrollbank CSD GmbH (OeKB CSD GmbH). All three of these entities are supervised by the FMA and must adhere to mainly European rules, as well as some national regulations. WBAG, as a major market infrastructure in Austria and as the operator of a regulated market and a multilateral trading facility, is obliged to comply with the terms of the Stock Exchange Act 2018 (BörseG 2018; *Börsegesetz*) and also with the rules defined in the revised Markets in Financial Instruments Directive (MiFID II) and Markets in Financial Instruments Regulation (MIFIR). Issuers whose financial instruments are listed on the regulated market, also referred to as the official market in Vienna, are subject to stricter rules than those in the multilateral trading facility (MTF). With effect from 1 July 2019, WBAG rebranded its MTF, formerly known as the third market, as the Vienna MTF. This was in response to the implementation of MiFID II, which resulted in the abolition of the second regulated market in 2018.

CCP.A has been subject to FMA supervision since 2014 and is required to comply in particular with EMIR.

OeKB CSD GmbH was licensed by the FMA in 2018 and is subject to the European Central Securities Depositories Regulation (CSDR).

Both EMIR and the CSDR stipulate that the central counterparty and the central securities depository should be subjected to a risk-based inspection or evaluation at least annually by the national supervisory authority responsible for them.

As part of its work supervising central counterparties and central securities depositories, the FMA works in close cooperation with Oesterreichische Nationalbank (OeNB). In both cases, the FMA may commission the OeNB to carry out expert reports or on-site measures in certain specific areas.

In addition to its annual review of CCP.A, the FMA must also arrange a physical college meeting in Vienna at least once every year. Invited to attend this meeting alongside the European Securities and Markets Authority (ESMA) in the capacity of non-voting member are the European Central Bank (ECB), the OeNB and other international partner authorities acting as the national competent authority for the two largest clearing members of CCP.A. The issues discussed at such meetings include the outcome of the compulsory annual review, current issues affecting the central counterparty and the outlook for the coming year.

# THE COMPANIES ON THE AUSTRIAN FINANCIAL MARKET

## STRUCTURAL DEVELOPMENTS

### BANKS AND PAYMENT SERVICE PROVIDERS

**A**s at the 2019 year-end there were 550 credit institutions in Austria, as well as 22 branches of banks that pursue activities in Austria under the EU's freedom of establishment. The total number of banks fell by 25 compared with the end of 2018, marking the continuation of a trend in evidence during the past few years. In the Raiffeisen sector the process of consolidation continued, with a drop in the number of individual institutions from 399 to 380, following the general trend in the decentralised sectors of previous years.

Austrian credit institutions' total assets, or business volume, amounted to € 848 billion by the end of 2019, thus increasing by 4.1% compared with the previous year. All sectors recorded positive growth rates, with the exception of building societies, which declined by 1.7%. Special-purpose banks grew by 17.9%, followed by Raiffeisen cooperatives, up 6.2%, and Volksbank cooperatives, up 4.5%. At 34.5%, Raiffeisen cooperatives continued to hold the largest market share in terms of business volume

Table 6: **Number of credit institutions 2015–2019**

	2015	2016	2017	2018	2019
<i>Joint stock banks and special-purpose banks</i>	76	75	72	70	69
<i>Savings banks</i>	49	49	49	49	49
<i>Raiffeisen cooperatives</i>	488	448	419	399	380
<i>Volksbank cooperatives</i>	42	20	14	9 <sup>1</sup>	9
<i>Mortgage banks</i>	10	10	9	8	8
<i>Building societies</i>	4	4	4	4	4
<i>Investment fund management companies</i>	29	26	23	21	19
<i>Corporate provision funds</i>	9	8	8	8	8
<i>Exchange offices/remittance services</i>	3	4	4	4	4
<i>EU branches</i>	30	28	27	25	22
<b>Total</b>	<b>740</b>	<b>672</b>	<b>629</b>	<b>597</b>	<b>572</b>
<i>Number of payment institutions</i>	3	4	5	5	6
<i>Licensing processes pending as at 31 December</i>	1	0	0	1	0
<i>Passive notifications</i>	255	247	183	246	125 <sup>2</sup>

<sup>1</sup> Four institutions that ceased to be members of the affiliation of Volksbank cooperatives were assigned to the joint stock bank sector.

<sup>2</sup> Only relates to passive notifications of credit institutions.

	2015	2016	2017	2018	2019
<b>Total assets non-consolidated (sum total)<sup>1</sup></b>	<b>824 656</b>	<b>798 208</b>	<b>777 213</b>	<b>814 606</b>	<b>848 379</b>
Joint stock banks	244 483	228 035	220 419	222 074	224 906
Savings banks	146 150	147 553	152 517	165 970	170 048
Mortgage banks	58 270	56 146	52 011	53 217	54 194
Raiffeisen cooperatives	261 344	257 841	255 115	275 539	292 541
Volksbank cooperatives	33 291	31 985	31 042	31 591	33 017
Building societies	22 757	22 79	22 499	22 363	21 989
Special-purpose banks <sup>2</sup>	58 360	53 968	43 610	43 852	51 683

<sup>1</sup> Excluding branches from EEA countries in Austria (Article 9 BWG), credit guarantee banks and corporate provision funds.

<sup>2</sup> Excluding credit guarantee banks as specified in Article 5 no. 3 KStG.

(> Chart 8), while joint stock banks occupied second place (26.5%) and savings banks third (20.0%).

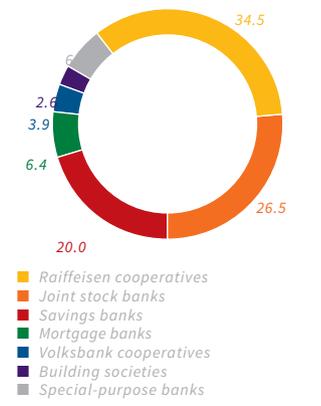
## INSURANCE UNDERTAKINGS

As at the 2019 year-end, 82 Austrian insurance undertakings and mutual associations held a licence granted by the FMA (2018: 84), and were thus subject to continued supervision by the Authority. The number has dropped by 39 over the past ten years (> Table 9).

These licensed companies comprised 36 major insurance undertakings, six of which operate as mutual associations and 29 as joint stock companies. There is also one foreign insurance undertaking licensed in Austria. Additionally, 47 small mutual associations, which are among Austria's oldest insurers and specialise in fire insurance (around two thirds) and livestock insurance, also fell under the FMA's remit.

Table 7: **Total assets of banks 2015–2019** (source: OeNB; 2015–2018 financial statement figures, 2019 asset, trading and risk statements)

Chart 8: **Market shares of banks in 2019 excluding branches from EEA countries in Austria (Article 9 BWG) and corporate provision funds (included under special-purpose banks) (in %)**



## AUSTRIAN BANKS IN CESEE

The 50 fully consolidated subsidiary banks in Central, Eastern and South-Eastern Europe (CESEE) reported aggregate total assets of € 222.9 billion in 2019 (as reported at the end of the fourth quarter). Over half of this figure (60.8%) was accounted for by the Member States that acceded to the EU in 2004 (NMS-2004), followed by the South-Eastern European countries (SEE) at 15.5%, the Member States that joined the EU in 2007 (NMS-2007) at 13.1%, and the countries in the Commonwealth of Independent States (CIS) including Ukraine at 10.6%. Growth among Austrian CESEE subsidiary banks in the 2019 financial year was once again positive, at 7.9%.

Table 8: **Assets of CESEE subsidiary banks** (in € millions)

	2015	2016	2017	2018	2019
<b>Total assets of CESEE subsidiary banks</b>	<b>265 736</b>	<b>184 966</b>	<b>205 532</b>	<b>206 582</b>	<b>222 947</b>
NMS 2004 <sup>1</sup>	141 626	114 565	132 757	128 476	135 614
NMS 2007 <sup>2</sup>	39 894	25 684	26 747	27 992	29 223
SEE <sup>3</sup>	50 568	29 199	30 303	31 766	34 487
CIS incl. Ukraine <sup>4</sup>	33 649	15 519	15 724	18 348	23 624

Data: OeNB (2015–2018 financial statement figures, 2019 asset, trading and risk statements).

<sup>1</sup> NMS-2004: Czech Republic, Hungary, Poland, Slovakia, Slovenia.

<sup>2</sup> NMS-2007: Bulgaria, Romania.

<sup>3</sup> SEE: Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia.

<sup>4</sup> CIS: Belarus, Republic of Moldova, Russia.

Table 9: Key insurance figures  
2015–2019

	2015	2016	2017	2018	2019
<b>LEGAL FORMS</b>					
<i>Mutual associations (excluding small mutuals)</i>	6	7	7	6	6
<i>Joint stock companies</i>	35	31	30	29	29
<i>Small mutual associations</i>	52	50	49	49	47
<b>Total</b>	<b>93</b>	<b>88</b>	<b>86</b>	<b>84</b>	<b>82</b>
<i>Mutual associations dealing in asset management/private foundations</i>	6	6	6	6	6
<b>BUSINESS AREAS</b>					
<i>Life insurance</i>	27	23	23	22	22
<i>Non-life and accident insurance</i>	35	33	32	30	30
<i>Health insurance</i>	9	9	9	9	9
<i>Reinsurance only</i>	2	3	2	1	1
<b>Business areas small mutual associations</b>					
<i>Fire insurance associations</i>	34	34	33	32	30
<i>Animal insurance associations</i>	17	16	16	16	16
<i>Death benefit funds</i>	0	0	0	0	0
<i>Reinsurance associations for small mutuals</i>	1	0	0	1	1
<b>TOTAL ASSETS AT MARKET VALUES</b>					
<i>(excluding investments for unit-linked and index-linked life insurance, in € billions)</i>	107.93	110.68	108.98	106.91	110.6
<b>EEA INSURERS IN AUSTRIA</b>					
<i>Operating through branches</i>	30	29	29	30	29

In this group the FMA approved the merger of Attergauer Wechselseitiger Versicherungsverein a.G and Brandschadenversicherungsverein a.G. Altmünster to form Ebenseer Versicherung Wechselseitiger Versicherungsverein a.G. during the reporting year. The mutual now operates under the name of Salzkammergut Versicherung – Wechselseitiger Versicherungsverein a.G.

Austria is traditionally dominated by composite insurers which, besides life insurance, also pursue activities in at least one other balance sheet group, i.e. health insurance or non-life and accident insurance. All in all, the 36 larger licensed domestic and foreign insurance undertakings, excluding small mutual associations, were engaged in 62 areas of business in Austria.

Additionally, 29 insurance undertakings from within the European Economic Area (EEA) were operating in Austria under the freedom of establishment or through a branch, and some 1 000 companies were registered to provide services here.

At the end of 2019 Austrian insurance undertakings were managing assets totalling € 110.60 billion, excluding investments for unit-linked and index-linked life insurance. Investments rose by € 3.70 billion, or 3.46%, compared with 2018.

### PENSIONSKASSEN

The number of *Pensionskassen* has decreased over the past five years from 14 to eight companies (> Table 9), five of which are multi-employer and three single-employer *Pensionskassen*. Single-employer *Pensionskassen* are entitled to carry out pension company activities for the beneficiaries of only one employer or company group; most were founded as subsidiaries of international groups. Multi-employer *Pensionskassen* may carry out pension company activities for the beneficiaries of more than one employer.

	2015	2016	2017	2018	2019
<b>NUMBER OF PENSIONS KASSEN AND IRGs</b>					
Number of Pensionskassen	13	12	10	9	8
Number of investment and risk-sharing groups	113	112	104	101	101
Number of security-oriented IRGs	5	4	4	4	4
Number of sub-IGs	28	32	34	34	34
<b>ASSETS MANAGED IN THE PENSION COMPANY MARKET</b>					
Assets managed by Pensionskassen (total, in € millions)	19 646	20 839	22 323	21 404	24 295
– Single-employer	1 850	2 020	1 880	1 920	2 052
– Multi-employer	17 796	18 819	20 442	19 484	22 243
<b>NUMBER OF BENEFICIARIES IN THE PENSION COMPANY SYSTEM</b>					
Number of beneficiaries (total)	880 141	902 972	924 107	947 545	979 637
– Single-employer	254 122	258 914	255 632	261 562	263 842
– Multi-employer	626 019	644 058	668 475	685 983	715 795
– Beneficiaries (entitled)	791 124	809 279	825 778	843 569	868 230
– Beneficiaries (recipients)	89 017	93 693	98 329	103 976	111 407
Beneficiaries (recipients) (as a % of total)	10,11	10,38	10,64	10,97	11,37
Beneficiaries (entitled) (as a % of dependently employed persons in Austria)	21,67	21,92	21,97	22,12	22,20

Table 10: Overview of pension company market 2015–2019

The decline in their number can be attributed to single-employer *Pensionskassen* discontinuing activities and subsequently transferring their investment and risk-sharing groups (IRGs) to existing multi-employer *Pensionskassen*. The consolidation of the market continued in the reporting year: the licence of Porsche Pensionskasse Aktiengesellschaft, a multi-employer *Pensionskasse*, expired following its merger in the capacity of transferor company with VBW-Pensionskasse Aktiengesellschaft, the transferee company.

In the reporting year there were 101 IRGs, four security-oriented IRGs and 34 sub-IGs. There were also about 980 000 beneficiaries, representing a year-on-year increase of approximately 3.39%. This figure covers both those for whom contributions are being made into the pension company system for future benefits and those who are already receiving benefits under the system.

Around 22% of all employed persons in Austria<sup>1</sup> have an entitlement to a pension from a *Pensionskasse*, and approximately 11% of these beneficiaries are already drawing a pension. The vast majority of the beneficiaries are, however, still in the savings period for a pension benefit.

## CORPORATE PROVISION FUNDS

As at 31 December 2019, eight corporate provision funds held licences in Austria. During the reporting period no corporate provision fund applied for a licence or relinquished its licence. Two funds each manage two collective investment undertakings. The remaining funds each manage one collective investment undertaking, accounting for a total of ten such undertakings (> Table 10).

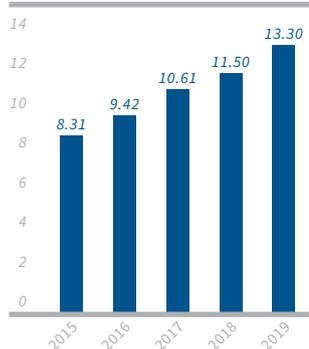
As at the reporting date, the number of membership contracts – measured on the basis of employer account numbers – had increased by 4.65% from 1 386 884 to

<sup>1</sup> Source for the number of dependently employed persons (annual average): Statistics Austria.

	2015	2016	2017	2018	2019
Number of corporate provision funds	9	8	8	8	8
Number of collective investment undertakings	10	10	10	10	10
Number of membership contracts	1 224 952	1 292 940	1 351 933	1 386 884	1 451 362
– Provision for employees pursuant to Part 1 BMSVG	604 393	637 715	666 234	662 349	689 411
– Provision for the self-employed pursuant to Part 4 BMSVG	607 289	642 216	672 620	711 278	748 544
– Provision for the self-employed pursuant to Part 5 BMSVG	13 270	13 009	13 079	13 257	13 407

Table 11: **Development of corporate provision funds 2015–2019** (source: platform of corp. prov. funds)

Chart 9: **Assets under management by corporate provision funds 2015–2019** (in € billions)



1 451 362 (> Table 11). Provision for employees grew by 4.09% (from 662 349 to 689 411 contracts), while provision for the self-employed rose by 5.16% (from 724 535 to 761 951 contracts).

Assets under management by corporate provision funds in 2019 grew from € 11.5 billion to € 13.3 billion (> Chart 9). This equates to a year-on-year increase of € 1.81 billion or 15.73%.

## ASSET MANAGERS

As at the reporting date of 31 December 2019, a total of 14 investment fund management companies held a licence pursuant to the Investment Fund Act 2011 (InvFG 2011; *Investmentfondsgesetz*). Compared on a year-on-year basis, their number had dropped by two (one licence was relinquished and one licence expired). Of these 14 investment fund management companies (KAG), 13 also held an additional licence as an alternative investment fund manager (AIFM) (> Table 12). During the period under review, one licence extension process was initiated and completed.

As at the reporting date, 51 AIFMs (2018 year-end: 50) had been authorised by the FMA, 23 of those were licensed as AIFMs, with the remaining companies only being registered. One licence was relinquished in 2019 and one new licence granted, which is why the number of licensed AIFMs remained unchanged on the previous year. The number of registered AIFMs increased from 27 to 28 AIFMs owing to three new registrations and two deregistrations. Of the 28 registered AIFMs, nine managers are add-

Table 12: **Number of asset managers 2015–2019**

	2015	2016	2017	2018	2019
KAG pursuant to InvFG 2011	24	21	18	16	14
Licensed AIFMs	27	26	25	23	23
– Immo-KAG pursuant to ImmoInvFG	5	5	5	5	5
Registered AIFMs	21	20	24	27	28
– EuVECA managers	3	4	6	7	9

Figure 2: **Authorisations of asset managers by law 2019**



Table 13: Key figures of the Austrian investment funds market 2015–2019

	2015	2016	2017	2018	2019
<i>Domestic UCITS of investment fund management companies</i>					
Article 2 paras. 1 and 2 InvFG 2011	1 071	1 038	995	977	907
Article 75 InvFG	2	2	2	2	1
<b>Total</b>	<b>1 073</b>	<b>1 040</b>	<b>997</b>	<b>979</b>	<b>908</b>
<i>Domestic AIFs of (real-estate) investment fund management companies as well as of licensed and registered AIFMs</i>					
Article 166 InvFG	165	154	152	143	131
Article 168 et seq. InvFG	16	12	9	7	6
Real estate funds and special real estate funds	9	11	13	13	13
Special funds pursuant to the InvFG	835	844	875	894	913
AIFs of registered AIFMs	29	24	32	34	37
EuVECA	3	3	6	8	11
Other managed AIFs	6	6	–	–	–
<b>Total</b>	<b>1 063</b>	<b>1 054</b>	<b>1 087</b>	<b>1 099</b>	<b>1 111</b>

itionally licensed to manage European Venture Capital Funds (EuVECA); two more than in 2018 (> Figure 2).

As at the reporting date of 31 December 2019, there were 2 019 funds being managed by domestic investment fund management companies and/or AIFMs in Austria (2018: 2 078). This figure includes 48 AIFs (three of which are EuVECA) that are managed by registered AIFMs in Austria. Five Austrian real estate investment fund management companies (Immo-KAG) were managing a total of eight retail real estate funds and five special real estate funds, all of which were AIFs.

The changing number of domestic funds over the past five years, including both UCITS and AIFs, is shown in Table 13.

The FMA also monitors custodian banks' and depositaries' compliance with the relevant provisions in the InvFG 2011 and the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*). In 2019, 15 credit institutions were operating in this field of business.

## INVESTMENT SERVICE PROVIDERS

### LICENSED COMPANIES

As at the reporting date, there were 108 companies in possession of a valid licence from the FMA entitling them to provide services as investment firms (65) or investment service providers (43). Three alternative investment fund managers (AIFMs) and seven investment fund management companies held an additional licence pursuant to the Securities Supervision Act 2018 (WAG 2018; *Wertpapieraufsichtsgesetz*). Four insurance undertakings were authorised to receive and transmit fund units in accordance with the applicable law (> Table 14).

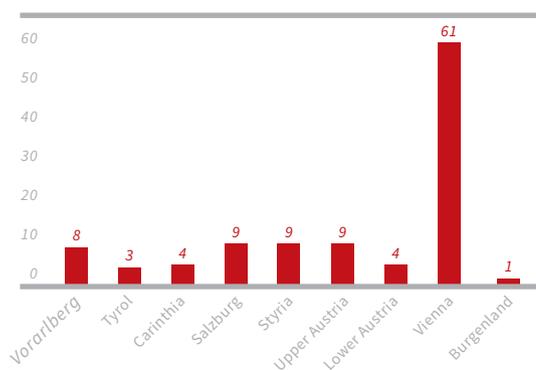
The number of providers has evened out again, after many years of significant falls, with the share of licences among the different types still continuing to shift towards investment firms, which must meet higher regulatory requirements but may in turn offer their services throughout the EU.

All of the 108 licensed investment firms and investment service providers were entitled to provide investment advice relating to financial instruments, with 44 investment firms authorised to manage client portfolios. In all, 104 investment firms and investment service providers were authorised to receive and transmit orders to the

Table 14: Key figures of Austrian investment service providers 2015–2019

	2015	2016	2017	2018	2019
<b>ALL COMPANIES</b>	<b>126</b>	<b>114</b>	<b>114</b>	<b>109</b>	<b>122</b>
<b>LICENCES</b>					
Investment firms	66	60	60	61	65
Investment service providers	57	51	51	45	43
AIFMs with additional licence	3	3	3	3	3
Investment fund management companies with additional licence	–	–	–	–	7
Insurance undertakings (statutory fund management)	–	–	–	–	4
<b>INVESTMENT SERVICES</b>					
Investment advice	126	111	111	106	115
Portfolio management	45	41	41	40	51
Receipt and transmission of orders	123	107	108	103	111
Multilateral trading facility	0	0	0	0	0
European passport for services	45	43	44	43	44
European passport for branches	5	6	7	8	7
Cooperation with financial services assistants/securities brokers	73	64	62	58	56
<b>LEGAL FORM</b>					
Joint stock company (AG)	11	9	7	7	12
Limited liability company (GmbH)	93	88	90	86	95
Partnerships	3	2	3	3	3
Sole proprietorships	19	15	14	13	12
<b>BUSINESS ACTIVITY</b>					
Investment advice	63	57	57	57	47
Portfolio management	32	31	31	35	37
Receipt and transmission of orders	83	76	72	68	64
Investment funds advisory	–	–	–	–	–
UCITS advisory	23	23	23	24	21
AIF advisory	6	6	6	6	8
External management of investment funds	–	–	–	–	–
UCITS management	23	21	21	22	23
AIF management	11	11	12	14	17
Appointment of tied agents	26	37	34	36	36
Cooperation with securities brokers	37	30	29	26	24
Sale of own products	50	50	49	49	47
Key account customer services	41	33	34	34	33

Chart 10: Investment firms/  
investment service providers by  
federal province 2019



extent that such activity involves one or more financial instruments. As at the end and reporting year, 44 Austrian investment firms held a European passport for the provision of investment services in the European Economic Area (EEA), with seven of these companies maintaining branches in the EEA.

In terms of the geographical distribution of the licensed investment firms and investment service providers within Austria, a total of 61 companies or nearly 56.48% of all licensed companies had their registered office in Vienna. Upper Austria, Salzburg and Styria were the next highest, with nine companies each, followed by Vorarlberg with eight licensed companies (> Chart 10).

## AGENTS

In 2019 there were 2 963 investment firms with their head office situated in another EEA Member State that were authorised to provide investment services in Austria under the freedom to provide services by way of a branch or notification through the

passport regime. This corresponds to a year-on-year increase of 2.27%. A total of 22 branches of EEA investment firms were operating in Austria on the basis of such notification. Of those firms that had provided notification of their operations in Austria, 2 014 (67.97%) came from the UK, followed by 247 (8.34%) from Germany and 223 (7.53%) from Cyprus.

A total of 1 412 individuals were registered as tied agents with the FMA and working for 29 Austrian investment firms; 15 tied agents were registered at eight investment firms from the EEA based in Austria, and 379 natural and legal persons were registered as tied agents at seven Austrian banks and one bank originating from the EEA. Regarding companies, there were 228 companies registered with the FMA as tied agents and operating in the form of a legal entity in 2019.

A total of 56 Austrian investment firms and investment service providers were entitled to provide services through securities brokers. Of these, only 24 actually exercised the right granted to them. As at 31 December 2019, 419 individuals acting as securities brokers for investment firms or investment service providers were registered with the FMA.

## **BENCHMARK ADMINISTRATORS**

In accordance with the provisions of the Benchmarks Regulation, persons who provide indices within the EU (index providers) by reference to which the value of financial instruments, investment funds and consumer loans is determined must register as administrators. Administrators located in Austria must register with the FMA.

In the reporting year the FMA registered Wiener Börse AG as a benchmark administrator in Austria. As at 31 December 2019 the Vienna Stock Exchange had provided 147 non-significant benchmarks, grouping them in 22 families of benchmarks.

The transitional provisions of the Benchmarks Regulation stipulate that index providers who had already provided benchmarks by 30 June 2016 were required to file an application for a licence or registration with the FMA by 1 January 2020. At the moment, one further registration procedure is pending at the FMA.

## **BUSINESS DEVELOPMENT**

### **BANKS AND PAYMENT INSTITUTIONS**

In 2019 claims on non-banks rose by 4.6%, accounting for the largest share on the asset side of the Austrian banking sector, at 54.9%. The share of this item therefore increased by 0.2 percentage points compared with 2018. Liabilities to non-banks were up in terms of volume (+3.4%) but down by 0.4 percentage points in terms of share. However, at 50.5%, they still accounted for the largest item on the liability side. The second-largest entry on the asset side, accounting for around 19.7%, was claims on credit institutions. This item was down 0.4% on a year-on-year basis. On the liability side, the second-largest item was liabilities to credit institutions, accounting for 18.8% and representing a 0.8% decrease compared with the previous year.

### **EARNINGS SITUATION**

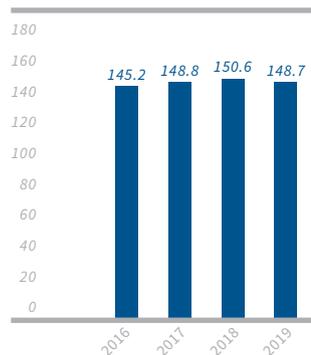
A non-consolidated operating result of € 5.2 billion is expected (at the time of this report being prepared) for Austrian banks in 2019. This represents a continued

	2015	2016	2017	2018	2019 (vorl.)
<b>DEVELOPMENT OF ASSETS AND LIABILITIES</b> (non-consolidated, in € millions)					
Total assets non-consolidated (sum total) <sup>1</sup>	824 656	798 208	777 213	814 606	848 379
Claims on credit institutions	179 439	168 242	163 319	167 952	167 211
Claims on non-banks	425 228	422 923	418 645	445 510	466 015
Debt securities and other fixed-income securities	54 154	47 742	40 236	43 330	44 656
Shares and other variable-yield securities	9 948	11 283	10 095	10 000	10 489
Other assets	155 887	148 017	144 918	147 814	160 009
Liabilities to credit institutions	179 391	157 185	157 028	160 744	159 418
Liabilities to non-banks	371 869	387 941	390 407	414 379	428 387
Securitised liabilities	142 971	128 581	114 009	123 317	137 045
Other liability items	130 425	124 500	115 769	116 166	123 528
<b>SUSTAINABILITY OF BUSINESS ACTIVITY</b> (non-consolidated)					
Loan-to-deposit ratio (non-banks, in %)	114.3	109.0	107.2	107.5	108.8
Foreign currency loans (as % of loans to households)	16.9	14.5	10.9	9.5	8.3
Non-performing and irrecoverable loans (as % of total loans)	4.0	3.2	2.5	2.0	1.8
<b>NET INCOME IN TERMS OF SECTORS</b> (non-consolidated, in € millions)					
Net income non-consolidated (sum total) <sup>1</sup>	3 257	4 219	5 137	5 636	4 553
Joint stock banks	713	923	1 225	1 457	866
Savings banks	1 321	1 462	1 374	1 454	1 383
Mortgage banks	178	324	150	182	157
Raiffeisen cooperatives	681	1 076	1 935	2 004	1 668
Volksbank cooperatives	41	52	77	81	117
Building societies	69	58	64	89	85
Special-purpose banks <sup>2</sup>	254	325	312	368	276
<b>EARNINGS SITUATION</b> (non-consolidated <sup>1</sup> , in € millions)					
Net interest income	8 818	8 361	7 885	8 290	8 295
Operating income	20 373	18 582	18 848	18 646	18 892
Operating expenses	13 478	13 334	12 454	12 644	13 651
Operating result	6 895	5 248	6 394	6 003	5 241
Cost-income ratio (in %)	66.16	71.76	66.08	67.81	72.26

Table 15: Business development of the Austrian banking sector 2015–2019

(Source: OeNB; 2015–2018 financial statement figures, 2019 asset, trading and risk statements)

Chart 11: Liquidity coverage ratio 2016–2019 (in %)



<sup>1</sup> Excluding branches from EEA countries in Austria (Article 9 BWG), credit guarantee banks and corporate provision funds.

<sup>2</sup> Excluding credit guarantee banks as specified in Article 5 no. 3 KStG.

decline: after a drop of more than 6% in 2018, it amounts to another 12.7% decline compared with the previous year. Underlying this development is a significant increase in operating expenses (+8.0%), combined with only a moderate increase in operating income (+1.3%). Following a 5.1% increase in 2018, net interest income rose only slightly in 2019, up by 0.1%. At 43.9%, net interest income continues to account for a high share of operating income.

For the 2018 financial year as a whole, Austrian credit institutions posted net income of € 5.6 billion, which is likely to be followed by another positive figure for 2019. Although the final figures were not yet available at the time of this report being prepared, the credit institutions are forecasting net income of roughly € 4.6 billion for 2019, with the individual sectors performing consistently positively. After recording net income of € 2.0 billion in 2018, the Raiffeisen cooperatives are expected to achieve the largest share of total net income, at € 1.7 billion, followed by the savings banks and joint stock banks. With regard to provisions for risk (value adjustments), Austrian credit institutions expect the low level to continue in 2019, at € 0.2 billion.

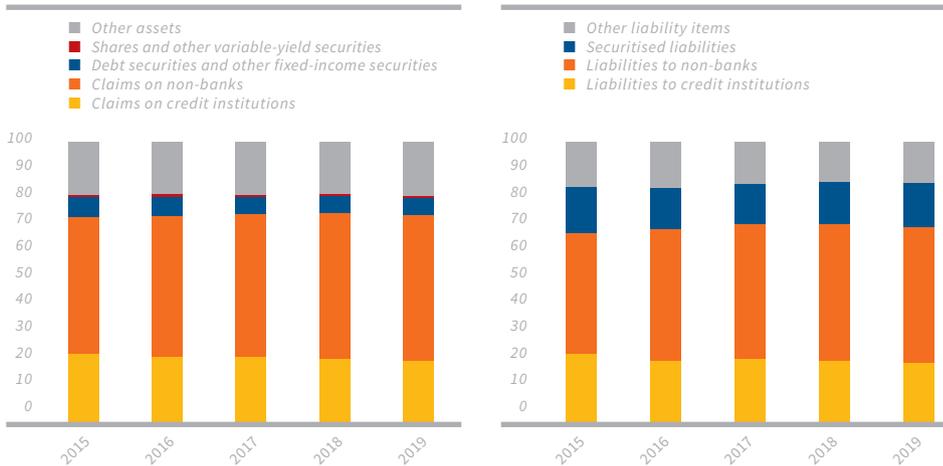


Chart 12 (left): **Development of the assets of the Austrian banking sector 2015-2019** (in %, non-consolidated, excluding EU branches, provision funds and credit guarantee banks)

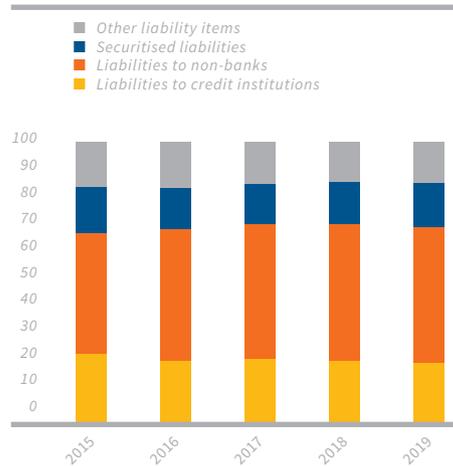


Chart 13 (right): **Development of the liabilities of the Austrian banking sector 2015-2019** (in %, non-consolidated, excluding EU branches, provision funds and credit guarantee banks)

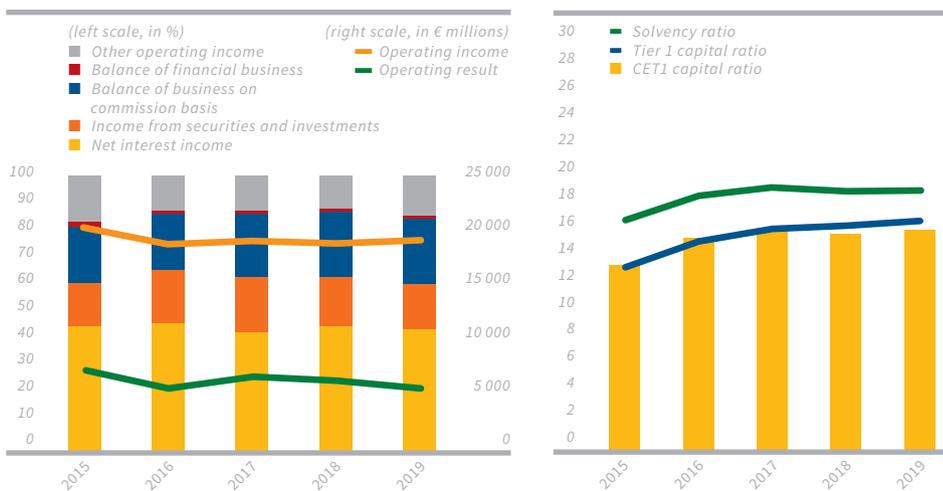


Chart 14 (left): **Earnings 2015-2019**

Chart 15 (right): **Capital base 2015-2019** (in % of RWA)

In 2019 the Austrian banking sector held a CET1 capital ratio of 15.6%, which was again slightly up compared with 2018. The reason for this is that while the volume of capital has risen (4.5% compared with 2018), risk-weighted assets (RWA) have increased a little more strongly (5.7%). In contrast, the liquidity position has somewhat deteriorated in 2019 but is still solid at 148.7% and well above the minimum requirement of 100% (> Chart 11).

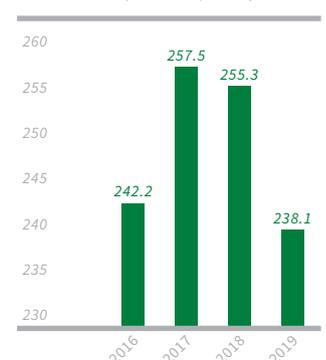
## INSURANCE UNDERTAKINGS

The volume of domestic premiums written (direct gross amount) was up 2.20% in 2019 compared with the previous year (following an increase of 1.19% from 2017 to 2018) and totalled € 17.56 billion (> Table 16).

With regard to the life insurance balance sheet group, premiums were down 2.18% from € 5.52 billion in 2018 to € 5.40 billion in the reporting year. The proportion of premiums from unit-linked and index-linked life insurance increased, amounting to 24.21% of all premiums written in life insurance (previous year: 24.04%). Totalling € 7.25 billion, payments for claims incurred rose by 9.46% in 2019; the equivalent figure for the previous year was € 6.62 billion.

The balance sheet group of non-life and accident insurance also showed an increase

Chart 16: **SCR solvency ratio 2016-2019** (median, in %)



	2015	2016	2017	2018	2019
<b>PREMIUMS WRITTEN IN AUSTRIA</b> (direct gross amount, in € millions)					
Life insurance	6 695	6 038	5 732	5 516	5 396
– Unit-linked life insurance	1 401	1 250	1 381	1 219	1 225
– Index-linked life insurance	66	96	93	107	81
Health insurance	1 959	2 051	2 129	2 220	2 328
Non-life and accident insurance	8 688	8 826	9 115	9 442	9 832
<b>Total</b>	<b>17 342</b>	<b>16 915</b>	<b>16 975</b>	<b>17 178</b>	<b>17 555</b>
<b>PAYMENTS FOR CLAIMS</b> (in € millions)					
Life insurance	8 463	7 749	7 165	6 619	7 245
Health insurance	1 297	1 340	1 454	1 456	1 541
Non-life and accident insurance	5 382	5 446	5 765	5 746	5 981
<b>Total</b>	<b>15 142</b>	<b>14 535</b>	<b>14 384</b>	<b>13 821</b>	<b>14 767</b>
<b>EARNINGS AND PROFITABILITY</b> (in € millions)					
Technical account balance	475.15	559.94	580.96	506.54	618.45
Financial result	3 215.64	3 051.10	2 814.89	2 528.46	3 118.32
Result from ordinary activities	1 354.02	1 414.22	1 244.20	1 168.33	1 694.60
<b>RETURN ON SALES</b> (in %)					
Non-life/accident	12.0	12.1	11.8	10.5	15.3
Life	2.6	3.3	0.8	1.9	1.7
Health	6.9	7.2	5.9	3.5	4.3
<b>Total</b>	<b>7.8</b>	<b>8.4</b>	<b>7.3</b>	<b>6.8</b>	<b>9.7</b>

Table 16: Market development of Austrian insurance undertakings 2015–2019

Chart 17: Structure of investments at market values (other than assets held for index-linked and unit-linked contracts, in %, rounded)

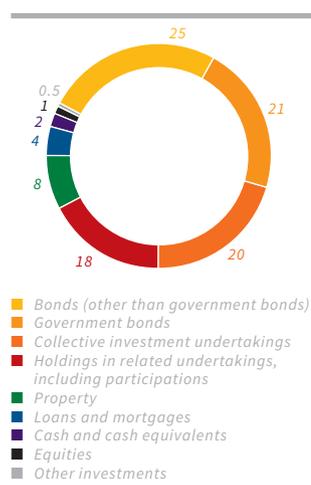


Table 17: Investment performance of Pensionskassen 2015–2019 (in %)

	2015	2016	2017	2018	2019
Investment performance (total)	2.32	4.18	6.13	-5.14	11.62
Single-employer	2.53	5.13	4.7	-0.37	9.47
Multi-employer	2.30	4.08	6.34	-5.59	11.82

over the previous year, with premiums written rising by 4.13% to total € 9.83 billion. Totalling € 5.98 billion, payments for claims grew by 4.08%.

With premiums written of approximately € 2.33 billion, the health insurance balance sheet group achieved an increase of 4.86% on the previous year. Totalling € 1.54 billion, payments for claims incurred were up by some 5.85% in this group.

At 9.7%, the return on sales was moving upwards compared with the previous year (2018: 6.8%). The result from ordinary activities was also higher year-on-year, rising by 45.04% to € 1.69 billion. As far as investments are concerned, these continued to be clearly focused on interest-bearing securities (> Chart 17), while equity investments remained low.

The SCR (solvency capital requirement) ratio, depicting insurers' capital base, amounted to 238.10% (median) of minimum requirements in the reporting year on a sector-wide basis (> Chart 16). This figure is lower than in the previous year, when it amounted to 255.29%.

## PENSIONS KASSEN

As at 31 December 2019, the Austrian Pensionskassen together managed a volume of € 24.3 billion, representing an increase of around 13.51% on the previous year. This

change in assets under management resulted for the most part from contributions, pension benefits, inflows of funds from newly concluded pension company contracts and the investment result.

The average investment performance of *Pensionskassen* was up 11.6% in the reporting year, after declining by 5.1% in 2018 (> Table 17).

The total aggregate assets of Austrian *Pensionskassen* amounted to 43% bonds, 34% equities, 7% cash, 10% other assets, 5% real estate and 1% loans (> Chart 18).

## CORPORATE PROVISION FUNDS

Corporate provision funds received current contributions totalling € 1.72 billion (+7.24% on the previous year) during the year under review, of which € 1.60 billion (+7.35%) was paid into the provision for employees and € 122.86 million (+5.86%) into self-employed provision. The total assets managed therefore climbed to € 13.3 billion (> Table 18).

A total of € 586.93 million was paid out as a capital sum to 521 241 beneficiaries (entitled) in 2019. Over the same period, 39 085 beneficiaries (entitled) transferred their pension entitlements to another corporate provision fund, moving an amount of € 43.50 million. Additionally, 490 individuals paid in a total of € 2.27 million to a *Pensionskasse* or supplementary pension insurance scheme, or to an occupational group insurance scheme. Amounts drawn on the basis of an entitlement to severance pay generally took the form of capital sums, as has been the case for the past five years (> Chart 19).

Corporate provision funds' average performance for their investments was up by 5.74% in the reporting year (2018: -1.97%).

Corporate provision funds are required to guarantee their beneficiaries (entitled) a minimum claim. This encompasses the total accrued severance pay contributions and any transferred existing severance pay entitlement, as well as any severance pay entitlements transferred from another corporate provision fund. It is also referred to as the capital guarantee. Corporate provision funds are also free to offer a higher interest guarantee over and above this capital guarantee. Such an interest guarantee was offered by one fund in 2019.

## ASSET MANAGERS

The 14 investment fund management companies licensed by the FMA pursuant to the

Chart 18: Types of investment of *Pensionskassen* 2019 (in %)

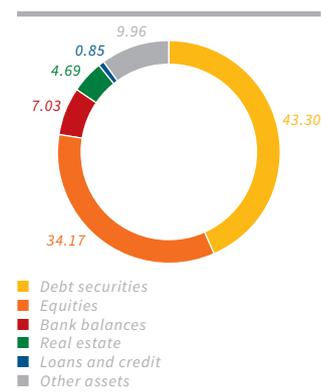


Chart 19: Types of investment of corporate provision funds 2019 (in %)

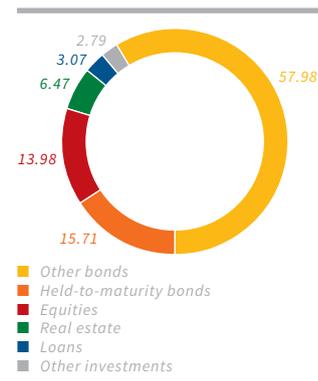


Table 18: Market development of corporate provision funds 2015-2019 (source: Platform of corporate provision funds)

	2015	2016	2017	2018	2019
Assets of corporate provision funds (in € millions)	8 306	9 423	10 610	11 496	13 304
Current contributions (in € millions)	1 289	1 374	1 476	1 606	1 722
Performance of corporate provision funds (in %)	1.22	2.23	2.18	-1.97	5.74
<b>DISPOSAL OPTIONS (in € millions)</b>					
Payout as capital sum	387.88	444.70	488.12	526.44	586.93
Transfer to another corporate provision fund	20	21.55	34.92	65.86	43.5
Remittance to supplementary pension or occupational group insurance scheme	0.18	0.07	0.06	0.11	0.01
Remittance to a Pensionskasse	1.04	1.71	1.51	1.79	2.26
<b>Total</b>	<b>409.1</b>	<b>468.03</b>	<b>524.61</b>	<b>594.2</b>	<b>632.7</b>

Chart 20: Assets of investment funds 2015–2019 (in € billions)

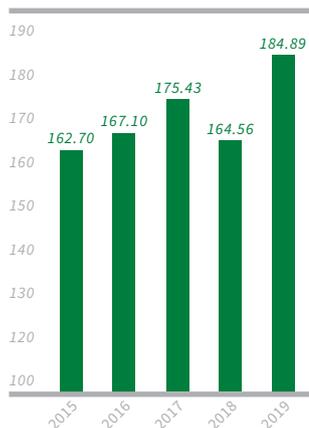


Chart 21: Net growth/net outflows by investment category 2019 (in € millions)

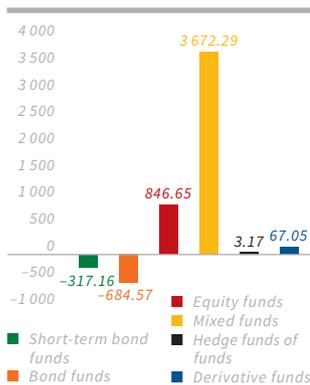


Chart 22: Fund assets by investment category 2019 (as at 31 Dec. 2018, in %)

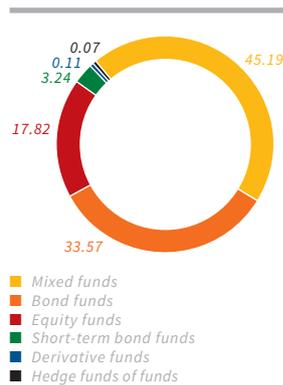
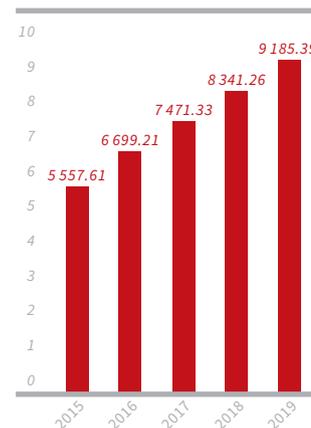


Chart 23: Fund assets of real estate funds 2015–2019 (in € millions)



Investment Fund Act (InvFG; *Investmentfondsgesetz*) managed fund assets totalling € 184.89 billion in Austria as at 31 December 2019, excluding the fund assets managed by real estate investment fund management companies. This equates to a year-on-year increase of € 20.33 billion, or 12.36% in percentage terms. After the sharp decline of € 10.87 billion, or -6.2%, in 2018, this meant that another all-time high was reached in the reporting year (> Chart 20).

There were high net inflows of funds in 2019, totalling € 3.59 billion. In contrast, 2018 saw net outflows of € 809.17 million. Broken down by fund category, it was primarily mixed funds that recorded a considerable increase (+€ 3.67 billion), followed by equity funds (+€ 846.65 million), derivative funds (+€ 67.05 million) and hedge funds of funds (+€ 3.17 million). As in previous years, the greatest outflows were recorded by bond funds (-€ 684.57 million) and by short-term bond funds (-€ 317.16 million) (> Chart 21).

The dominant position of the mixed funds category is reflected, as in the previous five years, not just in net inflows but also in the overall distribution of fund assets. As at 31 December 2019, € 83.55 billion or 45.19% of the total volume was invested in this category, with bond funds occupying second place at € 62.07 billion or 33.57%. Equity funds were in third place, at € 32.95 billion or 17.82%, followed by short-term bond funds (3.24%), derivative funds (0.11%) and hedge funds of funds (0.07%) (> Chart 22). Broken down by target group, 50.36% of shareholders were invested in retail funds and 49.64% in special funds at the 2019 year-end.

These figures also include alternative investment funds (AIFs) as defined in the InvFG 2011, such as special funds and other special assets.

Alternative investment fund managers (AIFMs) who are only licensed or registered according to the Alternative Investment Fund Managers Act (AIFMG; *Alternatives Investmentfonds Manager-Gesetz*) managed fund assets of Austrian AIFs amounting to € 0.9 billion as at 31 December 2019 (based on provisional figures at the time of this report being prepared).

As at the reporting date of 31 December 2019, the five Austrian real estate investment fund management companies were managing fund assets of € 9.19 billion, representing a year-on-year increase of 10.12% (> Chart 23).

## INVESTMENT SERVICE PROVIDERS

Austria's investment firms managed assets totalling € 43.16 billion in 2019, representing a year-on-year decline of € 6.33 billion. The number of customers dropped by 8.12%, and the assets under management per customer fell by 5.08% at the same time.

Some 75% of the total assets under management related to the services of portfolio management, fund advisory and third-party management. Third-party management covers collective portfolio management activities that investment fund companies and alternative investment fund managers outsource to investment firms. Portfolio management accounted for 57% of the generated sales revenues.

The trend towards more specialised and professional companies in the market also continued. This development is particularly striking when looking at the proportion of total customer assets under management from professional investors in relation to those from retail customers: the ratio was 7:1 in the year under review. One of the reasons why institutional investors and professional market participants in particular turn to investment firms is that they offer a comprehensive range of services, from advisory mandates and strategic or tactical asset allocation through to the outsourced management of investment funds. Additionally, investment firms work to establish long-term developments in market phases during which prices rise and the forecast economic growth values fall.

Apart from finding the perfect fit for an investor's needs, flexibility is another key feature for the investment service of asset management: when capital markets shift, asset managers can usually react quickly – within their respective asset management mandate.

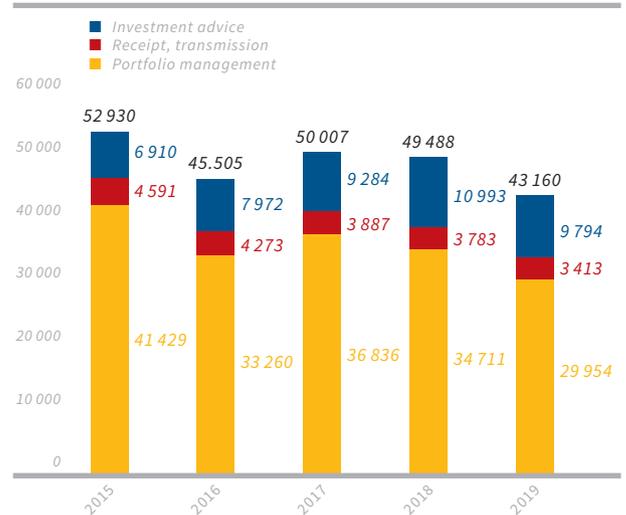


Chart 24: **Customer assets under management by type of service 2015–2019**  
(in € millions)

## IFD AND IFR – A NEW REGULATORY FRAMEWORK FOR INVESTMENT FIRMS

Investment firms are now subject to a new set of prudential requirements: the Investment Firms Directive<sup>2</sup> (IFD) and the Investment Firms Regulation<sup>3</sup> (IFR), both published in the Official Journal of the European Union on 5 December 2019, set out comprehensive new rules for investment firms. The EU has been debating whether to have a separate body of rules for investment firms for some time now; rules that take account of their specific business models and risks. The applicable new rules now need to be implemented and fleshed out at a national level.

National implementation by Austrian lawmakers is still outstanding. However, it is already clear that the new rules are quite complex in some areas, and likely to pose some serious challenges for investment firms.

<sup>2</sup> Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU.

<sup>3</sup> Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014.

# INTERNATIONAL COOPERATION



**A**s the integrated supervisory authority for the Austrian financial market, the FMA is a member of many different transnational, European and global organisations and associations that deal with the regulation and supervision of financial markets. The Authority enters into Memoranda of Understanding (MoUs) and is represented in all relevant bodies and working groups. The FMA is thus actively involved in the advancement of regulation as well as in targeted supervisory activities across national borders. In 2019 it represented the interests of the Austrian financial market in some 290 permanent or temporary international working groups.

## EUROPEAN COOPERATION

Within the European System of Financial Supervision (ESFS), the following two topics took centre stage in 2019:

- the extensive preparations needed for the United Kingdom's withdrawal from the European Union (Brexit) and
- completion of the reform of European cooperation within the ESFS (ESAs' Review).

### BREXIT

The initial date set for the UK's withdrawal from the EU was 29 March 2019. However, this date was subsequently postponed several times at the last minute, to 12 April 2019, to 31 October 2019 and then to 31 January 2020, which was the date on which the UK actually left. The Withdrawal Agreement includes a transition period that lasts until 31 December 2020. During this time-limited period the UK will continue to adhere to all EU rules and contribute to the Union's budget as before but will no longer participate in the EU's decision-making processes. The EU and the UK will use this time to negotiate and conclude a new agreement, regulating the long-term relationships between the two economic areas. If no agreement is reached during this time, either the transition period can be extended or the UK will have to start trading under the World Trade Organization's (WTO) rules.

The legal consequences of the UK leaving the EU after this period without a ratified agreement establishing a future partnership would be as disruptive and challenging as they would have been if there had been no Withdrawal Agreement (hard Brexit). One of the biggest challenges for the financial market in this respect is that the passport regime will no longer apply to the UK: under this regime, a provider of a financial

service licensed in one Member State of the European Economic Area (EEA) is entitled (by way of the European passport) to also offer that financial service on a cross-border basis in every other Member State. If no partnership agreement is concluded, this mutual entitlement to provide services will immediately cease to apply to any business dealings with the UK.

The European Supervisory Authorities therefore conducted detailed risk analysis in relation to a possible no-deal scenario in 2019, took appropriate preparedness measures and communicated those to the market. The FMA has been involved in the Brexit preparations through the ESAs and the SSM, and has also analysed the Austrian financial market and encouraged affected financial services providers to prepare themselves for the worst case.

As of now, it is still unclear whether a new trade agreement with the UK will enter into force on 1 January 2021 and whether such an agreement would also cover financial services, or whether the transition period will be extended or whether trade relationships will even revert to WTO rules.

### **REVIEW OF THE EUROPEAN SUPERVISORY AUTHORITIES**

The review of the European System of Financial Supervision (ESFS) was adopted in 2019, and this ESAs' Review brought about some changes to the tasks and functioning of the European Supervisory Authorities (ESAs). The changes took effect on 1 January 2020, with Regulation (EU) 2019/2175 entering into force.

Key changes to the tasks assigned to the ESAs:

- The mandate to act relating to the prevention and countering of money laundering or of terrorist financing will be concentrated within the European Banking Authority (EBA). For this purpose, EBA must set up a centralised database in which national authorities must enter relevant information.
- The European Securities and Markets Authority (ESMA) will be given a new coordination function relating to the cross-border supervision of orderly trading in listed securities, and specifically in relation to the reporting of suspicious orders, transactions and activities with cross-border effects. It will in future also be directly responsible for the supervision of data reporting services providers that are relevant to the internal market, and it was granted further competences within the scope of the Benchmarks Regulation, which should help prevent the manipulation of critical indices and benchmarks. Additionally, the Authority will be required to identify up to two priorities of Union-wide relevance (Union strategic supervisory priorities), which competent authorities will have to take into account when drawing up their work programmes. The Boards of Supervisors (BoS) of the ESAs will need to identify them at least every three years, and they will then have to be reflected in the individual national work programmes.

Key changes in the functioning of the ESAs:

- All ESA regulations now expressly refer to the principle of proportionality, and each ESA must establish its own Advisory Committee on Proportionality (ACP).
- The rules applying to the appointment of the Chairperson and the composition of the Management Board have been revised, and the rules on the prevention of conflicts of interest between panel members tightened. Finally, the Management Board can now also establish coordination groups in the event of certain market developments.

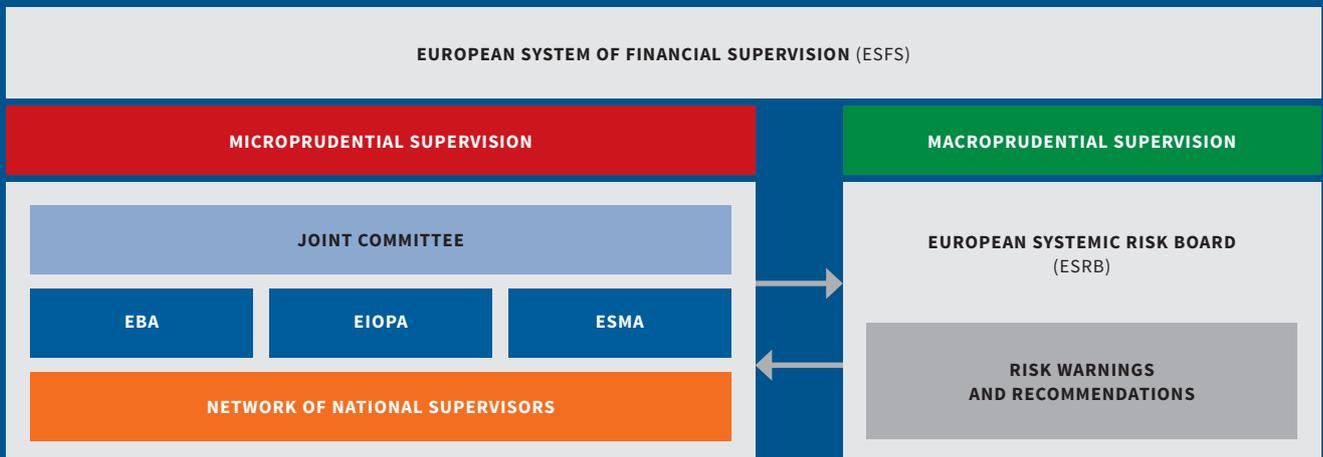
## THE EUROPEAN SUPERVISORY SYSTEM

The national financial market supervisors in the EU have been cooperating closely with one another through the European System of Financial Supervision (ESFS) since the start of 2011. Within this system, the banking supervision agenda is set by the European Banking Authority (EBA). Alongside the national supervisory authorities within the European Economic Area (EEA), the European Central Bank (ECB), as the European banking supervisor and lead organisation within the Single Supervisory Mechanism (SSM), closely cooperates with the EBA and is also represented in the ESFS as a non-voting member. The EBA relocated from London to Paris in 2019 as a result of Brexit. The European Securities and Markets Authority (ESMA) has been based in Paris since its foundation, while the European Insurance and Occupational Pensions Authority (EIOPA) is located in Frankfurt.

The role of these three European Supervisory Authorities (ESAs) is to prepare detailed regulations in the form of technical standards, guidelines and recommendations on the basis of EU regulations and directives. It is also becoming increasingly important for these authorities to work to ensure the convergent application of the rules by the national supervisors. The three bodies only supervise companies directly in a few selected areas. A Joint Committee is in place to deal with issues that straddle all three areas of supervision.

Meanwhile, the three ESAs, with their microprudential focus, are supported by the European Systemic Risk Board (ESBR), based at the ECB in Frankfurt. Its remit is to identify systemic risks to the European financial system and to take early action.

Figure 5: European supervisory architecture



From the perspective of the institutional system as a whole, far-reaching preparations for the United Kingdom's departure from the European Union (Brexit) and the finalisation of the reform of European cooperation (ESAs' Review – see adjacent information) were key priorities in 2019 too.

- Peer reviews are now specified in much greater detail, with mandatory follow-up measures that may be adopted in the form of ESA guidelines and recommendations. Decisions on peer reviews, mediation and breaches of Union law should now be reached in a written procedure.

#### **EUROPEAN BANKING AUTHORITY – EBA**

The main focus of the European Banking Authority's (EBA) work is on regulation. Through the adoption of technical standards, guidelines and opinions, the Authority contributes significantly to strengthening supervisory convergence within the EEA. In 2019 the EBA issued guidelines on anti-money laundering and countering the financing of terrorism (AML/CFT), advice on the implementation of Basel III as well as guidelines on ICT and security risk management. The Authority also worked on the regulation and promotion of FinTechs, on consumer protection topics in relation to the revised Payment Services Directive (PSD2) and preparations for the EU-wide stress test in 2020. On 3 May 2019, José Manuel Campa succeeded the former EBA Chair, Andrea Enria, who had been appointed Chair of the Supervisory Board of the ECB (responsible – together with the national supervisory authorities – for banking supervision within the SSM) with effect from January 2019.

#### **EUROPEAN SECURITIES AND MARKETS AUTHORITY – ESMA**

Work at the European Securities and Markets Authority (ESMA) in 2019 was also dominated by implementing the outcome of the ESAs' Review. The changes introduced by EMIR Refit and EMIR 2.2. were another priority area. EMIR 2.2. improves the clearing of securities transactions by introducing a stronger Europe-wide supervision of central counterparties, particularly Union CCPs, and granting more powers to ESMA regarding third-country CCPs. For that purpose, a CCP Supervisory Committee should be created, consisting of a full-time Chair, two independent members and the competent authorities of Member States with an authorised CCP as voting members.

ESMA is vigorously working on the implementation of the EU regulations. The peer reviews are one of its most effective supervisory convergence tools in this context, with the following reports having been finalised in 2019:

- Peer review on the collection and use of STORs under MAR as a source of information in market abuse investigations
- Peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR.

Furthermore, the European Commission asked ESMA to prepare a report on the provisions of the Market Abuse Regulation (MAR) including proposals for improvement. The consultation paper, which addressed a wide range of issues, was published in October 2019. The final report will be submitted to the Commission in 2020.

#### **EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY – EIOPA**

At the European Insurance and Occupational Pensions Authority (EIOPA), key priorities were ensuring the convergence of conduct of business supervisory practices to improve the functioning of the EU internal market and contributing to the Solvency II review scheduled for 2020. One of EIOPA's major priorities for some time now has been to include sustainability considerations in all of its activities. Digitalisation (InsurTech) is another of its cross-cutting themes and was also prioritised in its work

programme, with special attention being paid to cyber risks (also in relation to becoming a new area for business). Consumer protection as a strategic objective also remained a major priority with a great deal of work being devoted to conduct of business supervision.

In the field of occupational pensions, implementation of the new IORP II Directive<sup>1</sup> and the PEPP Regulation<sup>2</sup> were another operational objective given high priority.

## **BILATERAL AND MULTILATERAL COOPERATION**

As well as working in multilateral bodies, the FMA also cooperates directly with foreign supervisory authorities. For this purpose it enters into bilateral and multilateral Memoranda of Understanding (MoUs), which provide for the proper exchange of information and thus simplify and speed up practical supervisory tasks in cross-border cases. MoUs also help to build trust, particularly in the case of non-EEA Member States, and support the FMA in its efforts to consistently strengthen its operational working relationship with its partner authorities, above all in Central, Eastern and South-Eastern Europe.

### **MEMORANDA OF UNDERSTANDING (MOUS)**

In 2019 the FMA concluded four MoUs: a bilateral MoU on cooperation and the exchange of information in relation to banking supervision was concluded with the United Kingdom, following its withdrawal from the EU, and three multilateral MoUs were signed in the area of insurance and securities supervision (> *Table 19*). The European Central Bank (ECB) signed a multilateral agreement on the exchange of information between the ECB and the competent authorities responsible for supervising the compliance of credit institutions with anti-money laundering obligations.

### **MULTILATERAL COOPERATION**

#### **INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS – IOSCO**

Following the introduction of the European General Data Protection Regulation (GDPR), the International Organization of Securities Commissions (IOSCO), the European Securities and Markets Authority (ESMA) and the European Data Protection Board (EDPB) prepared an administrative arrangement. This agreement forms the basis for the regular transfer of personal data between the EU and third countries; the FMA signed it in April. IOSCO is regularly monitoring compliance with the rules. Between 4 000 and 5 000 requests for information are processed every year worldwide.

#### **INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS – IAIS**

The International Association of Insurance Supervisors (IAIS) developed a new Insurance Capital Standard (ICS Version 2.0) as part of its Common Framework for the

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<sup>1</sup> Directive (EU) 2016/2341 on the activities and supervision of institutions for occupational retirement provision (IORPs).

<sup>2</sup> Regulation (EU) 2019/1238 on a pan-European Personal Pension Product (PEPP).

## INTERNATIONAL COOPERATION

Country	Banking	Insurance	Securities	AIFMD-MoU
Abu Dhabi				2018
Albania		2009		
Australia				2013
Bahamas				2015
Bermuda				2013
Bosnia and Herzegovina	2015			
Brazil	2017			
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
Kosovo		2016		
Liechtenstein	2009			
Malaysia				2013
Malta	2007			
Montenegro		2009		
Netherlands	1997			
North Macedonia		2010		
Poland			1999	
Qatar				2018
Romania	2006	2005		
Russian Federation	2010			
Serbia		2009		
Singapore				2013
Slovakia	2003	2002		
Slovenia	2001		2001	
Switzerland	2012	2006		2013
Thailand				2014
United Kingdom	1994/1998/2019			
USA				2013

Table 19: **Bilateral Memoranda of Understanding concluded** (year of conclusion)

Supervision of Internationally Active Insurance Groups (IAIGs) and adopted it in November 2019. The new version of the standard is based on the recommendation of the Financial Stability Board (FSB) and should initially be used during a five-year monitoring period, starting in early 2020, for determining an annual reference ICS in accordance with the methodology described in the ICS Version 2.0. The aim is to provide a globally comparable risk-based measure of capital adequacy of IAIGs. The IAIS also adopted a holistic framework for systemically important insurance groups. The new regulatory framework applies from 2020 onwards. Implementation of the relevant elements should be monitored by the end of 2020 in the course of the supervisory review process and on-site inspections. The annual identification of global systemically important institutions (G-SIIs) has been suspended and will be re-evaluated in the course of implementation of the 2022 holistic framework.

### INTERNATIONAL ORGANISATION OF PENSION SUPERVISORS – IOPS

The International Organisation of Pension Supervisors (IOPS) published the following working papers in 2019: “Impact of the digitalisation of financial services on supervisory practices in the private pension sector: case studies”, “Update on IOPS Work on Fees and Charges”, “Are pension funds a stabilising factor in financial markets? Evidence from four countries” as well as “Design and Supervision of Pension Projections in 26 Jurisdictions”.

At the end of 2018 the FMA was elected to the Executive Committee for a two-year term for the second time.

### EUROPEAN AND INTERNATIONAL COOPERATION TO TACKLE MONEY LAUNDERING AND THE FINANCING OF TERRORISM (ML/TF) ON THE FINANCIAL MARKET

The year under review was wholly dedicated to improving the exchange of information at European level. Implementing the Fifth Anti-Money Laundering Directive, the ECB and all AML/CFT competent authorities including the FMA (in January 2019) signed a relevant agreement. In addition, the EBA published its Joint Committee Guidelines on cooperation and information exchange for AML/CFT supervision purposes in December 2019, which need to be implemented by December 2021. The so-called AML/CFT Colleges Guidelines create a common framework for exchanging

information between AML/CFT supervisors, particularly through the establishment of specific AML/CFT colleges. The EBA will in future also conduct risk analyses of national AML/CFT competent authorities in order to assess and address their strategies and resources in connection with ML/TF.

# THE FMA AND PUBLIC RELATIONS

Annual report: **1** Facts and figures, trends and strategies: **1**

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Press releases: **54** Press events: **5**

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Tweets: **258** Followers: **1 104** (increase of 40 %)

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Investor warnings: **97** Participants FMA Supervision Conference: approx. **800**

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## FUNCTIONS OF PUBLIC RELATIONS WORK

### TRANSPARENCY FOR THE MARKET AND FOR THE GENERAL PUBLIC

**T**he FMA holds far-reaching official powers on the financial market. Inextricably linked to this level of authority is a responsibility to explain its activities clearly and comprehensibly. This can only be achieved if the FMA provides unambiguous information on what exactly it is responsible for, which areas it covers and which powers it holds in order to be able to fulfil its statutory remit. From this starting point, the FMA has developed its strategy for using the authority vested in it to perform its role, as laid down in law, as efficiently and effectively as possible. This strategy is encapsulated as concisely as possible in the FMA's mission statement.

At the same time, with regard to developments on the financial markets, the FMA uses its medium-term risk analysis, which is evaluated and updated annually, to set priorities for supervision and inspections for the coming year.

Guaranteeing the utmost transparency is a self-evident requirement of every modern-day authority operating in a democratic state based on the rule of law. Such transparency strengthens democratic legitimacy and improves understanding and acceptance of official actions. In keeping with this principle, the FMA has always endeavoured to engage in transparent and open communication within its statutory framework.

The FMA's key media channels are:

- The **Annual Report**, which reviews developments on the financial markets, the FMA's supervisory activity and regulatory developments during the past year.
- The **Facts and figures, trends and strategies** publication, also produced annually, which looks ahead to the expected medium-term development of risk, sets out future challenges, and provides transparent information on the FMA's priorities for supervision and inspections for the coming year.
- And finally the **FMA website** ([www.fma.gv.at](http://www.fma.gv.at)), containing up-to-date information and explanations on all matters relevant to regulation and supervision, as well as any breaking news.

### PUBLIC COMMUNICATION: AN INTEGRAL PART OF SUPERVISION

The FMA highlights negative developments to the market and consumers, communicating its views on how such developments should be remedied. In this way it can take

control at an early stage, avoiding a situation in which tougher supervisory measures are needed further down the line.

Preventive communication during the reporting year focused on a sustained issuing policy in relation to mortgages and consumer loans, and real estate finance in general. During the years of the upturn, demand for these financial products was particularly dynamic. However, the FMA has observed that some of this dynamism has been created by a relaxing of lending standards. At the same time, there is a growing trend of aggressive online marketing and selling of consumer credit. Both of these are early indicators of a negative development that could end up jeopardising the stability of individual banks and borrowers' ability to pay.

The FMA has made it clear that it will have no option but to introduce far-reaching supervisory measures if the market is unable to rectify the situation itself and that such action could extend to strict regulation of the banks in relation to their lending. The statutory conditions for the immediate enforcement of such macroprudential measures have already been put in place.

Information for the general public about developments, trends, risks and negative occurrences on the market for consumer products forms a key part of collective consumer protection. Here too, preventive communication can reduce the need for official intervention, and in any case definitely supplement it. Once again in 2019, the subject of cryptoassets dominated consumer information. As the number of reports and consumer complaints in relation to investment fraud involving cryptoassets grows, the FMA is increasingly using its public and media appearances to highlight the particular risks and dangers of these innovative financial and investment products, namely the highly speculative nature of an investment in these assets, the possibility of suffering a total loss, and the high level of fraudulent activity in this area in particular.

#### **INFORMATION HUB ON THE FINANCIAL MARKET**

Using a range of different channels, the FMA keeps supervised companies and consumers up to date with the latest developments on the market and in the field of regulation. This means that market participants have access to first-hand, high-quality information that they can use in their assessments of the market or in order to react to new developments in good time, thereby reducing friction and adjustment costs.

In 2019 the FMA published a total of 17 quarterly reports containing quantitative information on the market for insurance undertakings, *Pensionskassen* and asset managers, as well as on prospectus supervision and the changing levels of foreign currency loans. On 30 April 2019, the FMA Annual Report for 2018 was submitted to the Finance Committee of the National Council and the Federal Minister of Finance.

The FMA also embodies its role as an information hub by engaging with stakeholders through various different forums. These include events staged with supervised companies and the general public. FMA employees also attend numerous seminars, meetings and specialist conferences.

## **PUBLIC RELATIONS CHANNELS**

### **PRESS RELATIONS**

There were 54 press releases published in 2019 (2018: 54).

Financial journalists were invited to five press events to hear the Executive Directors report on current issues:

- 29 January 2019: At the Economic Writers' Club, the Executive Directors presented tips and reports based on practical market experience in 2018 (whistleblowing) and detailed the supervisory consequences of these. Further topics included the progress made in the proportionate application of European regulations.
- 29 April 2019: Background talks with Elke König, Chair of the European Single Resolution Board (SRB), on current developments and experiences in the European resolution regime for banking.
- 9 May 2019: Financial Statement Press Conference presenting the 2018 Annual Report.
- 25 September 2019: Press meeting with Verena Ross, Executive Director of the European Securities and Markets Authority (ESMA), as part of the Börsianer Festival, providing an in-depth look at current developments in European markets and exchanges supervision.
- 5 December 2019: Presentation of the Facts and figures, trends and strategies 2020 publication, and of the priorities for supervision and inspections in 2020.

## DIGITAL COMMUNICATION

### WEBSITE

The FMA website provides a broad range of information aimed at supervised companies and consumers.

The homepage was given a revamp in 2019. The existing News section was extended to include the "FMA spotlight on..." section, which provides visitors to the website with easy access to in-depth information about current issues.

More than 300 entries were added to the News section during the reporting year, including press releases, investor warnings, licence changes and sanctions. The number of published investor warnings was 97 (2018: 61). As well as being published on the website, warnings about dubious providers are also issued in the official gazette "Amtsblatt zur Wiener Zeitung" and via Twitter.

Specifically for consumers, the "A-Z of Finance" feature was added to the website in March 2019, providing information on old-age provision, how to spot financial fraudsters, investments, accounts, loans and insurance. The A-Z is written in clear language with simple sentence construction. It focuses on those issues that are most relevant to the target group, in other words issues that are most frequently raised by consumers when asking questions or that the FMA considers to be particularly relevant to consumers. It is being expanded on an ongoing basis.

### TWITTER

Another digital channel of communication used by the FMA is Twitter. The FMA tweeted 258 times during 2019, growing its number of followers by 40% to 1 104.

### NEWSLETTER

A new digital source of information was established in May 2019 with the launch of the FMA Newsletter. Users can subscribe to the Newsletter via the FMA website ([www.fma.gv.at/newsletter](http://www.fma.gv.at/newsletter)). The Newsletter is published on an ad-hoc basis, with



seven issues in 2019. The key areas covered included: FMA Annual Report, Circular concerning reporting obligations for the prevention of money laundering and terrorist financing, digitalisation on the Austrian financial market, banking package, supervision conference, five years of the Single Supervisory Mechanism and Facts and figures, trends and strategies 2020.

### **FMA SECURITY APP**

Launched in 2018, the FMA's security app enables users to check, via their mobile phone, whether a company or person is authorised to provide financial services that require a licence. If an investor warning has been published in relation to a company or person, this will also be accessible in the app or will be displayed in the form of a push notification.

## **EVENTS**

### **FMA DIALOGUES ON PRACTICE**

The FMA continued its Dialogues on Practice series in 2019, an initiative with the supervised companies that has enjoyed many years' success. Supervisors and companies come together during these dialogue events to discuss regulatory and supervisory issues and developments. The following Dialogues on Practice were staged during 2019:

- Investment service providers dialogue on 5 June
- Insurance issues dialogue on 6 December
- Pension company dialogue on 12 December.

### **10TH FMA SUPERVISION CONFERENCE**

The 10th FMA Supervision Conference on the general theme "The Big Picture – Contentious debate of the relevant issues" took place on 3 October 2019. Attended by more than 800 delegates, the conference saw leading representatives of supervisors, business, politics and industry debate financial market trends, challenges and risks. The issues up for discussion ranged from the development of the European banking sector to the impact of Brexit, the effects of the digital revolution and the challenges posed by the climate crisis. One of the highlights of the event was the discussion between Andrea Enria (Chair of the European Central Bank's Supervisory Board) and Elke König (Chair of the Single Resolution Board) as they debated "The Big Picture – the European banking sector". The programme also included sessions devoted to green finance, digitalisation and financial markets communication. To close the conference, the then finance minister, Eduard Müller, now member of the FMA Executive Board, gave a keynote speech and OeNB Governor Robert Holzmann presented on the "Economic development of the financial market". In 2019 the Supervision Conference was streamed live on the FMA website for the first time.

### **INTERNAL COMMUNICATION**

Using a state-of-the-art, flexible Sharepoint platform, the FMA was able to introduce some new formats to its intranet in 2019. FMA employees are being asked, for example, to engage with their colleagues by sharing interesting photos and experiences of their business trips in the form of short, interactive presentations. The intranet can also be

used to issue invitations to events and to share pictures and video material with colleagues throughout the Authority. A virtual area for the FMA Women's Network has also been set up on the intranet so that information and documents can be made available to anyone interested.

# OPERATIONAL SUPERVISION

Supervisory authority: **1** Priorities for supervision and inspections: **6**

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On-site measures: **253** Investigations into unauthorised business activities: **202**

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Enquiries and complaints made to the FMA: **3 200** Sanctions imposed by the FMA: **88**

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Securities transaction reports handled by the FMA: **47 530 733**

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# THE FMA AND DIGITAL INNOVATION

**I**nnovation is what drives the economy. New technologies and new products are being developed all the time in order to make financial services even better, more targeted and more efficient. Yet better can be the enemy of good. The aim, therefore, must be to promote innovation while at the same time being able to detect and address risks at as early a stage as possible.

Consequently, the FMA pursues a technology-neutral approach to regulation and supervision. This means that the key factor is not the technological basis on which a financial service is provided but how that financial service has an impact and what risks are associated with its business model. The same risks are subject to the same supervisory requirements, regardless of the technology used.

Many observers consider digitalisation to be a disruptive technology that is depriving traditional, analogue business models of their operating basis. For its part, however, the FMA views digitalisation as an evolutionary process and one to which the established analogue providers and their business models must adapt.

## DIGITALISATION ON THE AUSTRIAN FINANCIAL MARKET

The FMA has carried out a large-scale study into the digital technologies being used, the strategies in place, business models and the risks across all sectors of the Austrian financial market. The aim of this study was to determine the status and extent of digitalisation on a product and sector-specific basis, while at the same time being able to guarantee that the supervisory authority can keep pace with new trends and innovations. Comprehensive market coverage means that the study will be representative (> Table 20):

<i>Sector participants</i>	<i>Market coverage</i>
36 insurance undertakings (VU)	100% (all VUs under Solvency II)
10 Pensionskassen (PK)	100% (all Austrian PKs)
6 corporate provision funds	92% of the market
40 credit institutions (KI)	40 KIs, of which 7 SIs
26 investment service providers and investment firms	80% of the market
23 management companies ([real estate] investment fund mgmt. cos., AIFMs)	99% of the market
3 market infrastructures (MI)	100% (all Austrian MIs)

Table 20: Market coverage of digitalisation study

The trends studied include the structure of the value added chain, use of cloud-based services, big data analysis, and the spread of individual technologies in terms of customer communication and investment.

The findings of the study are being used to set supervisory priorities and also to enable particularly relevant issues of the future to be identified at an early stage. Some of these findings were as follows:

- A growing level of interlinking between financial market participants, technology companies and FinTechs, which as well as opening up new opportunities can also create concentration risks.
- Blockchain technology is still not a huge issue for players on the Austrian financial market, either in relation to investment (in the form of cryptoassets) or with regard to the design of new products.
- Cloud services are increasingly being used in all sectors and are already a reality for around half of supervised entities.
- Use of digital technologies varies greatly from one company to another. Those market participants that are still using outdated IT infrastructures could therefore be at a competitive disadvantage in the future.

The FMA has published the results of its digitalisation study and invited all market participants to add to and comment on these. The detailed responses are now being evaluated to determine if there are any relevant findings for regulation and supervision.

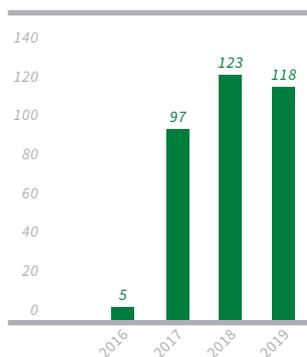
## FINTECH POINT OF CONTACT

Since its launch in 2016 the FinTech Point of Contact has developed into the main focus of communication and coordination on financial innovation issues within the FMA, playing an active role in securing the sustainability of technological advances on Austria's financial market.

In 2019 the FMA played an active part in the discussion and further development of FinTech issues at several levels: at European level the focus has been on developing policies for crowdfunding, robo advice and cryptoassets. Nationally, the main focus has been preparations to include certain services relating to cryptoassets in the due diligence obligations to prevent money laundering, alongside active involvement in the Finance Ministry's FinTech Advisory Board, a body to which the FMA is able to contribute its regulatory expertise for the promotion of innovative business models. Cooperation with the research sector and stakeholder engagement have also been expanded.

FinTech-related enquiries to the FMA are a key aspect, with the Point of Contact acting in the capacity of a one-stop shop to guide interested parties through all aspects of regulation in keeping with the FMA's integrated approach to supervision.

Chart 25: FMA FinTech Point of Contact – Enquiries received since launch



## DIGITAL BUSINESS MODELS

The FMA's FinTech point of contact received a total of 118 enquiries (2018: 123) during the year under review (> Chart 25).

As in 2018, most enquiries were about business models for payment services, Bitcoin, initial coin offerings, automated advice and trading systems, and alternative finance and crowdfunding. In relation to payment services, most queries concerned the new

## PRIORITY FOR SUPERVISION – DIGITALISATION: CYBER STRESS TEST 2019



IT security is gaining in importance, not least due to the pace of digitalisation in the financial sector. Today, financial services providers are prime targets for cyber attacks. These attacks are becoming increasingly frequent and ever more sophisticated; when a host of attacks is launched globally, it can even threaten the stability of financial markets.

The FMA and OeNB jointly carried out the first cyber stress test for the Austrian financial market on 9 April 2019, in order to obtain a better insight into the financial sector's ability to withstand cyber attacks. The test was supported by Kuratorium Sicheres Österreich (KSÖ), which was able to contribute its expertise gained from organising and conducting cyber stress tests in other sectors, specifically in relation to critical infrastructure. Participants in the cyber stress test, implemented by the FMA and OeNB, included ten<sup>1</sup> representative credit institutions and their IT providers, the Computer Emergency Response Team Austria (CERT.at)<sup>2</sup> and the Federal Agency for State Protection and Counter Terrorism (BVT).

The basic scenario used for the one-day cyber stress test, with more than 100 experts participating, involved 170 individual cyber attacks, to which the security teams at the participating banks and institutions had to respond. According to international studies, around two thirds of the damage caused by cybercrime can be attributed to employee behaviour, or is at least aided by the actions of employees, which is why this cyber stress test focused on the human factor. The stress test was staged in the form of a tabletop exercise<sup>3</sup>.

The simulated cyber attacks ranged from extortions using ransomware, compromised online banking apps, tampered ATMs and hacked websites, through to customer complaints and social media disasters. Internal preparations for such attacks, internal communication and decision-making processes, organisational and technical back-up solutions, information and communication with the supervisor, as well as external communication with customers and the general public were all tested.

The cyber stress test showed that the Austrian financial sector was essentially well prepared for cyber attacks, although the degree of readiness varies from one institution to another. The results of the test were analysed in detail, with the findings being incorporated into regulatory and supervisory activity. What became clear, however, is that when it comes to defending against cyber attacks, a joint approach to safeguarding the stability of the financial sector is key, and a sector-specific CERT for the banking sector could make an important contribution.

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<sup>1</sup> These ten institutions comprised four significant institutions (SIs) and six less significant institutions (LSIs).

<sup>2</sup> The Computer Emergency Response Team Austria (CERT.at) is the Austrian national CERT and is operated by the company nic.at GmbH. CERT.at is the primary contact point for IT security at a national level and is responsible for coordinating and informing the network providers and responsible local security teams in the event of information and communication (ICT) systems being attacked on a national scale.

<sup>3</sup> A tabletop exercise is used to practise the technical response to a predefined scenario using appropriate IT tools.

Table 21: FMA FinTech Point of Contact – Enquiries by business model, 2016–2019

	2016	2017	2018	2019
<i>ICOs/STOs</i>	0	8	10	15
<i>Payment services</i>	1	9	30	27
<i>Virtual currency trading / ATMs</i>	1	18	24	15
<i>Mining</i>	0	5	7	0
<i>Automated advisory and trading systems, trading robots etc.</i>	0	9	6	15
<i>Crowdfunding and alternative online investments</i>	1	17	8	10
<i>FM-GwG</i>	–	–	3	10
<i>Other</i>	2	31	35	26
<b>Total</b>	<b>5</b>	<b>97</b>	<b>123</b>	<b>118</b>

concept of third party payment services, payment initiation and account information services (> Table 21). Many questions were still being received on initial coin offerings (ICOs), also reflecting the international trend towards models more closely based on securities, namely security token offerings (STOs). Enquiries about cryptoassets focused on trading in this asset class rather than their issue, as well as on the availability of bitcoin ATMs. Business models involving the mining of cryptoassets were less frequently mentioned during the year under review. Meanwhile, there was a tangible increase in the need for information about robo advice and automated trading systems. Crowdfunding is another area in which operators are consistently planning new business models.

The response in 51% of cases was that a licence, prospectus or registration was indeed required or could be required depending on the specific circumstances of the case. Where it was not possible to identify a specific business model accurately enough (a good 38% of queries), general advice was provided.

## EXCHANGE AND COOPERATION

The FMA's FinTech Point of Contact has established itself as an acknowledged and sought-after source of expertise in this market environment, as evidenced by the many invitations to speak at external conferences and take part in information and discussion events. As part of the 3rd Vienna FinTech Week, FMA experts were involved in many workshops straddling many different issues.

Another priority during the reporting year was establishing and building up cooperation with researchers, initiatives such as the Austrian Blockchain Centre (ABC), and cooperation projects between the FMA and Vienna University of Economics and Business (WU) and the Austrian Institute of Technology (AIT). Big data, artificial intelligence and blockchain were all subjects dominating the agenda. The FMA has also been involved in joint projects to develop prototypes of innovative RegTech tools.

## REGULATORY SANDBOX FOR FINTECHS IN AUSTRIA

As part of the plans to reform banking supervision in Austria, which were the subject of intensive debate in 2019, albeit without reaching any outcome, a specific parliamentary bill to set up a regulatory sandbox, based at the FMA, was set in motion. The aim of this sandbox is to support companies that are licensed or looking to be licensed in the implementation of innovative business models without sacrificing

regulatory standards but by applying the principle of proportionality. Through the European Forum for Innovation Facilitators (EFIF), the FMA is also contributing to international efforts in this regard. The FMA is confident that this project can be adopted by the Austrian parliament before the end of 2020 and subsequently implemented without delay.

# SUPERVISION OF COMPANIES' STABILITY

## ANALYSIS WORK

### STRESS TESTING

#### EUROPEAN BANKING STRESS TEST

In 2019 the European Central Bank (ECB) carried out stress testing on 103 of the banks that it directly supervises, among them six banks from Austria. The stress test focused on liquidity risk. Both the FMA and OeNB were involved in preparing and implementing this test. The three assumed liquidity scenarios were calibrated on the basis of supervisory experience from recent crisis episodes in banking in the euro area. With an observation period of six months, the supervisory reference periods of 30 days for the liquidity coverage ratio (LCR) and of one year for the net stable funding ratio (NSFR) were consistently supplemented. As far as the Austrian banks were concerned, the results of the test confirmed their high level of resistance to liquidity shocks. Deep-dive analysis of the banks' liquidity situations, particularly with regard to foreign currencies, group-wide control and collateral management, enabled liquidity strategy to be further strengthened as part of continued supervision.

#### INSURANCE STRESS TEST

In the field of insurance supervision, the FMA conducted a stress test in 2019 focusing on companies that provide "classic" life insurance. The aim of the test was to predict future capital flows and balance sheet items for the life balance sheet group and excluding index and unit-linked policies.

The 2019 stress test was based on two scenarios:

1. "Constant low": The aim of this scenario is to review whether interest guarantees can be fulfilled over the long term assuming constant low interest rates (low returns on reinvestment). Based on the 2018 balance sheet and taking certain stress assumptions into account, the positions were forecast for individual years.

2. "Yield curve up": With this scenario, a sudden increase in yields leads to immediate losses in the fixed-income investment portfolio combined with price losses on the equity and real estate markets. It is assumed that as a result of the market stress a relatively large proportion of policyholders will cancel their life insurance policies (mass cancellations). The subsequent assumption is that the price losses will have a

direct impact on the 2018 balance sheet, and it is expected that all of the payment obligations resulting from the mass cancellations would have to be dealt with before the end of 2019.

The forecast payment flows clearly demonstrate that both scenarios involve considerable risks from income guarantees during the observation period and across the market as a whole. There are no companies, however, where this stress scenario creates a need for the injection of capital.

#### **PENSIONS KASSEN STRESS TEST**

The focus of stress testing in the pension company sector lay on income analysis. The companies were required to carry out their own calculations on the basis of defined scenarios so that due account could be taken of the individual specific features of pension company commitments. The assets of both the investment and risk-sharing groups and the *Pensionskasse* were affected by the scenarios. The strict separation of the assets of the investment and risk-sharing groups from those of the *Pensionskasse* showed that shocks had different impacts and that the administrative entity need not face economic difficulties directly.

#### **FUND MARKET AND CORPORATE PROVISION FUND STRESS TESTS**

The FMA also carried out stress testing in relation to the Austrian fund market in 2019, as well as with regard to corporate provision funds. The aim of these stress tests is to obtain additional information for the risk analysis of investment fund management companies and corporate provision funds so that the supervisors can recognise sensitivities and vulnerabilities better and earlier. The institution-specific results of the stress testing will be addressed as part of continued supervision in 2020 and the related risk potential discussed.

### **FURTHER ANALYSIS**

#### **BANKS**

The supervisory review and evaluation process (SREP) is a central tool within banking supervision. As part of the SREP, an institution's business model, internal governance and risk management, as well as its capital and liquidity risks, are all individually analysed. Over the past few years the FMA and OeNB have developed the SREP in Austria into an integrated supervisory tool by also incorporating findings from efforts to prevent money laundering and terrorist financing and from conduct and sales supervision. The SREP is a tool for in-depth analysis of a bank's overall risk situation.

For credit institutions that are supervised by the FMA directly, the SREP is carried out in close cooperation with the OeNB. Based on the principle of proportionality, depending on a bank's size, structure, nature, scope and complexity of its activities, the full SREP procedures are carried out every year, every two years or every three years. During the years without a full procedure, the SREP is updated accordingly.

While it is the OeNB that carries out the quantitative analysis required for the SREP, the FMA focuses on the internal governance and risk management aspect, which involves an in-depth review and assessment of an institution's internal governance, organisational structure, risk management structures, and risk culture and infrastruc-

ture. The FMA is also in charge of the process to adopt the SREP administrative decision, adding a legally binding aspect to the analysis. Governance workshops were organised once again in 2019 based on the practice established during the previous year.

Within the SSM, it is the ECB that is responsible for the SREP of significant banking groups, but the Austrian supervisory authority is also closely involved in the process. Once again in 2019 all nine significant banking groups in Austria were subject to a full review, which also incorporated the findings from the market-wide sensitivity analysis focusing on liquidity risk.

#### **INSURANCE UNDERTAKINGS**

With interest rates remaining persistently low, one sector-wide focus of insurance supervision was increasing the risk appetite of insurance undertakings and insurance groups. This particularly involved in-depth analysis of those supervisory fields with a key impact on risk situation (investment, underwriting policy, capital policy and strategy) as part of structured management talks. Reporting on the own risk and solvency

## **THE FMA AND THE BANKING UNION**

The Banking Union is a system for the supervision and resolution of banks at EU level, based on EU-wide rules. Its aim is to ensure that the banking sector in the euro area and in the EU as a whole is secure and reliable, and that the resolution of any banks at risk of insolvency is not carried out at taxpayers' expense and has as little impact on the real economy as possible. All of the countries in the euro area are members of the Banking Union. Member States that do not belong to the euro area may join the Banking Union by cooperating closely with the European Central Bank (ECB). The Banking Union has three key components: a uniform set of rules, the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM). The ECB is in charge of the SSM but relies on the network of national supervisory authorities at a practical level. The SRM is headed by the Single Resolution Board (SRB), which is supported by the network of national resolution authorities.

Austria is a member of the European Banking Union, with the FMA actively involved in its two currently operational pillars, the SSM and the SRM. In its capacity as both national competent authority (NCA) and national resolution authority (NRA), the FMA represents the Austrian financial market as a voting member and is intensively involved at all relevant levels. The third pillar of Banking Union, namely a common deposit guarantee scheme, is still in the development stage.

As the FMA's representative, Helmut Ettl attended 18 meetings and telephone conferences of the SSM Supervisory Board (based at the ECB in Frankfurt) in 2019, while Klaus Kumpfmüller represented the Authority at ten meetings and telephone conferences of the Brussels-based SRB of the SRM.

Seven Austrian banking groups were classed as significant institutions (SIs) in 2019 and thus subject to direct supervision by the ECB within the SSM. Together with the Oesterreichische Nationalbank (OeNB), the FMA is involved in the Joint Supervisory Teams (JSTs) set up for these banks. All other Austrian banks are only supervised indirectly by the ECB. Classed as less significant institutions (LSIs), they are directly supervised by the FMA, again with support from the OeNB. However, even in the case of LSIs, key decisions (such as the award or removal of a licence, major holdings, key functions) require the consent of the ECB.

assessment process (ORSA) was another key focus, with particular priority given to the standard of forecasting and the treatment of qualitative risk drivers. Overall, the findings here were very specific to individual circumstances and companies, indicating a certain expansion of underwriting to offset the impact of low interest rates. The FMA took these findings into account in its internal financial and risk analysis, discussing the relevant aspects with the supervised entities. Another key focus in the non-life insurance sector was a review of the methodology used to calculate premium provisions.

### **PENSIONS KASSEN**

The amendment to Austria's *Pensionskassen* Act (PKG; *Pensionskassengesetz*) entered into force on 1 January 2019, along with the revised regulations covering risk management and data reports. The main change relates to the investment rules. In addition to the guidelines that *Pensionskassen* were previously required to have in place for their risk management systems, they must now also put in place internal guidelines on their investment management approach. Each *Pensionskasse* must

In 2019 there were eight Austrian banking groups – the significant banks and further cross-border groups – as well as three Austrian subsidiaries under the direct responsibility of the SRB as the resolution authority. In the same vein as the JSTs, Internal Resolution Teams (IRTs) are set up for these banks. The FMA plays a significant role within the IRTs. As in the case of the SSM, the FMA is also directly responsible for all other credit institutions within the SRM, this time in the capacity of national resolution authority.

Across both the SSM and SRM, the FMA was represented in a total of 70 bodies and working groups during the year under review, working on joint policies and supervisory approaches. The decision-making bodies were also involved, by means of a written process, in approximately 1 600 supervisory cases and some 60 resolution cases.

### **SINGLE SUPERVISORY MECHANISM (SSM)**

At the beginning of the year Andrea Enria, previously Chair of the European Banking Authority (EBA), replaced Danièle Nouy at the helm of the SSM. From an Austrian perspective, it is particularly relevant to note that a licence withdrawal process under the new supervisory rules was implemented in the case of an Austrian bank for the first time during the year under review. Based on preliminary work conducted by the FMA, the ECB, operating within the SSM, withdrew the licence of Anglo Austrian AAB Bank AG (previously Meinel Bank) due to the latter's continued and serious breaches of supervisory law. The Bank appealed against the decision and the legal review is still pending.

### **SINGLE RESOLUTION MECHANISM (SRM)**

The SRB continued its policy work during 2019 taking due account of the entry into force of the banking package. The 2019 resolution planning cycle prioritised developing and improving banks' resolution plans as well as their general resolvability. Looking to 2020 resolution planning, the SRB will be implementing a uniform 12-month cycle for the first time, communicating bank-specific expectations as the basis for the annual review of banks' resolvability. Where necessary, banks will also be called upon to propose measures on how obstacles to resolution can be removed.

stipulate basic investment parameters based on the specific features and structure of the respective investment and risk-sharing group. It must then comply with these conditions, with mechanisms in place to deal with any deviation from them. Analysis activity therefore focused particularly strongly on the special due diligence requirements in relation to the qualifications of employees, appropriate technical resources and qualitative investment management pursuant to Article 25 para. 1 PKG. These aspects were covered during on-site inspections, management talks and analysis, and the data evaluated. *Pensionskassen* already adhere to high standards of risk management, and this high level must now also be upheld in relation to investment management.

No major changes to investment were observed among *Pensionskassen* during the reporting year. The most significant trend was a rise in investments in foreign currencies.

There were also several instances of actuarial bases being adjusted in 2019, the implementation of which was intensively discussed with the companies concerned. Another key priority was IT structure, an area in which there is a high level of divergence within the sector.

#### **ASSET MANAGERS AND CORPORATE PROVISION FUNDS**

In 2019, 32 annual financial statements prepared by licensed asset managers and corporate provision funds were analysed, along with four audit reports from branches of foreign asset management companies. Additionally, 2 140 reports on activities and half-yearly reports produced by funds were processed and analysed on a spot-check basis, focusing on such aspects as fulfilment of transparency requirements in relation to securities financing transactions (SFTR)<sup>1</sup> and on investments in property companies in the case of real estate funds.

As part of the IT security and cybersecurity priorities for supervision, analysis focused on end-of-life (EoL) systems and IT costs at supervised companies, the IT systems and applications being used, and the expansion and updating of IT infrastructure. Group relationships and the availability of backup data processing centres were then also incorporated into the analysis.

#### **INVESTMENT SERVICE PROVIDERS**

With regard to supervision of investment service providers, the annual electronic questionnaire for investment firms and investment service providers is one of the most important supervisory tools. The questionnaire was completed by 108 respondents during the reporting year. Evaluating and analysing the results provides the FMA with important information on the activities of the supervised companies as well as on the market of investment service providers, and also provides every evaluated company with information and tips that can be used to review and optimise their internal processes.

#### **BENCHMARKS**

Following analysis in 2018 of the benchmarks used in Austrian loan agreements, the FMA turned its attention in 2019 to the benchmarks used in Austrian investment

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<sup>1</sup> Regulation (EU) 2015/2365 on transparency of securities financing transactions.

funds<sup>2</sup>. It found that 49 funds use benchmarks as defined in the European Benchmarks Regulation (BMR)<sup>3</sup>. They are mainly used (by 36 funds) to calculate performance fees. The most commonly used benchmark is EURIBOR<sup>4</sup>, which is applied by 17 funds.

## ON-SITE MEASURES

On-site measures are an important supervisory tool for the FMA – and used both to glean information and to check whether supervisory measures imposed by the Authority have been implemented by the companies. The term “on-site measure” refers to both more comprehensive on-site inspections and to less thorough, more flexible inspections. On-site measures complement the FMA’s ongoing analysis work, which mainly draws on reporting data, annual reports and other regularly available data or information requested on a case-by-case basis.

The FMA approaches on-site measures in a risk-oriented manner: larger, more complex and therefore riskier companies are inspected more often than smaller companies that only pose a limited risk to financial market stability. In addition to the annual inspection plans, on-site measures are also carried out on an ad hoc basis in order to quickly gain a clear picture of a company that finds itself in a difficult situation.

On-site measures are performed in all areas of supervision. In the area of banking supervision and in some areas of securities supervision, the FMA commissions its long-established supervision partner, the OeNB, to carry out the inspections. With regard to significant banking groups for which the ECB bears direct supervisory

	2015	2016	2017	2018	2019
<b>Banks</b>					
– Small and regional banks	32	26	30	30	39
– Significant banks	12	11	11	11	13
– Conduct and sales	61	57	61	32 <sup>*</sup>	36
Insurance undertakings	23	26	28	30	28
<b>Asset managers</b>					
– (Real-estate) investment fund management companies and AIFMs	14	14	14	12	8
– Custodian banks, depositaries	5	5	6	5	5
– Individual portfolio management at investment firms and banks	4	4	5	4	11
Investment service providers	43	43	37	48	41
Pensionskassen	5	4	2	2	2
Corporate provision funds	3	5	3	6	2
Market infrastructures	1	3	1	3	1
Prevention of money laundering and terrorist financing	58	62	67	62	67

Table 22: On-site measures 2015–2019

<sup>\*</sup>The figure from 2018 onwards only accounts for measures taken at banks; the figures for earlier periods also include measures at other supervised companies.

<sup>2</sup> Both undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIFs).

<sup>3</sup> Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds.

<sup>4</sup> The Euro Interbank Offered Rate is the interest rate that banks use for short-term loans (of up to twelve months) to each other in euros. It is frequently used as a benchmark interest rate for investment products and variable-interest credit and loans.

responsibility in the context of the Single Supervisory Mechanism (SSM) for member states of the eurozone, inspections are carried out directly by the ECB with the involvement of the FMA and OeNB.

### **IT SECURITY**

As in 2018, digitalisation and IT and cyber risks were again priority areas for the FMA's supervision and inspection activity in 2019. The IT checks carried out during the reporting year focused on how cyber and IT security risks were being incorporated into the risk management process. Specific attention was also devoted to inspecting companies' IT incident management and their backup and restore strategies, as well as their implementation of authorisation schemes.

The FMA's digitalisation and IT security priority was also taken to a deeper level across all areas of supervision in 2019. This involved reviewing the operational implementation of the expectations around IT security as detailed in the FMA Guide. At the same time, knowledge in this field was extended and the related inspection modules were improved, thereby enhancing the overall quality of inspections. In the inspections carried out in 2019, IT risks in the information risk management process were the main focus.

Besides IT security, a number of other subjects were also covered in the various sectors:

### **BANKS**

On-site inspections at banks are based on a risk-based inspection programme which the FMA and OeNB prepare jointly every year. The 42 inspection mandates given to the OeNB in 2019 covered the following priorities: internal capital adequacy assessment process (ICAAP), counterparty risk and IT security risks. The FMA carried out on-site inspections to check compliance with the statutory conduct rules on the provision of banking and securities services, and on the distribution of financial instruments and arrangement of insurance (> *Supervision Priority 5 on page 77*).

### **INSURANCE UNDERTAKINGS**

In the insurance sector, on-site inspections were carried out at 28 premises. The main areas inspected were: IT security and cyber risk, as well as compliance with the new Insurance Distribution Directive (IDD). Three small mutual associations were also the subject of on-site inspections. Internal risk evaluation models were generally inspected when applications were made for the approval of changes to those models.

### **PENSIONSKASSEN**

Two *Pensionskassen* were inspected on site in 2019. These inspections focused on IT security and cybersecurity, as well as on implementation of the amended provisions on investment in the PKG.

### **ASSET MANAGERS**

With regard to supervision of asset managers (investment fund management companies, AIFMs, custodian banks, individual portfolio management at investment firms and banks), the FMA's digitalisation priority for supervision dominated on-site

## PRIORITY FOR SUPERVISION – COLLECTIVE CONSUMER PROTECTION: EXPANSION OF MARKET MONITORING ACTIVITIES



The European Markets in Financial Instruments Regulation (MiFIR)<sup>5</sup> established the legal framework for supervisors to monitor market developments within the European Union. In 2019 the FMA expanded its market monitoring unit, which had been set up in 2018. The unit monitors the markets for financial instruments, structured deposits and insurance-based investment products that are marketed, distributed or sold in or from Austria.

Different approaches to market monitoring are used:

- The FMA collates reporting data from all areas and analyses it to detect certain patterns. This analysis focuses on transaction data and volumes of various financial instruments.
- The FMA's market monitoring unit then merges all the financial product information it has obtained from its various supervisory areas to gain one integrated picture. In 2019 the provision of information on cases of regulatory rules being pushed to the limits, with potential disadvantages for collective consumer protection, was one priority area: various practices spanning several areas and products were identified, analysed and categorised (mapping).
- The FMA also receives information about potentially problematic products and practices by way of consumer complaints and enquiries, as well as through reports from whistleblowers.
- The FMA stays in direct contact with the companies it supervises, to gather data and/or check the plausibility of the data provided. With regard to products affected by the FMA Regulation on Product Intervention Measures, this primarily concerned binary options and contracts for difference during the reporting year (> Box "Product intervention measures" on page 91).
- The FMA also draws on information from interest groups, associations and consumer protection organisations to monitor the market.

Combining all these approaches, the FMA can thus maintain an overview of the Austrian market for financial instruments and products. This covers deposit products, investment products and speculative financial products such as interest-bearing securities, investment funds, shares, structured products or derivatives, as well as insurance-based investment products, products designed to provide for the future and finance products such as property and consumer loans.

In 2019 the FMA focused its analysis activities on consumer loans, sustainable finance and its product intervention measures.

Market monitoring's aim is to recognise and analyse any irregularities or trends as early as possible, and specifically whether they might negatively impact on consumers or the stability of financial markets. The FMA can then employ various tools to tackle problematic developments. One tool that can be used early on in the process is the publication of information and warning notices to enable consumers to make well-informed investment decisions. With regard to supervised companies, the FMA may

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<sup>5</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

make use of the legally available supervision tools. As a final resort, and harshest instrument, the Authority may restrict or wholly prohibit certain practices or the marketing, distribution or sale of certain products.

Market monitoring activities additionally also cover unregulated and unsupervised areas of the financial markets, as well as crowdfunding and cryptoassets. Experience has shown that negative developments in these markets may lead to consumers losing confidence in the regulated financial markets too. The FMA can inform consumers about market developments and proactively highlight risks.

inspections. IT security and cybersecurity were reviewed, as well as the digital transformation of business divisions. Naturally, most of the processes involved in asset management are IT-based. The main focus during inspections of the systems and processes employed was increasing operational security through a higher degree of automation while at the same time reducing the need for manual maintenance work.

### INVESTMENT SERVICE PROVIDERS

IT security and digitalisation were also the key issues dealt with during on-site inspections of investment service providers in 2019. Additionally, the FMA also made use of its new statutory power, introduced in 2018, to directly inspect the sale of securities by tied agents and securities brokers, doing so on 22 occasions.

### PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

During the year under review the FMA carried out a total of 67 on-site measures in order to monitor compliance with due diligence procedures for the prevention of money laundering and terrorist financing. Of these, 37 took the form of on-site inspections; 30 of them were carried out at credit institutions and seven at investment firms. The FMA also carried out 30 examinations in the reporting year, of which 28 at banks and financial institutions and two at payment institutions' agents. Additionally, the FMA held ten management talks in 2019 (*see also the chapter on Prevention of money laundering and terrorist financing on page 103*).

### MANAGEMENT TALKS

Regular structured talks with the management of supervised companies are an important source of information for continued supervision. Management talks are usually conducted annually. The purpose of these talks is to maintain contact with the management and to examine in greater detail the business model, strategy and risk assessment of the companies concerned. Management talks are also held to discuss current priorities, as well as the priorities of supervision with the companies (> *Table 23*).

	2015	2016	2017	2018	2019
<i>Banks</i>	50	68	107	95	111
– <i>Conduct and sales</i>	26	23	18	19*	19
<i>Insurance undertakings</i>	109	47	55	89	103
<i>Asset managers</i>					
– <i>(Real-estate) investment fund management companies and AIFMs</i>	31	32	30	27	24
<i>Investment service providers</i>	67	74	74	61	67
<i>Pensionskassen</i>	9	14	12	13	13
<i>Corporate provision funds</i>	9	8	8	8	8
<i>Market infrastructures</i>	1	0	0	0	1
<i>Prevention of money laundering and terrorist financing</i>	–	–	–	10	10

Table 23: **Management talks 2015–2019**

\*The figure from 2018 onwards only accounts for measures taken at banks; the figures for earlier periods also include measures at other supervised companies.

Table 24: Authorisation and registration procedures concluded in 2019

	New	Change	Extension	Revocation/ Expiry	Withdrawal
Banks	0	0	0	3	1
Payment service providers	1	0	0	0	0
Insurance undertakings	0	1	0	1	0
Asset managers					
– Investment fund management companies	0	0	0	2	0
– Licensed AIFMs (incl. real estate investment fund management companies)	1	0	1	1	0
– Registered AIFMs	3	0	0	2	0
Investment service providers	13*	0	0	4	0
Pensionskassen	0	0	0	1	0
Corporate provision funds		0	0	0	00
Market infrastructures		0	0	0	00
Benchmark administrators	1	0	0	0	0
<b>Total</b>	<b>19</b>	<b>1</b>	<b>1</b>	<b>14</b>	<b>1</b>

\*Of the 13 licensing processes concluded by means of administrative decision in 2019, seven only became legally binding in the 2020 calendar year.

## OFFICIAL PROCESSES

### LICENCES AND REGISTRATIONS

Looking at the licensing processes conducted during the reporting year (> Table 24) shows that the number of new licences, specifically in relation to investment firms and investment service providers, exceeds the number of expired licences (either relinquished or no longer required following a merger). This is in line with the long-term consolidation trend in evidence on the Austrian financial market. In the asset management sector, the number of investment fund management companies fell after one company gave up its licence and another had it removed. With regard to alternative investment fund managers, the number of licensed AIFMs remained stable, with the number of registered AIFMs increasing by one. Additionally, the first benchmark administrator was licensed in 2019.

Investment service providers encountered a new regulatory environment. Together with the opportunities associated with digitalisation, this led to the development of new and differentiated business models and to new licences being granted. In 2019 the FMA carried out 18 preliminary talks before official applications were made in this sector alone. The new licensing of a market infrastructure is based on the requirements of the European Central Securities Depositories Regulation (CSDR)<sup>6</sup>.

### FIT AND PROPER ASSESSMENTS

The FMA conducted a total of 418 fit and proper assessments in 2019 in order to evaluate the professional and personal suitability of members of the management or supervisory board or of specific function holders in the supervised companies. The vast majority of these tests related to members of executive bodies, i.e. managing directors or supervisory board members. In the area of banking supervision, the ECB is responsible for formal decision-making based on fit and proper assessments in the case of significant institutions (SIs).

In August 2018 the FMA published a comprehensive update to its Fit & Proper Circular

<sup>6</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

	Management	Supervisory board	Function holders
<i>Banks LSIs</i>	48	248	17
<i>Banks SIs</i>	17	81	7
– <i>Conduct and sales supervision</i>	3	0	0
<i>Payment service providers</i>	0	0	0
<i>Insurance undertakings</i>	12	1	1
<i>Asset managers</i>			
– <i>Investment fund management companies</i>	3	18	1
– <i>Licensed AIFMs (incl. real estate investment fund management companies)</i>	10	2	0
– <i>Custodian banks</i>	4	–	–
<i>Investment service providers</i>	13	0	0
<i>Pensionskassen</i>	0	0	10
<i>Corporate provision funds</i>	1	8	2
<i>Market infrastructures</i>	–	–	–
<b>Total</b>	<b>111</b>	<b>358</b>	<b>38</b>

Table 25: **Fit and proper assessments concluded in 2019**

for banks, and in 2019 new requirements were introduced in relation to the person heading the compliance function as defined in the Austrian Banking Act (BWG; *Bankwesengesetz*). Adapted to take account of current European supervisory standards, the Circular first and foremost includes stricter requirements for banks' supervisory boards.

## OUTSOURCING

Supervised companies, banks included, notified the FMA of 594 instances of material operational tasks being outsourced in 2019. Outsourcing may be advantageous for companies in relation to all areas of the financial market, and in many respects too. It can improve cost efficiency and allow for greater flexibility. In the case of decentralised sectors, outsourcing to sector-wide institutions can help pool knowledge and implement uniform standards. Asset managers and corporate provisions funds may delegate tasks to third parties. Most outsourcing in the asset management sector involves asset managers delegating specific tasks for individual funds, such as all asset management, to third parties.

Outsourcing is becoming ever more important with the advance of digitalisation. Specific corporate processes can be taken over by specialised providers of IT services, for example online and video identification services in connection with know-your-customer or services in the field of data science where providers process and analyse customer data. Nowadays, entire IT systems are also increasingly being outsourced to the cloud (*see also The FMA and digital innovation, page 65*).

	2019
<i>Banks</i>	181
<i>Payment service providers</i>	7
<i>Insurance undertakings</i>	21
<i>Asset managers</i>	
– <i>Investment fund management companies</i>	138
– <i>Licensed AIFMs (incl. real estate investment fund management companies)</i>	233
– <i>Custodian banks</i>	0
<i>Pensionskassen</i>	9
<i>Corporate provision funds</i>	4
<i>Market infrastructures</i>	1
<b>Total</b>	<b>594</b>

Table 26: **Outsourcing approved and notified in 2019**

## FURTHER SELECTED SUPERVISION CASES

### SREP MEASURES

The capital resources of Austrian credit institutions are monitored by the FMA and ECB on an ongoing basis. In the first instance, banks are required to comply with minimum

Table 27: SREP decisions  
2015–2019

	2015	2016	2017	2018	2019
SREP decisions LSIs*	1	1	442	410	397
SREP decisions SIs	-	8	8	7	6

*In 2016, the EBA's Guidelines (EBA/GL/2014/13) on common procedures and methodologies for the supervisory review and evaluation process (SREP) were applied for the first time to SREP processes, with the first decisions on these processes being made in 2017. Due to the new methodology prescribed in the EBA guidelines, the number of decisions has surged since 2017.*

capital requirements (Pillar I) in order to guarantee uniform and standardised coverage of credit, market, operational and settlement risk.

Banks are also required to have sufficient capital to secure all of the essential risks associated with banking business and operations (Pillar II). This additional capital requirement is stipulated in the supervisory review and evaluation process (SREP). It is the FMA that sets the additional capital requirement for the banks that it supervises directly, the less significant institutions (LSIs), while the ECB performs this task for the significant institutions (SIs) that it supervises directly. Smaller credit institutions in decentralised sectors are analysed by the FMA using a proportional, simplified approach that takes account of their business model.

The FMA made 397 SREP decisions in 2019 in relation to LSIs (2018: 410), with the ECB making six decisions in relation to SIs (2018: 7) (> Table 27).

#### APPROVAL OF INTERNAL MODELS USED BY INSURANCE UNDERTAKINGS

In the area of insurance supervision, the FMA approved two applications for the approval of a changed model submitted by an Austrian insurance group in 2019, and contributed to two additional model changes in the capacity of responsible supervisory authority.

The FMA is the responsible supervisory authority because it supervises subsidiaries of groups that are authorised in another Member State and that use the internal group model also for calculating their individual own funds requirements. Internal group models are approved by way of common decisions adopted in supervisory colleges. As shown in Table 28, insurers also made increasing use of models during the reporting period.

Table 28: Approval of internal  
models used by insurance  
undertakings 2015–2019

	2015	2016	2017	2018	2019
Approval of (partial) internal models of individual companies	2	0	3	4	5
Approval of (partial) internal models of insurance groups	1	0	2	1	2

#### SUPERVISION OF FOREIGN INVESTMENT FUNDS

The number of foreign funds notified for distribution in Austria is also increasing. This growth is particularly marked in the case of foreign AIFs (+30%), while the number of foreign UCITS has remained stable (> Chart 26). These funds mainly originate from Luxembourg, Ireland, the UK, Germany and France.

Continued supervision of foreign investment funds comprises not just the procedures for notification of the sale in Austria of UCITS and AIFs from the European Economic Area (EEA) – documents are submitted from the competent authority of the home

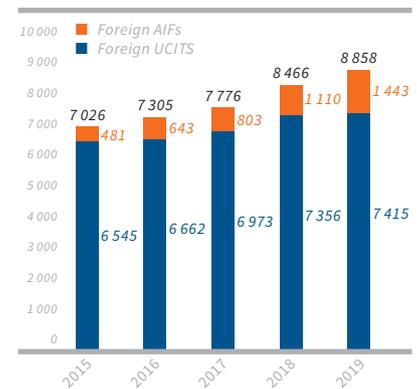
	2015	2016	2017	2018	2019
Procedures with foreign UCITS	6 949	6 993	8 901	9 367	9 198
– Notifications	988	680	881	902	816
Procedures with foreign AIFs	395	489	687	814	1 179
– Notifications	360	329	369	493	681
<b>Total</b>	<b>7 344</b>	<b>7 482</b>	<b>9 588</b>	<b>10 181</b>	<b>10 377</b>

Table 29: Continued supervision of foreign investment funds 2015–2019

country to the FMA – but also fund-specific, ongoing notification procedures relating to the submission of reports on activities and half-yearly reports, key investor information documents and prospectuses. The FMA also receives notifications relating to mergers, changes of names, and the dissolution of funds. At 10 377 (2018: 10 181), the number of procedures hit another record high in 2019 (> Table 29).

One noticeable trend in the reporting year was the relocation of funds from the UK to other Member States in response to the threat of a hard Brexit. The number of UK funds notified for sale in Austria by investment fund management companies and AIFMs fell by 73 and 112 respectively in 2019.

Chart 26: Number of foreign funds notified for sale in Austria 2015–2019



## COLLEGES: A TOOL FOR CROSS-BORDER COOPERATION ON SUPERVISION

The companies supervised by the FMA not only operate on the Austrian market. Some of them also offer their services internationally, either through branches under the freedom to provide services in the EEA, or through subsidiaries elsewhere in the EU and in other foreign countries. What this means for the FMA is that a close working relationship with the host authorities responsible for such subsidiaries is essential. In its capacity as the home authority of the parent company in the case of Austrian groups with international operations, the FMA is responsible for coordinating overall group supervision through supervisory colleges. These colleges, at which key group-wide supervisory issues are discussed and decisions on group supervision made, meet at least once per year and are chaired by the FMA.

### BANKING SUPERVISION

A supervisory college was set up for seven banking groups based in Austria in 2019. In accordance with the European rules governing these colleges, they make annual decisions on group-wide capital and liquidity adequacy and on group-wide recovery plans.

Three of these groups – Erste Group, Raiffeisen Bank International and Sberbank Europe – are classed as significant institutions and are therefore supervised directly by the ECB, which is also responsible for group supervision and for chairing the respective colleges. FMA employees continue to play a key role in the work of the colleges through the joint supervisory teams.

With regard to a further four banking groups with subsidiaries elsewhere in the EU and in non-EU countries – Addiko Bank, Wüstenrot Bausparkasse, Hypo Bank Burgenland and Porsche Bank – the FMA is the competent supervisor and thus also responsible for chairing the respective supervisory colleges.

### INSURANCE SUPERVISION

The FMA is the responsible group supervisor for five insurance groups based in Austria that operate internationally: Vienna Insurance Group, UNIQA, GRAWE Group, Wüstenrot Versicherung and Merkur. As part of this responsibility, the FMA cooperates with the respective supervisory authorities of the subsidiaries, exchanges relevant information on the subsidiaries' situation, and coordinates and harmonises supervisory cooperation. The FMA organises a standardised exchange of information through bilateral and multilateral meetings and teleconferences. However, it also plans and coordinates joint supervisory activities, such as on-site inspections and analysis. The result of this cooperation is directly incorporated into the financial and risk analysis of the insurance groups and therefore has a direct impact on the future risk-based design of supervisory activity in relation to the group in question.

### FINANCIAL MARKET INFRASTRUCTURES

Central Counterparty Austria (CCP.A), in the capacity of central counterparty, is responsible for the clearing and risk management of all CCP-eligible securities on Wiener Börse AG.

In accordance with the European Market Infrastructure Regulation (EMIR)<sup>7</sup>, a supervisory college must be held for CCPs at least once per year in physical form chaired by the authority responsible for the central counterparty. The supervisory college for CCP.A took place for the sixth time in 2019, chaired by the FMA. There was no change in the composition of the college compared with earlier years. The invited participants were, again, the European Securities and Markets Authority (ESMA; the only non-voting member), the ECB, OeNB and the supervisory authorities of the main clearing members of CCP.A.

EuroCCP is a central counterparty based in the Netherlands and linked to the Austrian central counterparty OeKB CSD GmbH. As in previous years, the FMA participated in its college in Amsterdam.

### BENCHMARKS

The EU Benchmarks Regulation (BMR) provides for the establishment of supervisory colleges for significant European benchmarks ("critical benchmarks"). The national authorities responsible for the administrator and contributors, as well as ESMA, are represented in these colleges. Also represented are those authorities in which the critical benchmark in question plays a key role in terms of financial stability, market integrity and the financing of households and companies.

The supervisory colleges guarantee the exchange of information between the competent authorities and the harmonisation of their activities and supervision measures, in the interests of the harmonised application of the BMR and convergence in supervisory practice.

There were two supervisory colleges in 2019: the EURIBOR/EONIA<sup>8</sup> college and the LIBOR<sup>9</sup>

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<sup>7</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

<sup>8</sup> The Euro OverNight Index Average is the benchmark interest rate for unsecured lending in the eurozone from one TARGET day to the next.

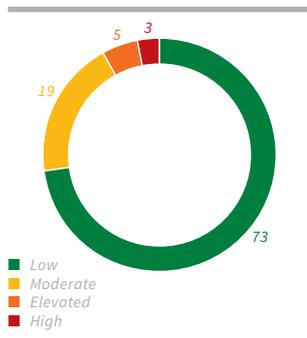
<sup>9</sup> The London Interbank Offered Rate is a benchmark interest rate for unsecured short-term lending of up to 12 months in GBP, USD, JPY, CHF and EUR, which is used as a benchmark for a variety of financial instruments, loan agreements, derivatives and investment funds.

college. These colleges, in which the FMA is also represented, are chaired by the national authority responsible for the administrator in each case. This is the Belgian Financial Services and Markets Authority (FSMA) in the case of the EURIBOR/EONIA college and the UK's Financial Conduct Authority (FCA) in the case of the LIBOR college. During 2019 the EURIBOR/EONIA college dealt with the licensing of the provider of the two benchmark rates, the European Money Markets Institute (EMMI), in the capacity of benchmark administrator pursuant to the BMR. There was a change to the EURIBOR/EONIA college at the end of 2019. Following the change in the way EONIA is calculated, with panel banks ceasing to supply the data, there is no longer a legal requirement for a supervisory college. The college will continue in future as a purely EURIBOR college, in which the FMA will continue to be represented.

# SUPERVISION OF FINANCIAL PRODUCTS AND DISTRIBUTION

## CONDUCT AND SALES SUPERVISION

Chart 27: Conduct risk of banks 2019 (in %)



**R**ules of conduct that must be observed by supervised companies when selling financial products and services are key to guaranteeing an appropriate level of consumer protection. Through its regulation and supervisory activity, the FMA ensures that customers are properly advised and informed.

The FMA pursues a risk-oriented approach to conduct and sales supervision. To this end, the Authority carries out a risk classification of banks, which are grouped into four risk categories (low, moderate, elevated, high), according to data and figures on the distribution of insurance products and investment services, as well as banks' sales figures. In 2019, 3% of the banks carried a high risk, with this 3% looking after 30% of all bank clients. Another 5% represented an elevated risk, 19% were associated with a moderate risk, and 73% of banks were classed at the lowest level of risk (> Chart 27).

### BANKING

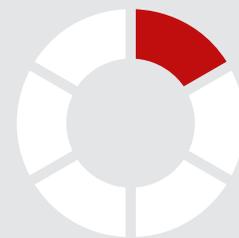
Various special studies were carried out in relation to conduct and sales supervision in 2019, supplementing and extending continued supervision; they are explained in brief below.

### SUSTAINABLE LENDING

With the rising volume of real estate and consumer loans comes an increasing need to monitor and examine consumer lending particularly closely too. Loans should not be granted too readily: the associated risks are too large for both consumers and banks. In 2019 the FMA therefore engaged in an intensive and institutionalised dialogue with banks (selected according to risk) on how conduct rules should be applied to consumer and real estate lending. In the interests of an integrated approach to supervision and the interlinking of prudential supervision with conduct supervision, this focus on conduct supervision should be regarded as a complementary feature of the FMA's and OeNB's microprudential and macroprudential supervision efforts in relation to sustainable lending.

Proceeding in a risk-based manner, the FMA also checked the arrangements in place to ensure adherence to the information requirements laid down in the FMA Minimum

## PRIORITY FOR SUPERVISION – SUSTAINABLE BUSINESS MODELS: DEVELOPMENT OF RISK ON THE REAL ESTATE MARKET



For some years now demand for residential property in Austria has been clearly increasing. This trend is partly driven by demographic factors, such as strong population growth in the cities and conurbations. It is also being driven by persistently low interest rates and the resulting availability of cheap finance deals. In addition, with interest rates remaining low, both large and small investors have started to shift their investments from financial instruments to property. Oesterreichische Nationalbank (OeNB) has noted property price increases (particularly in Vienna) in recent times that are caused by the high demand but that are increasingly out of step with real developments. According to OeNB calculations and analysis for the third quarter of 2019, properties were overvalued by 26% in Vienna and by 14% in Austria as a whole (> Chart 28).

### DYNAMIC MARKET FOR REAL ESTATE FINANCING

The majority of residential property transactions are financed wholly or partly by bank loans. Over the last few years this has been reflected in a clear increase in residential property loans, accounting for a plus of 5.7% as at the end of the year. These developments have made real estate financing an increasingly important part of Austrian banks' business. The average proportion of housing loans as a percentage of the total assets of Austrian banks has doubled from 8% to 16% since 2008 (> Chart 29). If the aggregate total assets are adjusted to exclude those banks that do not offer housing finance on account of their business model, this percentage actually rises to about 19%. Smaller institutions and decentralised sectors are growing particularly strongly in this area (> Chart 30). In conjunction with this growth, properties are becoming an ever more important form of collateral since home loans are mostly mortgage-backed.

Demand for commercial property financing, i.e. company loans for the purpose of constructing or purchasing commercial buildings or industrial properties, has also climbed continuously over the past few years. The recent rise in business loans of up to +9% was mainly attributable to loans taken out by companies active in the real estate sector.



Chart 28: OeNB fundamentals indicator 2008-2019 (in %, source: OeNB)

Chart 29: **Housing loans:**  
Share of aggregate total assets  
2008–2019 (in %, source: OeNB)

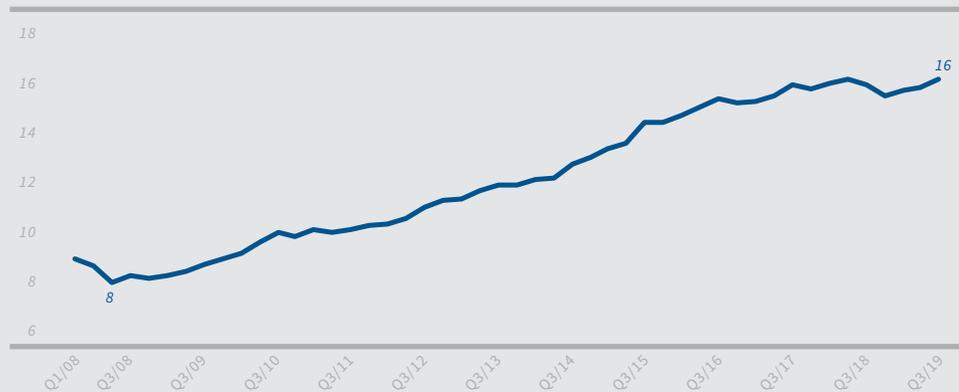
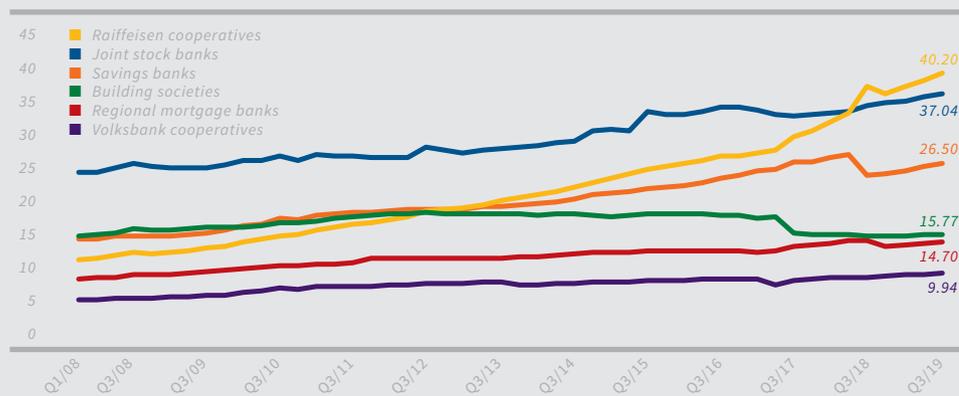


Chart 30: **Housing loans**  
2008–2019 (in € billions, source: OeNB)



**LONG-TERM STABILITY THROUGH SUSTAINABLE REAL ESTATE LENDING**

To prevent any systemic risks that would threaten the Austrian financial market’s stability, the FMA has made it one of its priorities for supervision to look specifically and in depth at the risks relating to residential property financing. It has picked out two risk factors: first, the high demand for properties and the favourable economic situation overall can lead to laxer lending standards for residential property loans, which could stretch borrowers’ risk-bearing capacity to the limits. Second, steadily rising property prices can lead to less conservative valuations of those properties serving as collateral, which poses the risk of higher than expected loan losses in the event of an economic downturn.

**THE FMA’S STRATEGY**

The FMA uses regular reporting data on real estate lending to monitor growth rates and loan volumes. At the beginning of 2019, the Authority also issued new reporting requirements, which enable a full survey of the lending standards pursuant to Article 22b of the Austrian Banking Act (BWG; *Bankwesengesetz*) applied to private residential property financing from 2020 onwards. Furthermore, the FMA has in no uncertain terms communicated its expectations to banks directly as well as to the general public: the Authority will not accept lower lending standards, especially during periods when the economy is performing well. Any loans handed out too easily during the good times are destined to become non-performing in bad times.

The FMA’s priority for supervision has proven to have the desired effect: several banks that had experienced a very dynamic development in new lending business have taken heed of those supervisory expectations and changed their internal risk man-

agement accordingly, once again applying appropriately prudent and cautious lending standards.

The FMA will continue to monitor developments in real estate financing. The Financial Market Stability Board (FMSB), in which both the FMA and OeNB as well as the Federal Ministry of Finance and the Fiscal Advisory Council are represented, identifies systemic risks in the Austrian financial market, and focused on the evaluation of sustainable real estate financing in the reporting year. The FMSB found that while the loan-to-value ratios and maturities of new loans have again fallen a little, the share of loans with an unfavourable ratio of debt service to income has remained high.

Should these risks increase and become a threat to financial market stability, the FMA may – based on a recommendation by the FMSB – set minimum requirements for the mentioned lending criteria in the form of a regulation.

The priority for supervision of monitoring the sustainability of real estate lending will be continued in 2020, with the FMA being able to use new reporting data for the first time, thereby broadening its analysis base. The Authority will also continue with the strategy it pursued in the reporting year and conduct targeted on-site inspections at banks that show conspicuous signs in this regard, and also keep up its direct dialogue with credit institutions, in the form of management talks for example.

Standards for the Risk Management and Granting of Foreign Currency Loans and Loans with Repayment Vehicles. The picture presented was positive overall. However, there is still some room for improvement with regard to the comprehensibility and user-friendliness of the information compiled for customers.

#### **CUSTOMER INFORMATION UNDER THE PRIIPS REGULATION**

Packaged retail and insurance-based investment products (PRIIPs) should be easy for investors to understand and compare. Consequently, under the terms of the PRIIPs Regulation, standardised key information documents (KIDs) are required for such products. The FMA analysed the KIDs provided by Austrian banks using a partially automated tool. In general, the KIDs for PRIIPs were easy to find on institutions' websites. Where credit institutions were not fully compliant with the rules, they were contacted by the FMA directly so that the shortcomings could be addressed immediately. To develop its tool further, the FMA also initiated a joint project with the Vienna University of Economics and Business under the EU's "Horizon 2020" research and innovation programme.

#### **BUSINESS CONDUCT FOCUS IN INSURANCE SUPERVISION**

Insurance supervision pursues a holistic approach to regulation and supervision taking account of an insurance product's life cycle. Accordingly, to strengthen collective consumer protection and mitigate insurance undertakings' operational risks, insurance supervision focused on conduct supervision. This included on-site inspections targeting insurance product sales, particularly focusing on compliance with (sales) requirements at the point of sale and with rules on appropriate governance in relation to sales activities.

Prioritising product oversight and governance (POG) arrangements in life and health insurance, products were selected at random and the relevant information and documents relating to the product approval processes checked, specifically such aspects as the release of products, the target market definition and the selection of distribution channels. The focus was, first and foremost, on new products and material changes to existing products.

To investigate actual sales processes in accordance with the European Insurance Distribution Directive (IDD)<sup>1</sup>, the FMA conducted an industry-wide survey using structured questionnaires (focusing on the processes' design and organisational structure). The survey's findings were discussed in great detail within the industry, with a view to identifying potential for improvement and examples of good practice. In some individual cases, procedural orders requesting that compliance with statutory provisions be restored had to be issued; the companies concerned promptly remedied the defects.

Another inspection focus was compliance with information requirements relating to the presentation of costs in insurance policy information. The positive outcome was that the examined insurance undertakings were found to be complying with the cost transparency rules. The examples of good practice, identified by the FMA during its evaluation, were communicated to the industry in a feedback event.

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<sup>1</sup> Directive (EU) 2016/97 on insurance distribution.

## PRODUCT INTERVENTION MEASURES ON THE PART OF ESMA AND THE FMA

As well as setting out rules on market monitoring, the European Markets in Financial Instruments Regulation (MiFIR)<sup>2</sup> also created the supervisory tool of product intervention, in other words the power to wholly or partially prohibit or restrict financial practices or the marketing, distribution or sale of financial products. This power is held by the European Supervisory Authorities EBA (banks), EIOPA (insurance and occupational pensions) and ESMA (securities and markets supervision), and also by the national competent authorities. While the tool is only intended for use as a last resort, the first EU-wide product intervention was imposed as early as in 2018.

With effect from 2 July 2018, ESMA temporarily prohibited the marketing, distribution or sale of binary options to retail clients. This ban was also extended, up to 1 July 2019. With effect from 1 August 2018, ESMA additionally restricted the marketing, distribution or sale of contracts for difference (CFDs) to retail investors. This ban remained in place until 31 July 2019. Given that ESMA product intervention measures can only be introduced for a fixed period of time, the FMA implemented its own Regulation on Product Intervention Measures (FMA-PIV; *FMA-Produktinterventionsverordnung*) on 15 May 2019. This Regulation contains the same bans and limits in relation to binary options and CFDs as the ESMA measures but without any time restrictions.

In the case of both binary options and CFDs, the products being offered were designed in such a way that the allocation of the risks and rewards was severely skewed to the detriment of consumers. Furthermore, these products involve a high risk of loss for inexperienced investors, particularly retail investors, which can be difficult to recognise and even more difficult to quantify. The FMA has since been prioritising its supervision of compliance with these product intervention measures. In particular, it has been reviewing whether CFD providers in Austria are observing the restrictions and whether the prescribed standardised risk warnings are being properly displayed on their websites or by providers when marketing this type of product online.

Analysis of the volume of CFDs being traded and the number of trades shows that the level of transactions with these products in Austria has fallen significantly as a result of the ESMA product intervention and the FMA-PIV. Product intervention has therefore proven to be an effective way of improving investor protection, within Austria and also on an EU-wide basis.

Chart 31: **Total leveraged CFD volumes Austria 2018/2019**  
(in € millions)

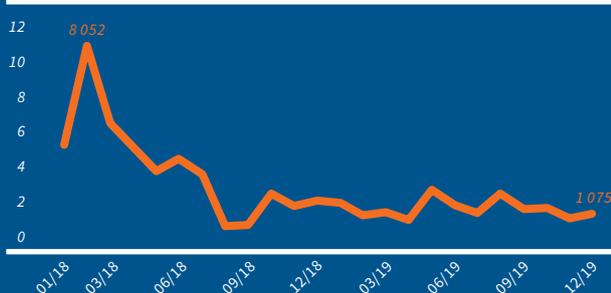
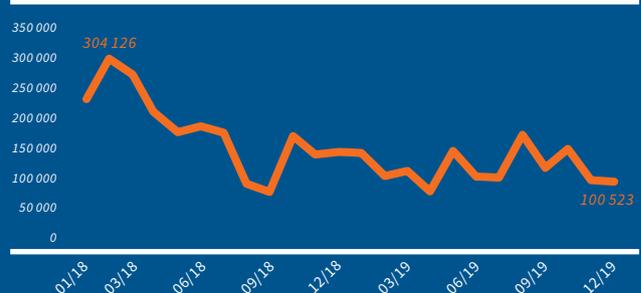


Chart 32: **Total number of CFD trades Austria 2018/2019**



Since the financial instruments affected by product intervention measures are frequently provided in the form of cross-border services, this is another area in which the FMA works very closely with ESMA and other partner authorities. Its aims are to protect investors and, at the same time, to create a level playing field with fair competition conditions for Austrian providers as they compete with foreign rivals.

During the reporting year the FMA also published and regularly updated two thematic focuses on product intervention on its website, covering binary options and CFDs. These provided retail investors with useful information and included a warning on the high level of risk associated with buying this type of product.

<sup>2</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

Information provided to customers on premium adjustments in health insurance was also checked. Austrian health insurers were generally found to be compliant with the regulatory requirements, except for in a small number of minor cases.

### TRANSPARENCY IN THE FUNDS SECTOR – CLOSET INDEXING AND GREENWASHING

Investment funds are required to clearly outline their investment strategy in the documents to be published, and any investment instruments acquired must adhere to it. The FMA therefore randomly selected several investment funds in 2019 and analysed their adherence to investment rules and disclosure requirements in detail. The analysis focused on such issues as adherence to the investment strategy, and to investment limits as stipulated by law and in the fund rules, as well as the plausibility of the information provided in the prospectus and the customer information document (UCITS KIID<sup>3</sup>). Two areas that were particularly focused on during the reporting year were closet indexing and greenwashing.

Closet indexing is a practice whereby an asset manager pretends to be actively investing but is actually maintaining a portfolio that is identical to or very similar to a benchmark. This means that the manager is more or less engaging in passive investment management. As part of its regular market screening activities, the FMA carried out spot checks at all Austrian equity funds during the reporting year, analysing them for any potential closet indexing.

Greenwashing is the practice of marketing financial products as “green” or “sustainable” even though they do not comply with or follow basic environmental standards. Given the current lack of a legally binding definition of these two terms, and with investment funds increasingly claiming to be either one or the other, the risks for collective consumer protection are growing.

Transparent fund fees are another essential part of collective consumer protection, contributing to greater financial market efficiency. This is why the FMA conducts an annual market study on the fees charged by Austrian retail funds and makes it available on its website.<sup>4</sup> The study is aimed at investors to allow them to better understand the fund fees charged within a specific investment strategy but also to better compare those used by different investment strategies.

### NEW SUPERVISORY POWERS IN RELATION TO THE SALE OF SECURITIES

In 2018 the FMA’s supervisory powers in relation to the sale of securities were extended. For the first time, the legal option was created of exercising certain supervisory powers, such as the right to obtain information and carry out on-site inspections, in direct relation to tied agents and securities brokers. For the supervisor this means that it no longer has to approach a case via the licensed legal entity with liability for the agent or broker.

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<sup>3</sup> *Undertakings for collective investment in transferable securities in accordance with Council Directive 85/611/EEC. UCITS must publish a two-page key investor information document (KIID), providing key information on the fund, such as the nature of the fund, related fees and costs, and risks associated with investment in the fund.*

<sup>4</sup> See <https://www.fma.gv.at/en/fma-spotlight-on/fees-charged-by-funds/>.

## PRIORITY FOR SUPERVISION – STRENGTHENING GOVERNANCE: FIT AND PROPER TESTS OF MANAGERS AND KEY FUNCTION HOLDERS



The concept of governance encompasses all internal rules, processes and mechanisms needed within a company to guarantee that it can be managed effectively and prudently. Governance rules include, first and foremost, the organisational structure and corresponding areas of responsibility, the processes in place to calculate, control, monitor and report actual and potential risks, and the internal control functions. All of these are critical to internal governance within the “three lines of defence” model, namely operations, risk and compliance, and internal audit.

Within internal governance, it is also particularly important to ensure that holders of managerial and key functions in companies have sufficient theoretical knowledge and practical experience, as well as being personally reliable. It is the role of the supervisory authority to check that candidates meet the fit and proper person requirements when taking up their role, and it must also monitor their ongoing compliance with the requirements as they continue in that role.

Over recent years, lawmakers at European and national level have been consistently expanding and tightening up their fit and proper person rules, particularly in relation to financial service providers. Consequently, in relation to its monitoring of supervised entities’ internal governance, the FMA has made compliance with the stricter fit and proper requirements one of its priorities for supervision.

It has been focusing on proper implementation of the compliance function as defined in the Austrian Banking Act (BWG; *Bankwesengesetz*) for credit institutions with total assets in excess of € 5 billion, compliance with the stricter requirements made of managers, the internal control functions, and the requirement that the supervisory board and its risk committee must be composed of independent members. The Markets in Financial Instruments Directive (MiFID II), which entered into force two years ago, marked the further development of existing rules on the performance of investment services and created tougher organisational requirements<sup>5</sup> for a securities compliance function at credit institutions. Moreover, a proper interplay between the compliance function as defined in the BWG with the function as defined in the WAG, and the embedding of the compliance function in the three lines of defence model between the risk management department and internal audit are highly significant. This was also fleshed out in revised Minimum Standards for Internal Audits published on 2 January 2020, and evaluated and picked up by the FMA in relation to banks in the form of the supervisory review and evaluation process (SREP).

Any appointment of a new person as the manager of a function that is critical to governance – be it the BWG compliance function, the WAG compliance officer, the risk management department, internal audit or money laundering officer – must be notified to the FMA and appropriate documentation submitted as evidence that the fit and proper requirements have been fulfilled. The FMA analyses these documents and, in the event of any outstanding issues, will invite the candidate to a verbal fit and proper test at which specific issues can be clarified. The FMA proceeds in a similar way if doubts regarding fulfilment of the fit and proper requirements suddenly arise in the course of a role being performed.

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<sup>5</sup> In accordance with the Securities Supervision Act 2018 (WAG 2018; *Wertpapieraufsichtsgesetz*) and Commission Delegated Regulation (EU) 2017/565.

There has been a visible trend over recent years of legal and natural persons giving up their licence as an investment firm or investment service provider only to remain on the market in the capacity of a tied agent or securities broker. These companies or individuals therefore represent an increasingly important distribution channel for investment services. The fact that supervisory powers can now be enforced against agents and brokers directly means that a supervisory gap has been remedied. Consequently, the FMA will be able to carry out its conduct and sales supervision even more effectively.

The FMA carried out 22 on-site inspections of tied agents and securities brokers in 2019 in order to check adherence to the compliance rules governing the sale of securities.

## FIGHTING UNAUTHORISED BUSINESS OPERATIONS

One of the tasks included in the FMA's remit is to grant licences for business activities within its area of supervision and thus to guarantee that companies entering the financial market meet all the necessary legal and economic conditions.

However, there are also providers on the Austrian market who avoid licensing and continued supervision by the FMA, and who offer 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 the necessary authorisation is referred to as unauthorised business.

### PROCEDURES

In 2019 the FMA initiated a total of 202 investigations on suspicion of unauthorised business operations, 210 of which could be brought to a close. Furthermore, three cases were examined on site (> Table 30). The FMA also issued procedural orders calling upon 83 individuals to restore compliance with the statutory provisions.

Numerous procedures were conducted against providers of services relating to financial products such as binary options and contracts for difference (CFDs). These are highly risky, speculative and complex products that are unsuitable for sustainable investment. There was also an upsurge in procedures relating to cryptoassets.

### PUBLICATION OF WARNING NOTICES

In 2019 the FMA published 97 warning notices in total. This marks a clear increase on the previous year (2018: 61) (> Table 30). The increase was due to a huge influx of

Table 30: Procedures against unauthorised business operations 2015–2019

	2015	2016	2017	2018	2019
<i>Investigations initiated</i>	218	162	208	208	202
<i>Investigations completed</i>	254	204	194	182	210
<i>Publications</i>	40	33	47	61	97
<i>Reported offences</i>	49	49	67	90	90
<i>Admin. penal proceedings concluded by penal decision</i>	9	11	7	6	2
<b>Total procedures</b>	<b>557</b>	<b>570</b>	<b>459</b>	<b>523</b>	<b>601</b>

dubious providers of cryptoassets, targeting retail investors aggressively with questionable and even fraudulent business models; it could also be attributed to a surge in dubious business models relating to binary options and CFDs.

Experience has shown that one very efficient way of tackling unauthorised business activities is the prompt publication of warning notices about such dubious providers. Their actions are thus countered with strong and broad publicity, which is particularly effective where unauthorised offers are being made on the Internet.

#### **ADMINISTRATIVE PENALTIES**

In 2019 two penal decisions were issued in connection with unauthorised CFD trading.

#### **ENFORCEMENT**

In accordance with Article 22 para. 1 of the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*), 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 OTHER ADMINISTRATIVE AUTHORITIES**

In 2019 the FMA submitted a total of 90 statements of the facts to the public prosecutors relating to suspected breaches of penal provisions that it had encountered in the course of its market monitoring activities and its fight against unauthorised business operations.

# SUPERVISION OF THE CAPITAL MARKET

## PROSPECTUS SUPERVISION

### PROSPECTUS APPROVALS

The number of prospectuses approved by the FMA in 2019 was slightly higher than in 2018, rising from 62 to 64 (> Table 31). Four applications for prospectus approvals were later withdrawn. Broken down according to categories of prospectuses, the picture revealed is as follows: the number of prospectuses for dividend-bearing shares rose by approximately 43%. In the category of base prospectuses, an increase of roughly 4% was recorded, while the number of stand-alone bond prospectuses declined by about 33%. The final terms filed in connection with the base prospectuses approved by the FMA increased by some 8%, from 6 832 in 2018 to 7 390 in 2019. Also worthy of note is that Austrian issuers appeared highly interested in the multi-part base prospectus, a new format introduced by the revised prospectus law.

The number of approved supplements fell from 92 in 2018 to 82 in 2019, i.e. by around 11%.

The number of prospectuses and supplements notified by Austria to other EEA Member States rose compared with the previous year. The number of notified prospectuses climbed by around 17%, from 29 in 2018 to 34 in 2019, while the number of notified supplements grew by around 46%, from 39 to 57.

Table 31: **Approved prospectuses 2015–2019**

	2015	2016	2017	2018	2019
<i>Approved prospectuses</i>	60	53	69	62	64
– <i>Dividend-bearing shares</i>	8	7	12	7	10
– <i>Non-dividend-bearing shares (one-off issue)</i>	8	6	9	9	6
– <i>Non-dividend-bearing shares (base prospectus)</i>	44	40	48	46	48
<i>Approved supplements</i>	124	71	81	92	82
<i>Final terms</i>	6 793	7 259	8 998	6 832	7 390
<i>Outgoing notifications</i>					
– <i>Prospectuses</i>	29	23	28	29	34
– <i>Supplements</i>	58	41	40	39	57
<i>Incoming notifications</i>					
– <i>Prospectuses</i>	347	346	311	289	318
– <i>Supplements</i>	1 138	1 198	1 009	834	825

The number of prospectuses notified in Austria by other EEA Member States in the reporting year increased by around 10% to 318 (2018: 289). At 825, the number of supplements notified in Austria remained roughly unchanged (2018: 834).

## **BREACHES OF ADVERTISING AND PROSPECTUS RULES**

The FMA is responsible, in accordance with the Capital Market Act (KMG; *Kapitalmarktgesetz*), for monitoring the Austrian financial market to identify any breach of statutory provisions that occur in connection with the issuing and advertising of securities and investments. The Authority completed 14 related investigations in 2019 (2018: nine), 13 of which (2018: six) resulted in administrative penal proceedings being initiated (> *Table 32*). In one case (2018: three) the FMA forwarded statement of facts to the public prosecutors, the criminal prosecution authority responsible. In relation to cryptoassets, which the FMA, in pursuing an integrated approach to supervision, has considered a cross-cutting theme and therefore dealt with in several departments, resulted in two reports being filed to the public prosecutor's office in 2019 (2018: eleven).

Furthermore, five sanctions (2018: four) relating to KMG breaches were published on

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

In accordance with the European Prospectus Regulation<sup>1</sup>, the FMA audits securities prospectuses in terms of their completeness, consistency and comprehensibility. It is not part of the FMA's remit to evaluate the accuracy of the information contained in the prospectus during the approval procedure. The issuer is liable for the information provided in the prospectus being correct or for any material incompleteness, such as undisclosed details.

### **COMPLETENESS**

Within the approval procedures, completeness is verified on the basis of the minimum requirements as contained in the relevant European laws, set forth in standardised form in Commission Delegated Regulation (EU) 2019/980 supplementing the Prospectus Regulation.

### **CONSISTENCY**

Verifying consistency means ensuring that the information contained in the prospectus gives a consistent picture overall.

### **COMPREHENSIBILITY**

The benchmark for the purposes of verifying comprehensibility is the target group. 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, any such terms must be explained in the prospectus. In particular, the summary (where required) included in the prospectus and the presentation of the essential and specific risk factors associated with the issuer and the security should be written in generally comprehensible language.

<sup>1</sup> Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC.

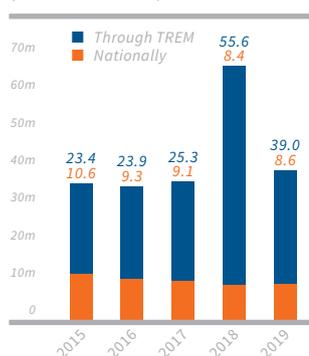
Table 32: Administrative penalties KMG 2015–2019

	2015	2016	2017	2018	2019
Administrative penalties KMG	18	19	36	6	13
Reports to public prosecutors	13	8	1	14	3
Publication of sanctions	1	3	5	4	5
Publication of investor warnings pursuant to KMG 2019	0	0	0	0	2

the FMA's website in the year under review. The FMA also published two investor warnings in accordance with the KMG 2019. These constitute one of the many new powers awarded to the FMA in July 2019 with the entry into force of the new KMG, which raises the level of investor protection.

## SUPERVISION OF THE STOCK EXCHANGE AND SECURITIES TRADING

Chart 33: Transaction reports received by the FMA 2015–2019 (Article 26 MiFIR)



On 31 December 2019 the Vienna Stock Exchange had 12 339 securities listed on both of its markets, i.e. on its official, regulated market and on the Vienna MTF (multilateral trading facility).

In accordance with the Markets in Financial Instruments Directive (MiFID)<sup>1</sup>, 534 companies were required to report their securities transactions to the FMA, irrespective of whether they were executed at a trading venue or over the counter.

In 2019 these institutions under reporting obligations submitted 8 578 221 securities transaction reports to the FMA (> Chart 33). Of this total number, 6 643 412 were forwarded to the competent EU partner authority via the Transaction Reporting Exchange Mechanism (TREM). In its capacity as competent authority for Austria, the FMA in turn received 30 374 291 transaction reports from other European Supervisory Authorities. The FMA therefore received 38 952 512 transaction reports in total.

## MARKET SUPERVISION

Using its internal Market Abuse Detector (MADe) analysis tool, the FMA carried out 1 801 routine analyses in the period under review (> Table 33). MADe merges all securities transaction data reported to the FMA, with algorithms recognising any irregularities that could indicate suspicious transactions. Suspicions were substantiated in 101 cases and more in-depth analysis was performed. This subsequently led to the opening of investigations, in 34 of those cases on account of the suspected misuse of inside information and in 67 cases on suspicion of market manipulation or a breach of trading rules. Compared with the previous year, there was a significant increase in the number of investigations initiated in response to the suspected misuse of inside information (2018: 14 investigations) while the number of investigations initiated on suspicion of market manipulation or breach of trading rules (2018: 91 investigations) has fallen. The total number of investigations initiated in 2019 hardly changed compared with 2018 (105 investigations).

The FMA cooperates closely with its European and international counterparts in the supervision of the stock exchange and securities trading; a cooperation that is of

<sup>2</sup> Article 26 of Directive 2004/39/EG on markets in financial instruments.

	<i>Routine analysis</i>	<i>Investigations into misuse of inside information, market manipulation and violation of trading rules</i>			
	<i>Warnings computed</i>	<i>Investigations initiated</i>	<i>Investigations forwarded for internal legal processing</i>	<i>Investigations dropped/completed</i>	<i>Reports forwarded to Central Public Prosecutor for Economic Crime and Corruption (WKStA)</i>
2015	1 403	79	16	73	4
2016	1 192	92	21	86	4
2017	1 503	84	9	72	6
2018	1 654	105	14	88	0
2019	1 801	101	12	132	1

Table 33: **Market supervision 2015–2019**

	<i>Enquiries addressed to foreign supervisory authorities</i>			<i>Enquiries received from foreign supervisory authorities</i>		
	<i>BaFin</i>	<i>FCA</i>	<i>Other</i>	<i>BaFin</i>	<i>FCA</i>	<i>Other</i>
2015	13	2	18	22	0	16
2016	16	0	17	10	0	16
2017	7	1	23	21	0	11
2018	10	4	14	8	0	7
2019	5	4	3	5	0	10

Table 34: **Official assistance market supervision 2015–2019**

great importance to all authorities involved. During the period under review, a total of twelve requests for official assistance were addressed to authorities in other countries (2018: 28) (> Table 34). Most enquiries (five) were directed to the German Federal Financial Supervisory Authority (BaFin) (2018: ten enquiries), followed by four enquiries made to the UK's Financial Conduct Authority (FCA) (unchanged on last year). Three further enquiries were made to other partner authorities (2018: 14).

At 15, the number of enquiries received from foreign authorities remained unchanged on the previous year, with five of them coming from BaFin (2018: eight enquiries).

## SUPERVISION OF ISSUERS

### PERIODIC DISCLOSURE

While ad hoc disclosure is triggered in response to specific instances of inside information, regular financial reporting, with its extensive data, provides essential information to all parties with an interest in the financial and capital markets. Investors, credit rating agencies, banks and even supervisory authorities must be able to rely on complete and timely financial reporting. The capital market should be regularly

	2015	2016	2017	2018	2019
<i>Ad hoc reports received</i>	419	435	439	360	373
<i>Annual, half-yearly and quarterly reports received</i>	518	464	470	452	466
<i>Directors' dealings</i>	363	555	538	469	461
<i>Reports of voting rights received</i>	261	494	451	472	565
<i>Investigations:</i>					
<i>Initiated</i>	33	12	22	37	33
<i>Forwarded</i>	14	4	16	24	19
<i>Dropped/completed</i>	29	18	11	24	30

Table 35: **Supervision of issuers 2015–2019**

Table 36: Ad hoc reports by subject matter 2015–2019

	2015	2016	2017	2018	2019
Share buyback/resale	11	18	10	9	13
Peculiarities/other items of ongoing business operations	87	125	144	120	115
Participations (acquisition, sale), partnerships	45	81	78	48	42
Financial reports/business figures	151	108	103	78	74
Large-scale order	2	4	2	8	3
Capital measures	44	30	38	38	49
Staff details	46	36	39	36	35
Forecasts, profit warning	3	4	2	0	6
Restructuring, recovery, insolvency	16	8	7	9	20
Strategic corporate decisions, investments	11	16	15	9	11
Management board meetings, resolutions	3	5	1	5	5
<b>Total</b>	<b>419</b>	<b>435</b>	<b>439</b>	<b>360</b>	<b>373</b>

informed about the business situation of issuers, and not just intermittently in specific cases. The Stock Exchange Act (BörseG; *Börsegesetz*) stipulates annual financial reports, half-yearly financial reports and quarterly reports as periodic disclosure requirements.

In the period under review the FMA received 466 annual, half-yearly and quarterly reports (2018: 452) (> Table 35).

#### DISCLOSURE OF MAJOR HOLDINGS

Requiring issuers to disclose changes in major holdings allows investors to buy or sell shares of stock in full awareness of the modified voting rights, providing for enhanced transparency within the market.

In 2019 the FMA received 565 reports of major holdings, compared with 472 in 2018 (> Table 35).

#### DIRECTORS' DEALINGS

The management and supervisory boards of listed companies and individuals closely associated with them reported a total of 461 securities transactions in 2019. This represents little change in the number of reports compared with 2018 (469) (> Table 35).

## FINANCIAL REPORTING

### REVIEWS AND PUBLICATION OF ERRORS IN ENFORCEMENT

In its role as the authority responsible for carrying out financial reporting enforcement in relation to listed companies, the FMA completed a total of 19 reviews in accordance with the Financial Reporting Enforcement Act (RL-KG; *Rechnungslegungs-Kontrollgesetz*) in 2019. All of the companies reviewed were selected at random. The FMA generally uses the services of the Austrian Financial Reporting Enforcement Panel (AFREP) for these reviews. There were two cases, however, in which the FMA itself was required to carry out the review. In one case a company refused to cooperate with the AFREP, and in a second case a company rejected the findings of the AFREP review.

The statistics for the number of errors detected during these reviews show a clear improvement in the quality of financial reporting since enforcement processes were

first introduced in Austria. Since 2015 the error rate has fallen significantly and consistently, down from 41% to 21% in 2019 (> Chart 34). This is well below the long-term European average. The reviews generally focus on the annual financial statements prepared in accordance with the International Financial Reporting Standards (IFRS). If no such statements are prepared by the company in question, the review is based on the annual accounts prepared in accordance with the Austrian Corporate Code (UGB; *Unternehmensgesetzbuch*) and including the (group) management report.

In total, twelve individual errors were found across four different companies, with between two and five errors per company. These errors related to the calculation of goodwill (UGB and IAS 36), the treatment of business combinations (IFRS 3), the effects of changes in foreign exchange rates (IAS 21), the presentation and disclosure of discontinued operations (IFRS 5), related party disclosures (UGB and IAS 24) and the statement of cash flows (IAS 7).

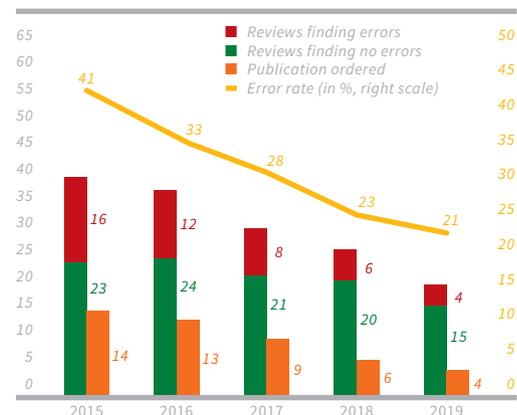


Chart 34: Enforcement results 2019

## PREVENTION

As well as its review work in relation to financial reporting enforcement, the FMA pursued a comprehensive approach to the improvement of corporate reporting:

- **Publication of main focuses of reviews:** By publishing the general focuses of its reviews, the FMA raises the market's awareness of known and foreseeable sources of error. This tool has a very clear preventive effect.
- **Information notices on financial reporting:** Breaches of accounting rules that are not judged to be material may become material in future reporting periods. Consequently, the FMA provides information on immaterial errors and other discrepancies in the form of information notices. The areas covered by these in 2019 included the measurement of expected credit losses in accordance with IFRS 9, calculation of earnings per share as defined in IAS 33, and revenue recognition according to IFRS 15.
- **Pre-clearance (binding advance information on accounting issues):** The FMA received two pre-clearance enquiries in 2019. These concerned the treatment of impairment in relation to investments in associates (IAS 28) and the definition of control with regard to third-party approval rights (IFRS 10). The FMA aims to answer all pre-clearance questions quickly and succeeded in reducing the average time taken to do so in 2019, achieving a response time of just 15 days in 2019 compared with a long-term average of 66 days.
- **Thematic reviews (cross-sectional analyses):** During the period from 2017 to 2019 the FMA has been focusing on credit institutions' implementation of IFRS 9. It has issued 14 information notices containing a total of 84 pointers on implementing the standards. Eight cases were preceded by consultation in the bodies of the European Securities and Markets Authority (ESMA) dedicated to financial reporting.

Table 37: FMA prevention tools

	2015	2016	2017	2018	2019
Thematic reviews	3	5	10	5	3
Pre-clearance	3	3	3	4	2

## INTERNATIONAL COOPERATION AND OUTLOOK

In the context of international cooperation, the FMA responded to 18 specialist enquiries and data requests relating to financial reporting in 2019, covering IFRS 9, software accounting, revenue recognition and leasing agreements. The FMA was also actively involved in the development of the new ESMA Public Statements on the recognition of deferred tax assets (ESMA32-63-743).

By engaging in active knowledge transfer, the FMA strives to create added value for Austrian issuers and thus help avoid accounting errors. Relevant issues this year include the new standard on insurance contracts (IFRS 17) and the publication of annual financial reports in the European Single Electronic Format (ESEF), with securities issuers required to publish their annual financial reports for financial years beginning as of 1 January 2020 electronically. The ESEF has been defined by ESMA and adopted by the European Commission in the form of an EU regulation. The figures from the primary components of the financial statements (and the text of the Notes from 2022 onwards) will have to be tagged in the electronic documents so that these disclosures are machine-readable. This will promote comparability and make it easier to evaluate larger quantities of financial reports in a targeted way. The combination of XHTML and XBRL formats in production of reports using the Inline XBRL (iXBRL) visualisation format will also ensure that the annual financial reports are still human readable and can be opened in any standard web browser without the need for special software.

# PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

**T**he FMA adopts a risk-based approach to its supervisory activity in monitoring compliance with due diligence requirements for the prevention of money laundering and terrorist financing. It analyses the business models of the supervised companies in order to determine if there are any specific risks that make money laundering more likely. Potential indicators of this susceptibility include the geographic markets in which these companies operate or with which they maintain intensive business relations (e.g. high proportion of offshore locations), certain financial services (e.g. high-value cash transactions, back-to-back transactions and trusts) or the customer structure (e.g. high number of politically exposed persons, PEPs). On the basis of this analysis, the FMA carries out a risk classification (low, moderate, elevated, high) of the companies and steps up its supervision where necessary for the higher risk categories. Its resources are then focused on supervising those companies that are exposed to a higher risk on account of their business model and that therefore require greater prevention efforts. High levels of administrative resources are not tied up in those that present a lower level of risk.

## ON-SITE MEASURES

During the year under review the FMA carried out a total of 67 on-site measures in order to monitor compliance with due diligence procedures for the prevention of money laundering and terrorist financing. Of these, 37 took the form of on-site inspections (30 at credit institutions and seven at investment firms). The FMA also carried out 30 examinations in the reporting year, of which 28 at banks and financial institutions and two at payment institutions' agents. Additionally, the FMA held ten management talks in 2019.

## OFFICIAL PROCESSES

During 2019 there were 193 cases of supervisory procedures being initiated in the fight against money laundering (> *Table 38*). The procedures included 170 investiga-

	2015	2016	2017	2018	2019
<i>Investigations initiated</i>	125	127	163	141	170
<i>Procedures to apply measures initiated</i>	42	20	17	15	12
<i>Administrative penalties</i>	13	7	7	8	11

Table 38: **Supervisory procedures 2015–2019**

tions, twelve procedural orders requesting that compliance with statutory provisions be restored and eleven administrative penal proceedings.

## REGULATORY DEVELOPMENTS

In order to transpose the Fifth Anti-Money Laundering Directive into Austrian law, Austria's Financial Markets Anti-Money Laundering Act (FM-GwG; *Finanzmarkt-Geldwäschegesetz*) and Beneficial Owners Register Act (WiEReG; *Wirtschaftliche Eigentümer Registergesetz*) were amended with effect from July 2019<sup>1</sup>. The most significant changes in the FM-GwG relate to the FMA's supervision of virtual currency providers with effect from January 2020, the definition of specific enhanced due diligence requirements for transactions and business relationships with customers from high-risk third countries, and the improvement of the FMA's cooperation with other national and international authorities. The concept of public access to information has been introduced in the WiEReG, along with a compliance package applicable as of 10 November 2020. This is a central platform at the registry authority (Federal Ministry of Finance) used to store the information and documents needed to determine and check the identity of beneficial owners. The aim here is to reduce the costs incurred by the companies concerned and, at the same time, to improve the effectiveness of measures taken to combat money laundering and terrorist financing.

The FMA published two circulars in this area in 2019:

- The Circular concerning internal organisational structures for the prevention of money laundering and terrorist financing, which focuses on group-wide application for companies that operate internationally. Banking groups and groups of financial institutions that operate internationally out of Austria are obliged to implement effective strategies and checks throughout the entire group and thus also in relation to their foreign business operations. This Circular also contains information on the extent to which the tasks performed in order to comply with due diligence requirements may be outsourced. Additionally, the Circular focuses on the role of the anti-money laundering officer and the requisite organisational requirements in this regard.
- The Circular concerning reporting obligations for the prevention of money laundering and terrorist financing replaces the older FMA Circular on reporting suspicious cases and breaches of the disclosure of trusts, which dates from 2011. The new Circular covers all aspects of reporting obligations pursuant to the FM-GwG and the Funds Transfer Regulation, from the detection of irregularities to plausibility checks and the reporting of specific suspicions to the responsible financial intelligence unit.

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<sup>1</sup> Published in *Federal Law Gazette I No. 62/2019*.

## PRIORITY FOR SUPERVISION – COMPREHENSIVE RISK MONITORING: LACK OF AML DUE DILIGENCE AS A SOLVENCY RISK



It is well known that money laundering is highly damaging to national economies. At the same time, it is also in companies' best interests to ensure that they cannot be exploited for money laundering purposes. Otherwise, they risk their reputation being harmed and could suffer significant financial damage, in some cases even threatening their survival. Misconduct that results in consumers being harmed can also pose a major problem for financial players. The scale of the potential damage to financial institutions can be uncontrollable, jeopardising the solidity and stability of the institutions affected and in some cases leading to insolvency. Shortcomings in the conduct of institutions – and thus in their governance – can cause sector-wide problems, shattering customers' confidence in the financial system and the financial market more generally, and harming the economy as a whole.

The Europe-wide banking stress test conducted in 2018 revealed that costs of € 54 billion (out of a total € 82 billion), namely close to two thirds, were caused by operational risk relating to misconduct. Supervision of compliance with rules of conduct and rules to prevent money laundering is therefore a high priority.

Recent events also underscore the importance of this area of supervision. The Latvian ABLV Bank found itself at risk of collapse after failing to observe anti-money laundering obligations and subsequently became insolvent. The Estonian Versobank had its licence withdrawn due to breaches of the money laundering rules, as did the Maltese Pilatus Bank, which had been involved in money laundering activity. The Swedish Swedbank Group and Danske Bank from Denmark also faced harsh consequences and sanctions after having seriously breached their anti-money laundering obligations.

One case from Austria demonstrates just how sensitive the markets can be to this type of accusation. Stories appeared in the media accusing a major Austrian bank of involvement in money laundering, as a result of which its share price promptly collapsed by as much as 14 per cent. The mere suggestion of wrongdoing was enough to trigger such a strong reaction.

Yet any breach of one of the many rules of conduct governing how banks treat their customers can also result in tough penalties. In the Netherlands, for example, one bank was fined more than € 1 million for having broken consumer protection rules when issuing loans.

These examples also clearly demonstrate why there has been a change in mentality among financial service providers over recent years in terms of compliance, rules of conduct and distribution rules when delivering banking and investment services and when arranging insurance deals. Awareness of the importance of proper conduct has risen massively, in other words observing rules of conduct and due diligence requirements when dealing with customers, and focusing on compliance, namely an institution's internal monitoring of its adherence to the regulatory requirements. What might previously have been viewed as "excessive" regulation, is now understood as a core function within an institution.

In its conduct and compliance supervision, the FMA has always pursued an integrated approach, striving to create a level playing field across all sectors and products, with fair competition and as uniform a standard of consumer protection across all markets

as possible. It has permanently worked on developing this approach, applying it in a risk-based manner – as the risk of abuse increases, so too do the intensity and depth of supervision – and pursuing a zero-tolerance policy in relation to money laundering in particular. Considering different risk categories in isolation is not an appropriate way of dealing with the actual risks and the interrelated nature of these risks. Conduct risks form part of companies' business risk and thus must form part of an integrated approach to risk.

Consequently, the FMA has made compliance with due diligence requirements and rules of conduct one of its priorities for supervision and inspections.

# WHISTLEBLOWING

**W**histleblowers are people who do not keep silent upon encountering misconduct or irregularities at their workplace that could damage the company or that are not in the public interest. In some cases, they will have failed to find anyone to listen to their concerns in the company itself or are worried about serious personal consequences should they inform their managers or any supervisory body. Information from whistleblowers is, however, also an important source of information for authorities as a means of eliminating bad practice and often being able to limit or even entirely prevent any resulting damage.

Consequently, some years ago now, the FMA set up its own web-based whistleblowing system as a secure channel for the reporting of any irregularities. This system guarantees whistleblowers absolute anonymity, thereby affording them as much protection as possible from any retaliatory action. Whistleblowers who are brave enough to report illegal actions should not have to risk damage to their own reputation or the loss of their job as a result.

Generally, the reports made using the FMA's whistleblower tool are very valuable to the FMA's supervisory activity. Most are submitted anonymously and none can be traced back to the whistleblower thanks to the use of encryption technology running on servers across three continents. There is also the option of setting up a personal, secure mailbox via which the whistleblower and the FMA can subsequently communicate with one another anonymously.

All reports are subject to an immediate, initial review by a specially trained member of staff, who will then forward them internally to the relevant FMA expert.

## REPORTS AND OUTCOMES

In 2019 the FMA received 263 reports from whistleblowers, 87% of which actually fell within the FMA's supervisory remit (> *Chart 35*). Out of the 229 relevant reports, 54 related to banking supervision, 19 to insurance and pension supervision, 15 to securities supervision, 13 to markets and exchanges supervision, six to money laundering and the financing of terrorism, and one to financial reporting enforcement (> *Chart 36*).

More than half of the relevant reports, i.e. 121 of them, highlighted illegal business activity (provision of financial services that require a licence without being in possession of such a licence from the authorities), while 115 related to suspected investment

Chart 35: Number of whistleblowing reports 2015–2019

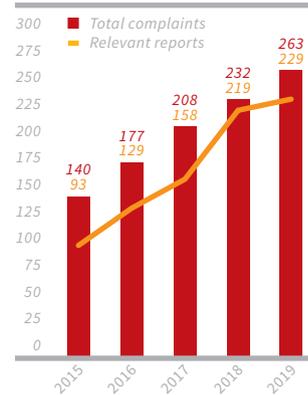


Chart 36: Distribution of reports 2019

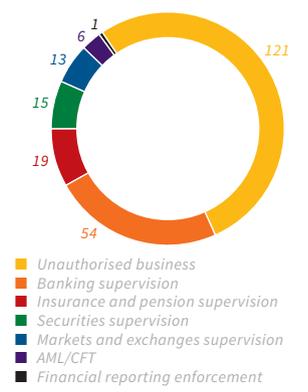
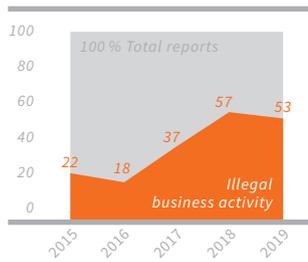


Chart 37: **Development of reports about investment fraud 2015–2019 (in %)**



fraud. The number of the latter in relation to cryptoassets soared, already accounting for 60% of such reports during the previous year (> Chart 37). Cryptoassets are frequently advertised with the promise of exorbitant increases in value and a highly luxurious lifestyle, or even as a “conservative and safe investment” in cryptocurrencies for old-age provision.

As a result of the whistleblowing reports received in 2019, 154 further supervisory measures were introduced in total.

In 27 cases the FMA itself proceeded with further supervisory measures such as on-site inspections, management talks, fit and proper tests and reviews of key functions. The FMA also reported 22 cases to the criminal authorities (police, public prosecutor and similar) and published twelve investor warnings.

In this way, whistleblower reports are not just an important source of information in tackling poor practice in supervised companies but also frequently mark the start of criminal prosecutions and enable consumers and investors to be warned as early as possible of fraudulent or other potentially criminal offers on the financial markets. This means that they help inexperienced consumers in particular to recognise dubious offers more easily and raise their awareness of the risks inherent in the financial markets in general, specifically in unregulated and unsupervised markets.

# CONSUMER PROTECTION, CONSUMER INFORMATION AND THE COMPLAINTS SYSTEM

**T**he FMA is committed to the principle of collective consumer protection and protects the interests of groups of consumers, be they savers, investors, insurance customers or other similar groups. In its capacity as the supervisory authority, the FMA must always remain impartial and never side with either a supervised company or a customer. The FMA is required to be strictly objective and must maintain equidistance between all market participants. This means that it may not assist with the enforcement of individual claims. The latter falls within the remit of traditional consumer protection organisations, advisory professions such as lawyers, and the civil courts.

Collective consumer protection revolves around comprehensible, fair and comparable information that does not mislead customers and that is provided to them prior to entering into any contract, during the term of that contract and upon its termination. This is the only way in which consumers can make a sound decision on the financial services being offered on the market in response to their personal requirements. The lawmakers and the regulators therefore oblige the supervised companies to provide consumers and customers with honest, clear and non-misleading information. Reviewing compliance with these information obligations is one of the FMA's priorities in its capacity as supervisor. In its capacity as regulator, the FMA must permanently evaluate whether the information obligations are in line with the high demands of a targeted, efficient and effective form of consumer protection, extending or adapting them where necessary.

Moreover, the FMA itself offers a broad range of information aimed directly at consumers in order to familiarise them with particular risks or to explain certain financial services and products to them clearly and in a way that is easy to understand. Examples in this regard include the FMA's flyer on handling foreign currency loans and the particular risks that they present, and its information brochure on the special features of life insurance. The FMA's website is also becoming an increasingly important source of consumer information ([www.fma.gv.at](http://www.fma.gv.at)).

During the reporting year the FMA published its "A-Z of Finance" on its website, and this is updated and extended on an ongoing basis. A dedicated area for consumers, this section of the website provides clear and easily comprehensible information in the subject areas that feature most frequently in customers' questions, namely Accounts, Loans, Insurance, Investments, Old-age provision, Spotting financial fraudsters and Enquiries and complaints.

This A-Z guide has been very well received, with some 36 300 hits in the first nine months following its launch (up to the end of 2019).

The FMA also has its own central complaints system that consumers and customers of supervised companies can use to highlight examples of poor practice on the market in general or to report more specific problems that they have experienced with a company in relation to the provision of a financial service. As a general rule, all licensed companies are required to have their own complaints system and to find appropriate solutions to any complaints received from their customers. The FMA monitors whether such systems have been properly set up and whether they are functioning effectively and efficiently. In the event that a solution offered is not satisfactory, the customer concerned may also make use of the FMA's complaints system.

The FMA handled and finally settled approximately 3 200 enquiries and complaints in total in 2019.

Most of these related to banks, with insurance undertakings the second most common source of complaints. These enquiries and complaints covered a wide range of issues:

- With regard to payment transfers, the length of time taken for transfers was a particularly frequent complaint.
- With regard to financing, most complaints related to foreign currency loans as well as repayment vehicles, consumer loans and mortgages.
- Many general questions were also received in relation to the deposit guarantee scheme in Austria. Consumers were particularly keen to know how their savings were protected and up to what amount, as well as the circumstances under which the system would apply and how the scheme would pay out.
- As far as the prevention of money laundering was concerned, consumers were primarily concerned about their obligation to identify and establish beneficial owners.
- In terms of insurance, enquires mostly related to the actual amount of the capital guarantee, doubts as to the accuracy of calculations and the lack of clarity in policy summary reports, termination of the contract, and exemption from or discounts on premiums.
- Questions and complaints about Pensionskassen focused on the premium and benefit information to be sent annually, including investment information, with enquiries about the amount of any supplementary occupational pension, particularly in the case of reductions. Beneficiaries are often unclear about why their pension is not increased even in years in which good investment results are recorded. The statutory lump sum payment limit continued to be another area requiring a high level of explanatory information (this limit was increased in 2019 from € 12 300 to € 12 600). If the pension plan assets available for payment of a pension do not exceed this limit at the start of retirement, the *Pensionskasse* may make a one-off payment instead of paying a monthly supplementary pension. However, where the entitlement exceeds this limit, it may not be settled through payment of a lump sum but must be paid out in the form of regular pension payments. One-off payments are also not permitted if the beneficiary waives the right to any amount by which the limit is exceeded.
- In the area of securities supervision, complaints mainly related to non-compliance with the rules of conduct governing the sale of securities: lack of proper advice,

failure to protect investors' interests, investment of funds with an inappropriate level of risk, information that was difficult to understand, and costs and fees.

- With regard to payment transactions, all companies are obliged under European law<sup>1</sup> to accept, facilitate and implement transfers and direct debits from accounts throughout the European Economic Area (EEA). However, some companies only permit Austrian accounts. This is a breach of the freedom to choose a bank account, with the result that the FMA has the power to impose sanctions under administrative criminal law.
- The number of enquiries and complaints received in relation to a wide range of cryptoasset issues soared during the year under review. In particular, there were many cases of investment fraud. As well as publishing investor warnings on its website, the FMA also provided up-to-date information on the most common scams.

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<sup>1</sup> SEPA Regulation EU No 260/2012.

# ENFORCEMENT AND LAW

## ADMINISTRATIVE PENAL PROCEEDINGS

**A**t the beginning of 2019, 44 administrative penal cases were pending at the FMA, with a further 122 being initiated later in the year. Proceedings were discontinued in 64 cases. At the end of 2019, 56 administrative penal proceedings were still pending.

In 2019 the FMA continued to follow its strategic approach of increasingly only taking action against the legal person (i.e. the company that is responsible for the breach) in its administrative penal proceedings. Following the supervisory reform’s entry into force on 3 January 2018, the FMA may now decide to refrain from also punishing responsible natural persons – such as managing directors or other special responsible representatives – pursuant to Article 9 of the Administrative Penal Act (VStG; *Verwaltungsstrafgesetz*) when an administrative penalty is already being imposed on the legal person for the very same breach and where no particular circumstances preclude the option of refraining from punishing natural persons.

The FMA refrained from initiating proceedings after preliminary investigations in 184 cases. In 94 cases, the FMA made use of its discretionary power to refrain from prosecuting altogether, including action against the legal person, because the breach had not been significant.

These extended discretionary powers allow the FMA to concentrate its resources on significant and complex proceedings that will require more work. Nevertheless it is important to the FMA that it sends out the correct preventive signals and shows that it will not tolerate minor offences either. Accordingly, it issued 43 admonitions or admonition orders in 2019 (> *Chart 38*). In another 45 cases, the FMA issued penal decisions. These procedures and penal decisions related to 48 facts or cases in total (> *Chart 39*). The number of penal decisions and cases does not always correlate. Firstly, in individual cases the FMA may impose more than one sanction, for instance when cases relate to several natural persons or when both legal and natural persons are being punished. Secondly, for reasons of efficiency and as a result of the new absorption principle, several cases are often dealt with by one penal decision, with only one overall penalty being imposed. At any rate, the number of cases handled during the reporting year remained about the same as in previous years, even though the focus was on significant and complex procedures.

Through the 45 penal decisions it issued in 2019, the FMA imposed fines totalling € 703 200. The highest fine imposed by the FMA in 2019 was € 262 500.

Chart 38: Administrative penalties and admonitions 2015–2019

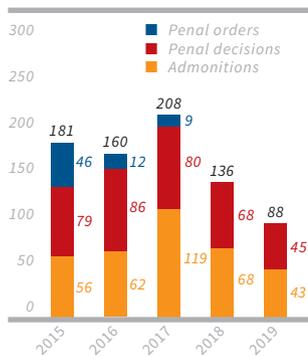
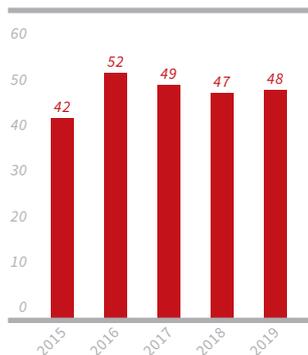


Chart 39: Number of sanctioned cases 2015–2019



In the interests of transparency and prevention, the FMA publishes notices of sanctions on its website. In line with European requirements, sanctions are increasingly publicised alongside added information on the individuals concerned.

## STATEMENTS OF FACTS AND REPORTS TO CRIMINAL PROSECUTION AUTHORITIES

Some of the laws included in the FMA’s supervisory remit also cover criminal offences. Where the FMA has reasonable grounds to suspect that one of these laws has been breached, it must file a report with the public prosecutor’s office or the criminal investigation department. The courts of law are then responsible for imposing sanctions. Examples of such offences include insider dealing and market manipulation as prohibited by the Stock Exchange Act (BörseG; *Börsegesetz*) where amounts exceeding defined limits are involved, or infringements of banking secrecy rules. As part of its supervisory activity, the FMA also repeatedly becomes aware of other circumstances that lead it to suspect that the law has been breached. The FMA is obliged to report such cases, most of which involve suspected breaches of trust and/or fraud.

In 2019 the FMA forwarded 131 statements of facts to the public prosecutor’s office (> *Chart 40*). In 92% of these cases the statements of facts related to reports of suspected breaches of the Criminal Code (StGB; *Strafgesetzbuch*), 4% were based on suspected breaches of the Austrian Banking Act (BWG; *Bankwesengesetz*), 3% were due to suspected violations of the Capital Market Act (KMG; *Kapitalmarktgesetz*) and 1% pertained to a suspected breach of the provisions of the Securities Supervision Act (WAG; *Wertpapieraufsichtsgesetz*) (> *Chart 41*).

## SELECTED PROCEEDINGS

### ADMINISTRATIVE PENAL PROCEEDINGS

#### AD HOC REPORTING OBLIGATIONS

A penal decision amounting to € 15 000 was issued against one member of an issuer’s management board (who is also their special responsible representative) for belated ad hoc reporting. The defendant was accused of not submitting an ad hoc report on time in relation to the planned issuing of at least € 5 million of contingent convertible (CoCo) bonds without subscription rights at the end of the first quarter of 2016. The CoCo bonds were issued over an extended period of time, starting in autumn 2015. The ad hoc report announcing the issue was not published until March 2016. In the FMA’s view, the plan to start issuing the CoCo bonds in January 2016 constituted inside information directly affecting the company, as sufficiently specific information about the design of the bond was already available at that time. The planned issue should have been publicised immediately, i.e. at the end of January 2016, and not delayed until the beginning of March.

The Federal Administrative Court (BVwG) confirmed the FMA’s penal decision in full in 2019, while not admitting an ordinary high-court appeal.

The BVwG confirmed the FMA’s view that the CoCo bond was technically no different from the issue of additional shares at a later point in time, with shareholders being granted fixed interest for the capital provided until the shares were actually issued.

Chart 40: Facts reported to public prosecutors 2015–2019

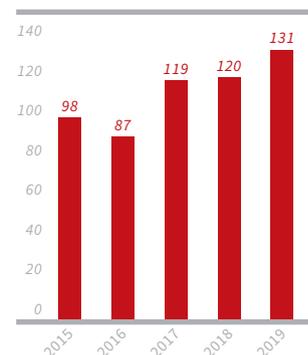
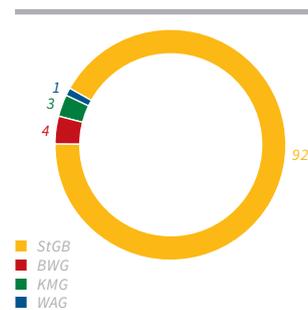


Chart 41: Facts reported to public prosecutors by subject (in %)



The issue of a CoCo bond thus constitutes a deferred dilution of shares in a company's Tier 1 capital. After a capital increase more shares are in circulation, which means that future profits will have to be distributed among more shares; if the profit remains the same, the profit per share is consequently reduced. The BVwG assumed that informed investors would have factored this information in to their investment decisions if they had been aware of it in good time. The BVwG had no doubt that the information about the issue of the CoCo bond was likely to have a significant effect on the price.

### **AML/CFT OBLIGATIONS – CRIMINAL LIABILITY OF LEGAL PERSONS**

#### Federal Administrative Court (BVwG)

During the reporting period the BVwG confirmed fines of € 414 000 and € 2 748 000 imposed on two credit institutions (legal persons) back in 2018 due to inappropriate anti-money laundering (AML) and combating the financing of terrorism (CFT) policies. In both cases the FMA had conducted on-site inspections and established a lack of compliance with the due diligence obligations prescribed in the Financial Markets Anti-Money Laundering Act (FM-GwG; *Finanzmarkt-Geldwäschegesetz*). The FMA reported on these penal decisions in its 2018 Annual Report.

The BVwG confirmed both decisions in 2019 with provisos. In one of the two cases it changed the person to whom conduct is attributed: rather than basing the credit institution's responsibility on its managing directors' conduct, the Court attributed responsibility to the behaviour of a special responsible representative who had been appointed by the institution but whose appointment the FMA had not considered to be legally valid.

The BVwG rulings were challenged by the credit institutions concerned, which lodged a high-court appeal with the Administrative Court (VwGH). The VwGH has ruled in both cases, as outlined in the section on the VwGH below.

#### Administrative Court (VwGH)

The VwGH had to rule in several cases relating to AML/CFT due diligence obligations. Some of its rulings were only made in 2020, i.e. outside the reporting period, but are presented here in brief to complete the overall picture. All of the rulings related to the issue of attributing criminal behaviour to a legal person.

The VwGH ruled in two cases that the FMA – and the BVwG subsequently – had breached the requirement for legal certainty when setting out their administrative decisions. The reasoning for this ruling was that the exact description of the criminal act required the FMA to specify whether 1) the management board member had themselves failed to act or whether 2) they had failed to monitor or supervise the respective employees.

In one of the two cases, and in a further case, the BVwG – contrary to the FMA – based the responsibility of the bank in its ruling on the behaviour of a special responsible representative appointed by the company. The VwGH ruled that the BVwG was not entitled to change the person to whom conduct was attributed.

In two further cases the BVwG determined that the FMA had not given the natural persons whose conduct was attributed to the bank the opportunity to exercise their rights as defendants (particularly the right to be heard) in the proceedings against the legal person. The BVwG did not consider it possible to correct this flaw since the FMA

had already discontinued the proceedings against the natural persons. The BVwG therefore felt impelled to end the proceedings by repealing the decisions without substitution. The FMA's contrary view was that the rights of defendants did not have to be upheld with regard to the natural persons since the proceedings against them (the natural persons) had already been discontinued and they therefore no longer needed to fear any punishment.

The VwGH ruled that the BVwG's decision was mistaken and stated that the persons to whom conduct has been attributed must be granted defendants' rights in further proceedings against the legal person, even if they themselves were no longer defendants (due to proceedings against them having been discontinued). At any rate, in the VwGH's opinion any infringements of defendants' rights of natural persons cannot be used by the BVwG as grounds to repeal the proceedings against the legal person without substitution. For this reason in particular, the VwGH repealed the BVwG's decisions.

## HOW THE FMA CALCULATES PENALTIES

The European Union's lawmakers are increasingly moving to a system, particularly in the area of financial market law, that allows the sanctioning of both natural persons and legal persons. At the same time, the range of available penalties is generally being greatly increased so that these are more closely geared to the party's economic circumstances, and above all to the circumstances of any person who benefits from a criminal act, in this way creating a deterrent and having a preventive effect.

Based on this increased range of penalties that takes into account the financial strength of legal persons, as provided for in European law, the importance of determining appropriate punishments has grown. In this regard it is important to avoid any appearance of administrative arbitrariness and to be able to provide the accused party with a transparent calculation.

As part of a two-stage process, the first step is to calculate the range of punishment. Administrative penalties may, depending on the relevant laws, be imposed on the basis of a maximum defined amount, on the basis of a maximum that takes sales or additional revenues into account, or on the basis of the benefit gained from the act in question. In each specific individual case, the highest of these amounts should be used to determine the range of penalties. After determining the penalty range applicable in an individual case, the second stage involves actually calculating the penalty. The general terms of Article 19 VStG apply, according to which penalties in administrative penal proceedings are calculated on the basis of the legally protected right under criminal law and the intensity of its impairment as a result of the act being punished. According to sector-specific provisions, the parameters applicable to the determining of punishment are now set out in detail in the respective relevant law, so that the penal decision is based on these factors.

When setting a penalty in a specific case, the FMA pursues a three-stage approach based on the actual circumstances of that case. Firstly, the basic amount is calculated by applying offence-based criteria. Secondly, the basic amount is adjusted in line with the specific guilt of the party concerned using additional criteria that relate to the offence and the perpetrator of that act, and thirdly the economic circumstances of the party concerned are taken into account. When setting the administrative penalty, the FMA reserves the right to also skim off the economic benefit that the party concerned gained from the act.

### **SUSPENSIVE EFFECT OF APPEALS AGAINST ADMINISTRATIVE DECISIONS BY THE FMA – APPEAL PROCEEDINGS RELATING TO RESOLUTION MEASURES**

Administrative decisions issued by the FMA have fallen under the general provision of Article 13 para. 1 of the Administrative Court Proceedings Act (VwGVG; *Verwaltungsgerichtsverfahrensgesetz*) since 1 September 2019, according to which any admissible appeals filed in due time have a suspensive effect (switch from a system of “recognition” to a system of “derecognition”; cf. also Box “Suspensive effect new”). Pursuant to Article 13 para. 2 VwGVG, the FMA can exclude the suspensive effect by means of an administrative decision if the affected public interests in early enforcement outweigh the parties’ interests or if the authorisation granted by an administrative decision must be urgently exercised due to imminent danger. The term “imminent danger” in this context means that excluding the suspensive effect should prevent the occurrence of significant disadvantages for one party or serious disadvantages for the public good.

In the area of the financial market, this definition is fulfilled in the majority of cases, as established by the Constitutional Court (VfGH) in its decision of 2 March 2018 (G 257/2017). Accordingly, the VfGH assumes that the majority of financial market cases are particularly urgent and/or relate to specific threats and special supervisory activity issues requiring exclusion of the suspensive effect.

In this connection, European requirements for national legislation arising from the EU’s legislative context also need to be met according to the VfGH. Official measures pertaining to the financial market must be taken promptly and enforced without delay. If those measures impact too late, which might very well occur in rapidly reacting financial markets, this might lead to Union law not having the desired effects. Union law would be breached because the regulatory objectives prescribed by it could not be fulfilled. Additionally, measures that impact too late can also run counter to public interests.

In cases where appeal proceedings are pending at the BVwG in relation to one of the FMA’s administrative decisions, the FMA must apply to the BVwG for the exclusion of the suspensive effect pursuant to Article 22 para. 2 VwGVG should it believe such exclusion to be necessary.

For example, as at 20 September 2019, there were 36 appeals pending at the BVwG against administrative decisions issued by the FMA in a procedure in accordance with the General Administrative Procedure Act (AVG; *Allgemeines Verwaltungsverfahrensgesetz*). In 22 of those cases, the FMA opined that the exclusion of the suspensive effect had been necessary on urgent public interest grounds; most of them concerned the ordering of resolution measures in connection with the resolution of HETA ASSET RESOLUTION AG. In 17 of the 22 appeals against the FMA’s applications for exclusion of the suspensive effect, the BVwG confirmed the FMA’s reasoning; in the five remaining cases the BVwG settled the legal matter resulting from the FMA’s applications by either dismissing the appeals altogether or discontinuing the appeal proceedings for formal reasons. Specifically with regard to the ordering of resolution measures, in relation to which Article 118 of the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*), implementing Article 85(4)(1) BRRD, establishes a rebuttable presumption of an urgent public interest existing in the enforcement of resolution measures, the BVwG has so far not considered it necessary in a single case to grant the suspensive effect requested in an appeal.

In connection with HETA's resolution, the FMA had issued, in its capacity as resolution authority, three administrative decisions in relation to the challenge procedure by the end of 2019 (No. I of 10 April 2016 delayed the maturity of HETA's liabilities until the end of 31 May 2016, No. II of 2 May 2017 applied the bail-in tool, and No. III of 13 September 2019 raised the bail-in ratio). Appeals were filed with the BVwG against each of these decisions.

In relation to decision No. I, the BVwG discontinued one appeal process due to the withdrawal of the appeal and another on grounds of irrelevance in the reporting year. The BVwG suspended the remaining outstanding appeal proceedings brought by five appellants in the second legal procedure (following the repeal by the VfGH of the BVwG rulings on the discontinuation of proceedings on grounds of irrelevance) until a final decision on their appeal against decision No. II was reached, since the outcome was of primary significance for the assessment of the payment moratorium.

With regard to decision No. II, the BVwG also discontinued four appeal processes in 2019 after the appeals had been withdrawn. Appeal proceedings by eleven appellants

## SUSPENSIVE EFFECT NEW

Following a ruling by the Constitutional Court (VfGH)<sup>1</sup> in 2018, the concept of the suspensive effect of appeals against FMA administrative decisions has been revised. Consequently, with effect from 1 September 2019, there was a switch from a system of "recognition" to a system of "derecognition". Appeals that are permitted and lodged on time generally have suspensive effect. However, the FMA may exclude this effect by means of an administrative decision if the public interest in early enforcement overrides the interests of the parties (parties to whom the decision is addressed), or if an authorisation granted by the administrative decision must be exercised urgently due to imminent danger. "Imminent danger" in this context only means that excluding the suspensive effect should prevent the occurrence of significant disadvantages for one party or serious disadvantages for the public good.

In the area of the financial market, this condition is fulfilled in the majority of cases according to the VfGH. The latter generally assumes there to be particular urgency in relation to specific threats and/or special supervisory activity issues. This would then require the exclusion of the suspensive effect.

As at 20 September 2019, for example, there were 36 appeals against FMA decisions pending with the Federal Administrative Court (BVwG). In 22 cases, the FMA was of the opinion that the suspensive effect of the appeals needed to be excluded for urgent reasons of public interest. Most of these appeals related to the ordering of resolution measures in relation to the resolution of HETA ASSET RESOLUTION AG. The BVwG also did not view recognition of the suspensive effect as necessary in relation to any of these appeals.

The general legal provision that has also applied to FMA administrative decisions since 1 September 2019 creates a high standard of legal protection given that the FMA must now consider each individual case. At the same time, however, the VfGH has conceded that excluding the suspensive effect is appropriate in most of the FMA cases, even simply on urgent public interest grounds. There is also the possibility of an appeal being lodged against the decision on the exclusion of suspensive effect, which would potentially increase the number of appeals processes and thus tie up a higher level of resources. This must obviously be questioned from an administrative perspective.

<sup>1</sup> Through its decision of 2 March 2018, the Constitutional Court (VfGH, 2 March 2018, G 257/2017) revoked the special provisions of Article 22 para. 2 FMABG. Consequently, as of 1 September 2019, administrative decisions of the FMA have been subject to the general terms of Article 13 para. 1 VwGVG, according to which permitted appeals lodged on a timely basis generally have suspensive effect.

were therefore still pending with the BVwG at the end of the year. By the beginning of 2020, the BVwG had dismissed three of these appeals as unjustified, thereby confirming the FMA's legal opinion, acting in the capacity of resolution authority.

Two appellants have appealed against decision No. III dated 13 September 2019; they are still pending before the BVwG. The same appellants had previously submitted appeals against the preceding emergency administrative decision No. III of 26 March 2019; both of them had been rejected as inadmissible first by the FMA and then by the BVwG.

### **PUBLICATIONS**

Two banks submitted an appeal to the BVwG since they considered the FMA's publication of the fact that a penal decision had been issued against them to be disproportionate.

In 2018 two credit institutions contested the FMA's publication of the fact that it had imposed fines on them due to breaches of AML/CFT obligations before the relevant penal decision had become final. Upon their application, the FMA issued administrative decisions declaring its publication in accordance with Article 37 para. 1 FM-GwG to be lawful.

In one case the BVwG upheld the appeal against the FMA's declaratory decision by the credit institution concerned and declared – contrary to the FMA's legal opinion – that the publication had been (and still was) unlawful and therefore had to be removed from the FMA's website, including any updates to the original publication. The BVwG reasoned in its ruling that disclosure in the form of a mere subsequent issuing of an administrative decision as laid down in Article 37 FM-GwG was restricted, when interpreting the law in accordance with the Austrian constitution and EU law, to cases where such disclosure would be unambiguously justified on grounds of urgency in light of the FMA's supervisory objectives, and that this was not the case here.

The FMA complied with the order to remove the publication but also filed a high-court appeal with the VwGH against the BVwG ruling on grounds of the underlying legal issue of fundamental significance. The FMA set forth in its appeal that the restrictive interpretation by the BVwG was unlawful as it removed all scope of application from Article 37 FM-GwG, and was not within the limits of the wording of Article 37 para. 1 FM-GwG. The appeal proceedings brought by the FMA were still pending as at the end of the year.

In another case, the BVwG proceeded differently, suspending the appeal proceedings by order until the proceedings against the fine imposed by the FMA's penal decision had been finally settled.

The FMA subsequently contested this suspension order by lodging a high-court appeal with the VwGH. The VwGH revoked the suspension of these proceedings during the reporting period on the grounds of their unlawful content.

The BVwG finally decided to proceed as in the first case mentioned. The FMA consequently removed the penal decision's publication from its website, and filed another high-court appeal with the VwGH. These appeal proceedings brought by the FMA were also still pending as at the end of the year.

In conclusion a general remark: in the FMA's opinion, publication by the FMA of BVwG rulings should be viewed and judged separately from publication of FMA decisions including any orders from the BVwG to remove those. Even if an information about an

FMA penal decision (that is not yet final) is removed upon a BVwG order, the final BVwG ruling could subsequently still be published.

The FMA also published on its website that a company, whose name was given, had been ordered by administrative decision to refrain from performing unauthorised business transactions in the field of securities trading pursuant to Article 1 para. 1 no. 7 lit. e BWG (securities business).

Upon a relevant application, the FMA issued an administrative decision declaring its publication to be lawful. The company filed an appeal with the BVwG contesting this decision. The BVwG weighed up the interests at stake and ruled that the public interest in the FMA's publication had been substantially greater than the private interests of the parties involved. The publication had therefore been lawful.

# THE FMA AS NATIONAL RESOLUTION AUTHORITY FOR BANKS

Number of  
wind-down  
units:

3

Number of banks for  
which the FMA draws  
up a resolution plan:

432

Austria's contributions  
to the Single Resolution  
Fund since 2015:

€ 986 million

Distributions to HETA's  
creditors up to 2019:

€ 10 billion

## RESOLUTION PLANNING

**D**uring the year under review the FMA, in its capacity as national resolution authority, was responsible for the resolution planning of 432 banks (total as at 1 January 2019). Twelve Austrian banking groups fell under the remit of the Single Resolution Board (SRB), which worked in cooperation with the FMA.<sup>1</sup> The intensity and extent of resolution planning depend strongly on a bank's size and complexity.

Banks falling under direct responsibility of the FMA can be divided into two categories: first, those around 30 institutions that are highly significant for the Austrian market and its stability. Under at least one of the scenarios chosen they are likely to need to be resolved by the FMA in accordance with the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*). This category may also include smaller institutions that have a relatively high volume of covered deposits. Second, those around 400 smaller banks that would have to be liquidated in the event of insolvency or over-indebtedness in accordance with the requirements set forth in the Austrian Insolvency Act (IO; *Insolvenzordnung*).

For banks that are likely to be of significance to the system, the FMA prepares an individual resolution strategy specific to the institution in question. In 2019 the FMA informed the banks concerned of the results of its 2018 resolution planning and asked them for their views. Based on this feedback, the Authority then revised and expanded the resolution plans regarding the following issues in particular:

- Interdependencies of the bank and their impact on a possible resolution
- Bail-in analysis for selected banks in relation to a possible resolution including how such a resolution should be carried out
- Assessment of the credibility and feasibility of normal insolvency proceedings
- Advancement of the preferred resolution strategy
- Calculation of minimum requirements for own funds and eligible liabilities (MREL), calculation of existing own funds and eligible liabilities, as well as, where applicable, determination of MREL thresholds that are being exceeded or not met
- Analysis of whether certain subordinated financial instruments can be used to satisfy parts of the MREL

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<sup>1</sup> For the MREL requirement in relation to resolution planning see page 123.

- Analysis of the bank's financial restructuring options in the event of a resolution
- Information and communication plan in the event of a resolution
- Assessment of the bank's resolvability.

The 2019 resolution planning for these banks should be completed in the first half of 2020.

The 2018 resolution plans for banks that are not among the systemically important institutions but hold a relatively high volume of covered deposits were completed during the year under review and their resolution plans for 2019 drafted. These drafts for the 2019 resolution planning were finalised in January 2020.

Standardised, simplified resolution plans were prepared for the around 400 smaller banks in 2019; the banks were informed of the results of these plans in writing.

For banking groups within the remit of the SRB, the majority of the 2018/2019 resolution plans were completed during the year under review. For groups with institutions operating outside the Banking Union and for whom resolution colleges have been set up, joint decisions were prepared by the competent resolution authorities. In addition, these banking groups have been asked to provide and use their own internal bail-in implementation process for their preferred resolution strategy (bail-in playbook).

## POLICY WORK AND INTERNATIONAL COOPERATION

At European level, work has been intensified on advancing the regulatory framework and implementing the defined requirements in practice. The European Banking Authority (EBA), for example, has set up two working groups: the Sub-Group on Resolution Execution (chaired by the FMA) and the Sub-Group on Resolution Planning Preparedness. Both groups are working on uniform European standards that should ensure common application of the rules in line with actual practice. At the same time the European resolution authority, the SRB, has established eight new working groups. At the end of December 2019, the SRB hosted a planned coordination exercise. The simulation tested how a bank that fails or is likely to fail (FOLTF) would be resolved in practice, and provided interesting insights. The two-day dry run tested the actual interaction between the SRB, European Commission and the national competent resolution authorities, and simulated the resolution of a banking group with cross-border operations (parent in Austria and subsidiaries in Belgium and Luxembourg, one of which failed). The focus was on how the decision-making, approval and communication processes are coordinated. In general, the official processes were satisfactory. However, it became clear that authorities found it highly challenging to interact when time became a critical factor. The plan is therefore to simulate further crisis scenarios to be able to improve cooperation and rehearse procedures.

In 2019 the FMA conducted bilateral meetings to exchange experiences with resolution authorities from Denmark, Germany and Spain. It also held a high-level meeting with representatives of the Romanian resolution authority.

At national level, the FMA carried out an in-depth analysis of potential effects of a bail-in, continued to work on its Minimum Standard on the provision of information in the event of resolution and looked into and evaluated transfer strategies for deposit-rich banks.

## PRIORITY FOR SUPERVISION MAKING FINANCIAL SERVICE PROVIDERS MORE RESILIENT



In response to the global financial crisis, the European Union created a uniform resolution regime for banks throughout Europe. The aims are to be able to remove failed banks or institutions that are no longer competitive from the market in an orderly manner and in a way that does not undermine financial stability, and to ensure that it is no longer public money, in other words taxpayers' money, that is used in this process. In addition to the creation of the Single Resolution Mechanism (SRM), the European Bank Recovery and Resolution Directive (BRRD) provides a comprehensive set of rules on how a resolution should be carried out and how banks are to prepare so that they can actually undergo a proper resolution process in the first place. The BRRD was transposed into Austrian law through the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*), which entered into force on 1 January 2015.

One of the requirements of the Directive is that banks must have sufficient own funds and eligible liabilities. In this way, the aim is for banks that face a crisis to be able to absorb the losses and restore their capital position, enabling them to recapitalise the systemically important and viable parts of their operations. This is where the concept of “bail-in” as a resolution tool comes in. A bank's creditors, e.g. those who have invested in its debt instruments, must contribute to its resolution if the bank is threatened with insolvency. Bail-in is therefore the opposite of bail-out, in other words a situation in which third parties, generally the government, step in and take over the debts or assume liability for them.

In accordance with the BRRD, the resolution authorities must tell the supervised banks how much own funds and eligible liabilities they are required to hold in order to guarantee their orderly resolution. Known as the minimum requirement for own funds and eligible liabilities (MREL), it is a regulatory requirement that must be met similarly to other equity requirements.

The MREL for banks is a key aspect of strengthening the Austrian financial market's resilience. As part of its medium-term planning in this area, the FMA therefore made increasing operational readiness for future crises one of its priorities for supervision and inspections in 2019.

### **SETTING AN MREL**

The aim of setting an MREL is to enhance banks' resolvability. Having sufficient own funds and eligible liabilities is the prerequisite for being able to implement the chosen resolution strategy. By writing down own funds and liabilities, banks can absorb losses, and by converting liabilities into equity, a bank can be sufficiently recapitalised again, enabling it to continue its critical functions and business activities, albeit in a restructured form.

Stipulating an MREL means that the bank always has sufficient own funds and liabilities to be able to absorb losses and recapitalise, even in the case of resolution. The MREL is therefore one of the most important tools available to guarantee resolvability.

During the reporting year and in the context of resolution planning, the FMA was responsible for setting the MREL for 432 banks in the capacity of national resolution

authority (as at 1 January 2019). Meanwhile, the European Single Resolution Board (SRB) was responsible for 12 banking groups in cooperation with the FMA.<sup>2</sup>

In 2019 the largest banks for which the FMA is responsible were set an MREL for the first time in the form of an administrative decision. On the basis of the resolution strategy developed as part of resolution planning, this extends beyond regulatory own funds and buffer requirements.

For the majority of banks for which the FMA is responsible, analysis to date indicates that the level of MREL required as part of resolution planning and in the absence of any imminent resolution matches that of the regulatory own funds and buffer requirements. The FMA has written to these banks informing them about the MREL applicable to them.

More than 90% of all credit institutions whose resolution regime falls under the direct responsibility of the FMA were notified of their current MREL requirements during the reporting year.

With regard to entities for which the SRB is responsible, the MREL for five banking groups was set in 2019 by means of FMA implementation decisions based on SRB decisions. For the other Austrian banking groups within the SRB's area of responsibility, the MREL will be set for the first time in 2020.

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<sup>2</sup> For further information on resolution planning see page 121.

## RESOLUTION FUND

Where the funds of a bank's shareholders, creditors and large depositors do not suffice to recapitalise an ailing institution under resolution, the Single Resolution Fund (SRF) may make a contribution. The SRF is owned by the SRB and funded by ex-ante contributions paid by all banks within the Single Resolution Mechanism (SRM). The fund is to reach the target level of at least 1% of the covered deposits of these banks and is to be built up until 2023.

In 2019 the FMA, in its capacity as the national resolution authority, collected the required contributions to the SRF by requesting, in the form of emergency administrative decisions, that 507 banks pay a total of € 197 million. The FMA subsequently remitted these contributions in full and on time. Since its inception in 2016, Austrian institutions have paid € 986 million to the SRF (> Chart 42). Over the same period, the number of institutions required to pay contributions has fallen from 605 in 2015 to 507 in 2019. A further fall in the number of institutions liable to pay is expected for 2020.

## RESOLUTION PROCESSES

### HETA ASSET RESOLUTION AG (HETA)

The resolution of HETA Asset Resolution AG (HETA), the wind-down entity established pursuant to the Act on the Creation of a Wind-down Unit (GSA; *Gesetz zur Schaffung einer Abbaueinheit*) and the BaSAG, was successfully continued in 2019. Supervised by the FMA as national resolution authority, HETA made substantial progress in realising its assets. Its liquidity continued to increase as a result of redemptions in the loan portfolio, the reduction in loans and advances to banks and customers and in the securities portfolio. The resolution results achieved by far exceed HETA's original targets, and this is mainly due to the resolution strategy having been consistently implemented.

The positive progress is also reflected in the current payment rate of 86.32% of creditors' eligible non-subordinated liabilities; the percentage was set by an administrative decision in relation to the challenge procedure (No. III) on 13 September 2019. This third decision also created new parameters allowing for further creditor claims to be paid off early. On 18 December 2019 a sum total of € 2.05 billion was distributed to the creditors of eligible non-subordinated liabilities. This means that together with the two interim distributions of 2017 and 2018 amounting to around € 7.9 billion, a total of nearly € 10 billion has been distributed early.

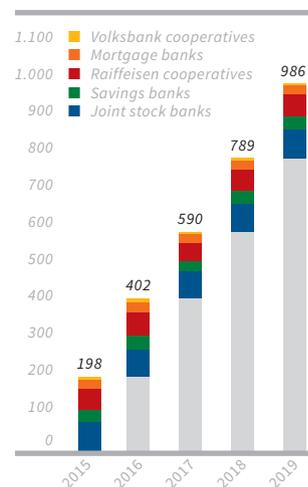
Two measures highlight the progress HETA's resolution has made particularly well: HETA's management board was scaled down to two members in 2019 and its former headquarters, the Hypo Alpe Adria Zentrum in Klagenfurt, was sold and the remaining staff relocated to much smaller offices in the provincial capital.

### KA FINANZ AG (KF)

KA Finanz AG (KF) emerged from a demerger of the former Kommunalkredit in 2009. Following the FMA's approval, KF has been operating as a wind-down entity as defined in the BaSAG since 6 September 2017. KF has since reduced its portfolio according to the wind-down plan approved by the resolution authority.

Under the FMA's supervision, the total assets of KF fell to € 6.7 billion as at the end of the first half of 2019, compared with 31 December 2017 when the figure still amounted

Chart 42: Austrian contributions to the SRF 2015–2019 (in € millions)



to € 9.8 billion and 31 December 2018 when it was € 7.2 billion. The fall is mainly attributable to scheduled and unscheduled active reductions and repayments. At € 4.1 billion, loans and advances to customers make up the largest balance sheet item on the asset side. As at 30 June 2019, KF also posted public-sector debt instruments and bonds in the amount of € 1.1 billion as well as loans and advances to credit institutions totalling € 1.1 billion.

The funding structure of KF was also changed in 2017: funding has since been provided by the federal divestment company ABBAG. As at 30 June 2019, KF's legacy funding portfolio stood at € 1.8 billion (including € 0.6 billion in covered bonds and a government-guaranteed bond amounting to € 1.0 billion), which was practically unchanged compared with 31 December 2018.

Outstanding funding provided by ABBAG totalled € 4.4 billion as at the end of the first half of 2019; this amount is reported under "Amounts owed to customers". KF's total funding volume comes to € 6.1 billion.

#### **IMMIGON PORTFOLIOABBAU AG (IMMIGON)**

immigon portfolioabbau ag (IMMIGON), the wind-down entity of the former Österreichische Volksbanken AG, completed activities to realise its assets in 2019. As the wind-down entity it was responsible for ensuring an orderly and active disposal of all assets on the best possible terms. The portfolio had to be reduced according to a wind-down plan prepared by the management board and approved by the supervisory board.

IMMIGON informed the FMA as the resolution authority in early 2019 of the successful completion of its portfolio reduction and adopted the dissolution resolution under company law at its annual general meeting on 15 May 2019.

With IMMIGON having resolved all banking activities and investment services and the liquid funds of € 926 million being sufficient to satisfy existing and projected future liabilities, the resolution authority issued an administrative decision terminating IMMIGON's operations as of the end of June 2019. The FMA's remit ended with the issuing of the decision.

The company's final liquidation is being carried out exclusively in accordance with the relevant provisions of company law.



# INTERNAL MATTERS



# 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. 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. Both Executive Directors were reappointed on 28 November 2017 for another term of office starting in February 2018. Klaus Kumpfmüller resigned from his position with effect from 31 January 2020. Eduard Müller was appointed as an interim member of the FMA's Executive Board with effect from 1 February 2020.



Figure 7: **Supervisory Board of the FMA** (as at 31 December 2019)

## SUPERVISORY BOARD

The Supervisory Board of the FMA is composed of ten members. Of these, the Federal Minister of Finance (BMF) as well as the Oesterreichische Nationalbank (OeNB) appoint four 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 institutions. 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.

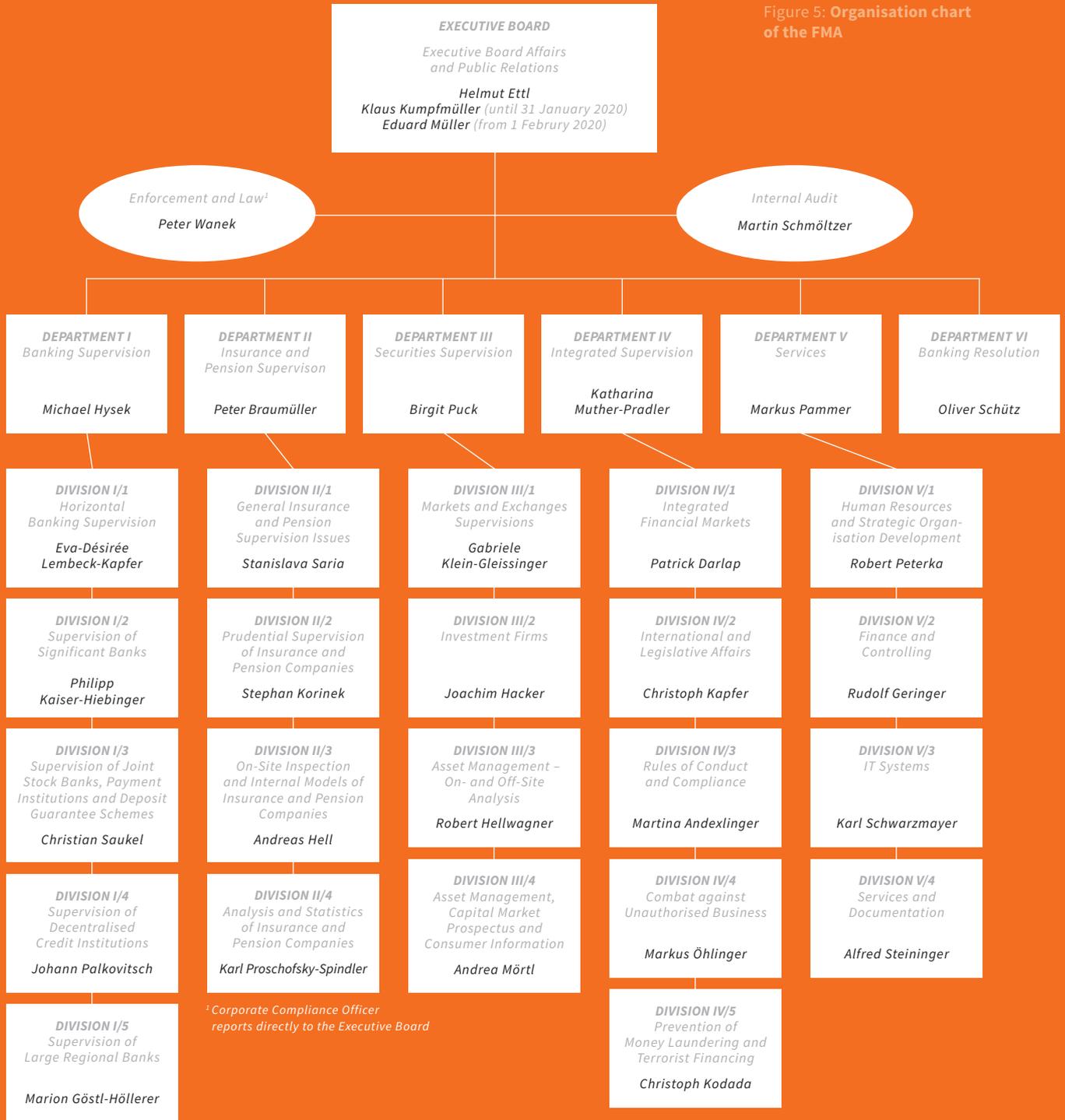
Pursuant to Article 10 para. 2 FMABG, the following measures require the approval of the Supervisory Board:

- 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
- The financial statements to be drawn up by the Executive Board
- The Rules of Procedure pursuant to Article 6 para. 2 FMABG and changes thereto
- The Compliance Code pursuant to Article 6 para. 4 FMABG 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 FMABG
- The conclusion of collective bargaining and works agreements.

In accordance with Article 9 para. 1 FMABG, the Supervisory Board is required to hold meetings at least once every calendar quarter. In 2019 the Supervisory Board convened on 4 March, 23 April, 28 June, 17 September and 20 November.

At its meeting on 23 April 2019, the Supervisory Board unanimously discharged the Executive Board for the 2018 financial year pursuant to Article 18 para. 4 FMABG.

Figure 5: Organisation chart of the FMA



¹ Corporate Compliance Officer reports directly to the Executive Board

# STAFF

## NUMBER OF STAFF

**T**he Supervisory Board had approved a staffing target of 393 full-time equivalents (FTEs) for 2019. The actual number of staff employed by the FMA as at 31 December 2019 was 381.01 FTEs, which corresponds to 420 employees (excluding those on leave).

The staff turnover rate dropped to 5.03% in 2019 (2018: 6.79%). The figure does not include those employees whose fixed-term contracts expired during the year. The low turnover rate is attributable to the high level of job satisfaction amongst FMA staff, which is due to the excellent continuous professional development opportunities (e.g. FMA Academy; university programme in Financial Market Supervision), a modern work environment (teleworking; specialist careers; work experience and development opportunities also within the SSM), the manifold measures designed to help employees reconcile their work and family life, as well as a salary scheme that is in line with market conditions and includes attractive social benefits. The FMA provides staff members working in highly specialised sectors of the financial market with excellent opportunities to assume positions of responsibility and to contribute to ongoing further development of supervisory tasks.

The number of civil servants assigned to duty at the FMA by the Federal Ministry of Finance (BMF) fell to 12.40 FTEs as the result of one individual retiring. In a year-to-year comparison, the percentage of civil servants in proportion to all employees declined from 3.49% to 3.25% at the end of 2019, whereas the comparable share in 2007 had been 10%. The number of contractual employees from the BMF remained

Table 39: **Planned and actual staffing levels in FTEs in 2019**

	Planned staffing levels as at 31 Dec.	Actual staffing levels as at 31 Dec.	Difference in %
<i>Executive Board Affairs, Enforcement and Law, Internal Audit</i>	28.00	26.00	-7.14
<i>Banking Supervision</i>	77.50	73.53	-5.13
<i>Insurance and Pension Supervision</i>	58.00	56.45	-2.67
<i>Securities Supervision</i>	83.15	80.90	-2.71
<i>Integrated Supervision</i>	71.25	70.43	-1.16
<i>Services</i>	51.10	49.84	-2.47
<i>Banking Resolution</i>	24.00	23.88	-0.52
<b>Total</b>	<b>393.00</b>	<b>381.01</b>	<b>-3.05</b>

*Differences arising from rounding to two decimal places are ignored.*

unchanged at 5.15 FTEs, or 1.35% of all FMA staff.

At 42, the average age of FMA employees remained unchanged on last year. The share of part-time employees was 26.19% in 2019, with parents on part-time leave accounting for most cases. The percentage of women in relation to total staff decreased slightly in 2019, from 54.46% to 53.57%, while the share accounted for by women among management positions increased further from 42% to 43%. The share of university graduates dropped slightly from 84.82% to 83.33%. The proportion of employees with additional qualifications was 45.24% in 2019; examples of such qualifications include a second degree, postgraduate training, or certification as a lawyer or tax consultant. This share amounts to 61.43% when the 68 active employees are taken into account who successfully completed the two-year postgraduate university programme in Financial Market Supervision. The course of study for working students was developed jointly by the FMA, Oesterreichische Nationalbank (OeNB) and the Vienna University of Economics and Business (WU).

## PERSONNEL DEVELOPMENT

As an organisation of experts, the FMA places high priority on the continued professional development of its employees. Its personnel development programme encompasses a range of measures for the various target groups and requirements:

- University programme in Financial Market Supervision (first students admitted in 2010), subsequently upgraded to an MBA course (first admissions in 2013)
- FMA Academy (since 2005)
- International seminars organised by the European System of Financial Supervision (ESFS)
- Third-party seminars based on individual requirements.

### FMA ACADEMY

The FMA Academy offers seminars designed for certain target groups and areas of responsibility:

- New employees/basic seminars
- Assistants
- Officers
- Specialists
- Executives
- Specialist skills
- Self-management and social skills
- Skills in methods
- Language skills
- E-learning
- Decentralised measures
- International seminars
- Study visits and staff exchange
- University programme in Financial Market Supervision and upgrade to MBA programme

In 2019 the FMA Academy organised a total of 170 seminars, workshops and lectures in which 2 398 individuals participated. In addition to these centrally organised seminars, FMA staff attended 468 specialised training courses at third-party educational institutions targeted at individual career development in their specific fields.

### EXECUTIVE DEVELOPMENT

In 2019 FMA executives had the choice of both tried-and-tested and brand new devel-

opment measures. The Leadership Circle programme was continued in 2019, following positive feedback. It offers executives the possibility to regularly exchange experiences relating to topical leadership issues with a moderator leading the discussions. Additionally, based on the management feedback process conducted in 2018, a number of new CPD opportunities were added to the development programme for executives. These are primarily dedicated to three important aspects of leadership: trust, emotional intelligence, and giving and receiving feedback.

#### **INTERNATIONAL SEMINARS**

A total of 34 FMA staff members also attended work-related seminars at European institutions, these were the European Central Bank (ECB), the European Securities and Markets Authority (ESMA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Banking Authority (EBA), the Single Resolution Board (SRB), the European Supervisor Education Initiative (ESE), as well as other partner authorities.

### **INTERNATIONAL NETWORKING**

#### **COOPERATION WITH THE EUROPEAN CENTRAL BANK**

Cooperation with the ECB in relation to all personnel issues associated with the Single Supervisory Mechanism (SSM), the system of banking supervision within the euro area, has been continuously expanded and improved during 2019. Regular participation in the Human Resources Conference (HRC) has enabled the FMA to get actively involved in ongoing processes and development.

The main task for human resources in 2019 was to prepare a personnel development strategy applicable to all SSM-participating countries, continuation of all programmes and activities supporting mobility within those countries, as well as strengthening awareness of and cooperation within the SSM.

The number of secondments to the ECB remained almost unchanged year-on-year, with the majority taking place under host-based contracts where the ECB pays the expenses for the seconded FMA staff members.

#### **COOPERATION WITH THE SINGLE RESOLUTION BOARD**

Contacts with the SRB were also maintained in 2019. The host-based secondment of one employee was extended. The FMA also participated in SRB working groups in order to share information and actively help shape the SRB. Six FMA staff members participated in a two-day dry run simulating a resolution, which also deepened FMA and ECB relations.

#### **COOPERATION WITH INTERNATIONAL PARTNER AUTHORITIES**

In 2019 the FMA again took increasing advantage of short-term study visits in order to promote international cooperation and the exchange of experience with colleagues from international partner authorities. Long-term secondments were scaled down.

- **Outgoing study visits:** Three FMA employees made study visits to the Financial Conduct Authority (FCA) in London, an international partner authority. These employees were from the Securities Supervision, Integrated Supervision and Executive Board Affairs Departments.

In addition, one employee from Insurance Supervision completed two study visits at the French Prudential Supervision and Resolution Authority (ACPR) in Paris.

Two employees from Integrated Supervision took part in study visits to the Federal Financial Supervisory Authority (BaFin) in Frankfurt.

The total number of study visits was therefore eight in 2019.

- **Incoming study visits:** By way of reciprocity, the FMA hosted three employees from the Deutsche Bundesbank in its Banking Supervision Department, and one BaFin staff member was invited to exchange experiences with the FMA's Securities Supervision Department.

## RECONCILIATION OF WORK AND FAMILY LIFE

Since November 2017, when the FMA was re-certified for its work/life balance efforts, the Authority has been able to implement most of the measures that were recommended during the audit process.

A major milestone in 2019 was the evaluation of the revised teleworking policy. In an FMA employee survey, which had been conducted previously, employees had expressed the wish for more flexibility and a revision of the existing teleworking policy. The results and findings from this survey, as well as a comparison of policies at similar organisations, were used as the basis for the new policy, reconciling both organisational and individual interests and requirements in the best possible way. The Human Resources Division presented the key elements of the revised teleworking policy in dedicated employee events, at which the policy was also openly debated.

The most important amendment to the revised policy is that the provision of allowing only a limited number of employees per division to work away from their regular FMA desk has been repealed. The policy now includes specific definitions of the terms “teleworking” and “remote working”. However, employees still require the consent of their Head of Division before being allowed to work from home.

The new policy became effective on 1 October 2019.

The current full “workandfamily” certificate expires in November 2020. The new audit process is scheduled to start in March 2020, with the consulting firm KiBiS again being appointed as auditor.

The results of the employee survey conducted by the FMA's works council will provide a solid information and discussion basis for the upcoming new audit process. It covers such issues as working time regulations, teleworking, health and working conditions at the FMA. The FMA also gained valuable new ideas at the networking event hosted by KiBiS, specifically in relation to such issues as digitalisation, diversity, new work and the Generation Z.



## THE FMA AND IT

### DIGITALISATION

**T**he collection, evaluation and analysis of data are all crucial to supervisory activity and its efficient implementation. Efficiency and effectiveness are further improved by the rapid advances in digitalisation in the financial markets and supervision of these markets. However, this also means that ever larger quantities of data now need to be processed, and the breadth and depth of data analysis are constantly increasing. This can only be achieved if the FMA's processes are subject to continual optimisation and automation. On this basis, the FMA has made digitalisation, including data evaluation and analysis, one of its strategic priorities.

### STRUCTURED DATA TRANSFER AND STORAGE

The FMA can now share all documents and data with the supervised entities and other institutions digitally and seamlessly, also receiving and sending digitally. This encompasses:

- An electronic mailbox for incoming mail and the electronic delivery of outgoing mail, the latter to meet the right to electronic communication
- Secure exchange of ad hoc data using a secure file transfer server
- Statutory reporting via web applications, such as the Incoming Platform
- Periodic and automated exchange of reporting data.

Data that is sent and received in conjunction with statutory reporting is automatically saved in a central database. This offers the advantage that all applications are accessing the same data. It dispenses with the need for any duplicate manual data entry, which may be prone to errors. Verified data that has been corrected where necessary and supplemented with in-house information is available in real time. Thus, the availability of high quality data is ensured almost immediately. An appropriate system of clearly defined roles ensures that only authorised employees have access to data. Sensitive personal data is encrypted to provide an extra layer of protection and is only made available to a small user group through a traceable process.

### USE, ANALYSIS AND EVALUATION OF DATA

Internally, the FMA began to install a centralised HR management software in 2019.

The following modules have been integrated so far:

- HR master data and personnel accounting
- Time and performance tracking system
- Seminar and training management
- Travel planning and accounting.

The centralised system dispenses with the need for interfaces between different solutions from different providers, thereby improving stability and reducing the requirement for testing and adaptation when carrying out version upgrades. The user experience is also improved by the single user interface, which is more user-friendly. The granting of authorisation to use various HR processes, such as applying for leave, travel expenses or seminars, can be handled by managers using a single web portal. This creates a more efficient way of working. Functionality is improved by a wide range of options for viewing and evaluating information for users, managers and HR staff.

Plans are in place for the digitalisation of annual employee appraisals and the introduction of a position management system as the software is expanded further. The aim is to be able to process appraisals seamlessly in the new software application and save them in a centralised electronic personnel file. Meanwhile, the position management software should provide a clear overview of all vacancies and all filled positions. This will enable optimised management by the HR department of any staff transfers between divisions, relocations due to new remits, and job-sharing arrangements.

#### **ANALYSIS AND INFORMATION SEARCHES IN LARGE POOLS OF UNSTRUCTURED DATA**

The FMA uses specialist programs for the automated analysis of large quantities of unstructured data. Once the information has been connected, links can be detected and targeted searches carried out. In an initial stage the data for analysis is pre-filtered (using for example criteria such as Office documents or a defined time period), cleansed (e.g. by removing redundant data) and transferred to a form that is suitable for analysis (for example OCR processing of image files and pdf documents).

The prepared data is then fed into analysis software. Using “learned” patterns (machine learning), any links and dependencies are picked up, both in terms of content and chronology within the data pool. Users can navigate quickly through the content by accessing charts and tables, implementing targeted searches for specific pieces of information.

#### **ANALYSIS AND EVALUATION OF STRUCTURED DATA**

The following interface formats are currently used by the FMA to exchange structured data:

- CSV
- XML
- XBRL.

They are used to deal with the recurring exchange of information with external third parties, for example in the reporting systems required under the Markets in Financial Instruments Regulation (MiFIR) or those needed to comply with the supervisory regime for insurance undertakings, Solvency II. For these automated interfaces used for the periodic exchange of huge quantities of data, availability and highly auto-

mated processing are the key priorities. Data acceptance, technical plausibility checks including error management (i.e. the automated rejection of reports with appropriate error information) account for the basic functionality. These applications cover strategic core tasks on the basis of statutory rules.

Verified reporting data is processed in downstream applications. For data analysis purposes, users have access to list-based and/or graphical evaluations, some of which can be customised by selecting, grouping and sorting the information. The underlying data is provided by a relational database and a data cube.

The use of data cubes to extend the relational database ensures fast and dynamic data evaluation particularly when dealing with large quantities of highly numerical data. By creating multiple dimensions, the data can be retrieved and analysed from a number of perspectives, such as time series.

For reasons of comparability, periodically recurring evaluations are often hard-coded so that they cannot be changed and are made available when manually requested by the user or on an automated basis.

Where the data within a data pool needs to be filtered and analysed on the basis of certain criteria, a dynamic variant is the only choice. In this case, the reports are created in a flexible way such that the data is queried using different selection parameters and visualised using various presentation techniques (sorting, grouping).

# FINANCE AND CONTROLLING

## FINANCING

**T**he FMA's finances are based on three pillars, as stipulated in the Financial Market Authority Act (FMABG; *Finanzmarktaufsichtsbehördengesetz*): the FMA receives an annual lump sum of € 4 million from the federal budget as prescribed by law. In its capacity as an authority, the FMA may levy fees for particular services as defined by law. The remaining amount is contributed by the supervised entities according to the share of costs incurred in each case.

In addition, in its capacity as resolution authority<sup>1</sup>, the FMA may request that the institution under resolution reimburse the FMA for all reasonable expenses properly incurred in connection with the application of a resolution tool or exercise of its resolution power.

Pursuant to Article 19 FMABG, four accounting groups are to be set up for the apportionment of costs to the supervised entities according to the share incurred in each case: banking, insurance, securities and pension supervision; each of which are then further divided into subgroups.

The FMA uses a time and performance tracking system (ZLES) to allocate personnel expenses to the accounting groups, as stipulated in the FMABG, according to the share incurred.

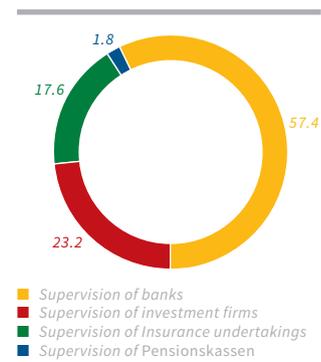
After deducting the federal contribution, the fees and other income from the overall costs, the share of other costs accounted for by each accounting group can be calculated (> *Chart 43*). In accordance with the statutory provisions, this share is to be allocated and charged to each individual supervised entity.

### PAYMENT NOTICES

In accordance with Article 19 FMABG, the supervised companies are required to reimburse the FMA for the costs incurred. These costs are determined using the financial statements and statement of costs. The respective amount to be paid by each company 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*) specifies the reimbursement of costs (calculation of actual costs), the implementation of advance payments

Chart 43: Supervisory costs in 2019, apportionment to accounting groups (in %)



<sup>1</sup> Article 74 para. 5 BaSAG.

per accounting group and the apportionment among the entities liable to pay costs, including deadlines for the payment notices and for payments.

The FMA sent out the payment notices for the actual costs incurred in 2018 in November 2019, together with those for the advance payments for 2020. Compared with one year earlier, when some 2300 payment notices were issued, the number of notices dropped slightly to around 2200. The entities liable to pay costs were subsequently charged an additional € 1.7 million to cover the actual costs for 2018, based on the costs reported in the 2018 financial statements of the FMA and minus the advance payments made that year.

## FINANCIAL STATEMENTS

Applying Chapter III of the Corporate Code (UGB; *Unternehmensgesetzbuch*), the FMA is required to draw up financial statements for the previous financial year in the form of an annual balance sheet, an income statement and notes pursuant to Article 18 FMABG, as well as a balance sheet and an income statement for the resolution financing arrangement pursuant to Article 123d para. 2 of the Bank Recovery and Resolution Act (BaSAG; *Bankensanierungs- und Abwicklungsgesetz*) in conjunction with Article 18 FMABG.

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

BBW Wirtschaftsprüfungs- und Steuerberatungsgesellschaft mbH carried out the statutory audit of the FMA's financial statements and statement of costs for 2019 as well as of the 2019 balance sheet and income statement for the resolution financing arrangement. Upon completion of the audit the auditor issued unqualified opinions in each case, confirming compliance with the statutory provisions.

According to Article 18 FMABG, the Executive Board is required 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.

The most important items of the 2019 financial statements can be summarised as follows:

- The share contributed by entities liable to pay costs increased over 2018 by some € 2.3 million to approximately € 62.4 million.
- Other operating income rose by around € 0.6 million owing to an increase of approximately € 0.3 million in reimbursements pursuant to Article 74 para. 5 no. 2 BaSAG and a rise of some € 0.3 million in other income (primarily income from fees).
- Personnel expenses were also up by about € 1.8 million to total approximately € 45.6 million, which is mainly attributable to adjustments of salary levels for inflation, annual salary progressions and a higher average number of staff.
- Other operating expenses amounted to approximately € 25.2 million (around +€ 1.3 million year-on-year). They were made up of additional costs incurred by the supervisory reform (around +€ 0.4 million), increased expenses for IT (around +€ 0.4 million), consulting costs relating to the BaSAG (around +€ 0.2 million), membership fees (around +€ 0.1 million) and provisions for objections to payment notices (around +€ 0.1 million).



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ACP	Advisory Committee on Proportionality	FOLTF	Fail Or Likely To Fail
ACPR	Prudential Supervision and Resolution Authority (France)	FSB	Financial Stability Board
AFREP	Austrian Financial Reporting Enforcement Panel	FSMA	Financial Services and Markets Authority (Belgium)
AIF	Alternative Investment Fund	FTE	Full-Time Equivalent
AIFM	Alternative Investment Fund Manager	GDP	Gross Domestic Product
AIFMG	Alternatives Investmentfonds Manager-Gesetz (Alternative Investment Fund Managers Act)	GmbH	Gesellschaft mit beschränkter Haftung (limited liability company)
ATX	Austrian Trade Index	G-SIIs	Global Systemically Important Institutions
BaFin	Federal Financial Supervisory Authority (Germany)	HETA	HETA Asset Resolution AG
BaSAG	Bankensanierungs- und Abwicklungsgesetz (Bank Recovery and Resolution Act)	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)
BMF	Federal Ministry of Finance	IAIGs	Internationally Active Insurance Groups
BMR	Benchmarks Regulation	IAIS	International Association of Insurance Supervisors
BMSVG	Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz (Company Employee and Self-Employment Provisions Act, as amended)	IAS	International Accounting Standards
BörseG	Börsengesetz (Stock Exchange Act)	ICOs	Initial Coin Offerings
BoS	Board of Supervisors	ICS 2.0	Insurance Capital Standard 2.0
BRRD	Bank Recovery and Resolution Directive	ICT	Information and Communication
BVT	Federal Agency for State Protection and Counter Terrorism	IDD	Insurance Distribution Directive
BVwG	Federal Administrative Court	IFD	Investment Firms Directive
BWG	Bankwesengesetz (Austrian Banking Act)	IFR	Investment Firms Regulation
CCPA	Central Counterparty Austria GmbH	IFRS	International Financial Reporting Standards
CERT.at	Computer Emergency Response Team Austria	IMF	International Monetary Fund
CESEE	Central, Eastern and South-Eastern Europe	IMMIGON	immigon portfolioabbau ag
CET-1	Common Equity Tier 1	ImmoInvFG	Immobilien-Investmentfondsgesetz (Real Estate Investment Fund Act)
CFD	Contract for Difference	Immo-KAG	Real estate investment fund management company
CIS	Commonwealth of Independent States	InsurTech	Insurance Technology
CSDR	Central Securities Depositories Regulation	InvFG	Investmentfondsgesetz (Investment Fund Act)
DAX	German stock index	IOPS	International Organisation of Pension Supervisors
EBA	European Banking Authority	IORP	Institution for Occupational Retirement Provision
EC	European Community	IOSCO	International Organization of Securities Commissions
ECB	European Central Bank	IPS	Institutional Protection Scheme
EEA	European Economic Area	IRG	Investment and Risk-sharing Group
EIOPA	European Insurance and Occupational Pensions Authority	IRTs	Internal Resolution Teams
EMIR	European Market Infrastructure Regulation	iXBRL	inline eXtensible Business Reporting Language
EoL	End-of-life system	JSTs	Joint Supervisory Teams
EONIA	Euro OverNight Index Average	KAG	Investment fund management company
ESA	European Supervisory Authority	KF	KA Finanz AG
ESE	European Supervisor Education Initiative	KIID	Key Investor Information Document
ESFS	European System of Financial Supervision	KMG	Kapitalmarktgesetz (Capital Market Act)
ESG	Environmental, Social and Governance	KSÖ	Kuratorium Sicheres Österreich
ESMA	European Securities and Markets Authority	KStG	Körperschaftsteuergesetz (Corporate Tax Act 1988)
ESRB	European Systemic Risk Board	KVO	Kostenverordnung (Cost Regulation)
EURIBOR	Euro Interbank Offered Rate; three-month interbank rate	KYC	Know Your Customer
EURO STOXX 50	Stock index of the 50 largest listed companies in the euro area	LCR	Liquidity Coverage Ratio
EuVECA	European Venture Capital Fund	LIBOR	London Interbank Offered Rate
FCA	Financial Conduct Authority (UK)	LSI	Less Significant Institution
Fed	Federal Reserve (USA)	MADe	Market Abuse Detector
FinTech	Financial Technology	MAR	Market Abuse Regulation
FMA	Financial Market Authority	MBA	Master of Business Administration
FMABG	Finanzmarktaufsichtsbehördengesetz (Financial Market Authority Act)	MiFID	Markets in Financial Instruments Directive
FMA-PIV	FMA-Produktinterventionsverordnung (Regulation on Product Intervention Measures)	MiFIR	Markets in Financial Instruments Regulation
FM-GWG	Finanzmarkt-Geldwäschegesetz (Financial Markets Anti-Money Laundering Act)	MoU	Memorandum of Understanding
FMSG	Financial Market Stability Board (Austria)	MREL	Minimum Requirement for Own Funds and Eligible Liabilities
		MSCI	Emerging Markets Index

MTF	Multilateral Trading Facility	SRF	Single Resolution Fund
NCA	National Competent Authority	SRM	Single Resolution Mechanism
NMS	New Member States (EU)	SSM	Single Supervisory Mechanism
NPLs	Non-Performing Loans	TLTRO III	Targeted Longer-Term Refinancing Operation (third series)
NRA	National Resolution Authority	TREM	Transaction Reporting Exchange Mechanism
NSFR	Net Stable Funding Ratio	UCITS	Undertakings for Collective Investment in Transferable Securities
OeKB	Oesterreichische Kontrollbank AG	UGB	Unternehmensgesetzbuch (Corporate Code)
OeNB	Oesterreichische Nationalbank	VfGH	Constitutional Court
ORSA	Own Risk and Solvency Assessment	VStG	Verwaltungsstrafgesetz (Administrative Penal Act)
PEPP	Pan-European Personal Pension Product	VwGH	Administrative Court
PK	Pensionskasse (pension company)	VwGVG	Verwaltungsgerichtsverfahrensgesetz (Administrative Court Proceedings Act)
PKG	Pensionskassengesetz (Pensionskassen Act)	WAG 2018	Wertpapieraufsichtsgesetz 2018 (Securities Supervision Act)
POG	Product Oversight and Governance	WBAG	Wiener Börse AG
PSD2	Payment Services Directive (revised)	WiEReG	Wirtschaftliches Eigentümer Registergesetz (Beneficial Owners Register Act)
RL-KG	Rechnungslegungs-Kontrollgesetz (Financial Reporting Enforcement Act)	WKO	Austrian Federal Economic Chamber
RWA	Risk-Weighted Asset	WKStA	Central Public Prosecutor for Economic Crime and Corruption
S&P	Standard & Poor's	WTO	World Trade Organization
SCR	Solvency Capital Requirement	WU	Vienna University of Economics and Business
SEE	South-Eastern Europe	XBRL	eXtensible Business Reporting Language
SFTR	Securities Financing Transactions Regulation	XHTML	eXtensible Hypertext Markup Language
SI	Significant Institution	ZLES	Time and performance tracking system
SPOC	Single Point of Contact		
SRB	Single Resolution Board		
SREP	Supervisory Review and Evaluation Process		