



FMA Cost Regulation 2016

(FMA-KVO 2016; FMA-Kostenverordnung 2016)

Full title

Regulation of the Financial Market Authority (FMA) about the Costs of the Financial Market Authority (FMA-KVO 2016; FMA-Kostenverordnung 2016)

Original version: Federal Law Gazette II No. 419/2015.

Amendments: Federal Law Gazette II Nos. 223/2017; 218/2018; 241/2019; 181/2020; 368/2020; 408/2021; 339/2022.

Preamble/Promulgation clause

Based on:

1. Article 19 para. 7 of the Financial Market Authority Act (FMABG; Finanzmarktaufsichtsbehördengesetz) published in Federal Law Gazette I no. 97/2001, most recently amended by the Federal Act published in Federal Law Gazette I no. 117/2015, in conjunction with Article 69a of the Banking Act (BWG; Bankwesengesetz), published in Federal Law Gazette no. 532/1993, most recently amended by the Federal Act published in Federal Law Gazette I no. 117/2015, Article 60 of the Payment Services Act (ZaDiG; Zahlungsdienstegesetz), published in Federal Law Gazette I no. 66/2009, most recently amended by the Federal Act published in Federal Law Gazette I no. 68/2015, Article 22 para. 2 of the Electronic Money Act 2010 (E-Geldgesetz 2010), published in Federal Law Gazette I no. 107/2010, most recently amended by the Federal Act published in Federal Law Gazette I no. 68/2015, Article 16 of the Central Securities Depositories Execution Act (ZvVG; Zentralverwahrer-Vollzugsgesetz), published in Federal Law Gazette I no. 69/2015, Article 160 of the Bank Recovery and Resolution Act (BaSAG; Sanierungs- und Abwicklungsgesetz), published in Federal Law Gazette I no. 98/2014, most recently amended by the Federal Act published in Federal Law Gazette I no. 127/2015, Article 56 of the Deposit Guarantee Schemes and Investor Compensation Act (ESAEG; Einlagensicherungs- und Anlegerentschädigungsgesetz), published in Federal Law Gazette I no. 117/2015, Article 271 of the Insurance Supervision Act (VAG 2016; Versicherungsaufsichtsgesetz 2016), published in Federal Law Gazette I no. 34/2015, most recently amended by the Federal Act published in Federal Law Gazette I no. 112/2015, and Article 35 of the Pensionskassen Act (PKG; Pensionskassengesetz), published in Federal Law Gazette no. 281/1990, most recently amended by the Federal Act published in Federal Law Gazette I no. 68/2015,
2. Article 271 paras. 2 and 3 VAG 2016,
3. Article 90 para. 2 of the Securities Supervision Act of 2007 (WAG 2007; Wertpapieraufsichtsgesetz 2007) published in Federal Law Gazette I no. 60/2007, most recently amended by the Federal Act published in Federal Law Gazette I no. 117/2015,



4. Article 5 para. 2 of the Central Counterparties and Trade Repositories Act (ZGVG; Zentrale Gegenparteien-Vollzugsgesetz) published in Federal Law Gazette I no. 97/2012; most recently amended by the Federal Act published in Federal Law Gazette I no. 69/2015,
5. Article 11 para. 2 of the Central Securities Depositories Execution Act (ZvVG; Zentralverwahrer-Vollzugsgesetz),
6. Article 144 para. 2 of the Investment Funds Act 2011 (InvFG 2011; Investmentfondsgesetz 2011), published in Federal Law Gazette I no. 77/2011, most recently amended by the Federal Act published in Federal Law Gazette I no. 117/2015,
7. Article 56 para. 6 of the Alternative Investment Fund Managers Act (AIFMG; Alternative Investmentfonds Manager-Gesetz) published in Federal Law Gazette I no. 135/2013, most recently amended by the Federal Act published in Federal Law Gazette I no. 117/2015,
8. Article 2 para. 13 of the Real Estate Investment Fund Act (ImmoInvFG; Immobilien-Investmentfondsgesetz), published in Federal Law Gazette I no. 80/2003, most recently amended by the Federal Act published in Federal Law Gazette I no. 115/2015,
9. Article 45a para. 2 of the Company Employee and Self-Employment Provisions Act (BMSVG; Betriebliche Mitarbeiter- und Selbständigenvorsorgegesetz), published in Federal Law Gazette I no. 100/2002, most recently amended by the Federal Act published in Federal Law Gazette I no. 79/2015,

the following shall be determined by regulation:

Text

Chapter 1

General Section

Section 1

General provisions

Scope of application

Article 1 This Regulation defines

1. the performance of advance payments and the payment of the costs of the Austrian Financial Market Authority (FMA),
2. individual additional aspects regarding the payment of actual costs and the invoicing of pre-payments in Accounting Group 1 (Banking Supervision) and in Accounting Group 2 (Insurance Supervision) and regarding virtual asset service providers, as well as



3. the allocation of the costs for Accounting Group 3 (Securities Supervision) to the entities liable to pay costs pursuant to Article 94 para. 2 BörseG 2018, Article 89 para. 1 WAG 2018, Article 5 paras. 2 and 3 ZGVG, Article 11 para. 2 ZvVG, Article 144 para. 1 InvFG 2011, Article 56 para. 5 AIFMG, Article 2 para. 12 ImmoInvFG, Article 45a para. 1 BMSVG, Article 12 para. 1 RW-VG and Article 15 para. 1 Schwarmfinanzierung-VG.

Definitions

Article 2. The following definitions shall apply for the purposes of this Regulation:

1. Allocation of actual costs: the allocation of costs arising that are attributable to the individual entities liable to pay costs for the FMA financial year in question based on the FMA's annual financial statement pursuant to Article 18 FMABG.
2. Allocation of advance payments: the allocation of the respective payments to be paid in advance by the entities liable to pay costs in advance for an FMA financial year.
3. Entities liable to pay costs: those natural or legal persons satisfying the requirements of Article 3 para. 1 nos. 1 to 5.
4. Entities liable to pay costs in advance: those natural or legal persons satisfying the requirements of Article 9 para. 1.

Section 2

Allocation of Actual Costs

Obligation to Pay Fees

Article 3. (1) The following shall be obliged to pay supervision costs for an FMA business year (actual costs):

1. Entities liable to pay costs
 - a) aa) pursuant to Article 69a para. 1 nos. 1 to 3 BWG, which are
 - credit institutions pursuant to Article 1 para. 1 BWG, or
 - credit institutions pursuant to Article 9 para. 1 BWG and which carry out activities in Austria through a branch, or
 - financial holding companies pursuant to Article 4 (1) (2) CRR or mixed financial holding companies pursuant to Article 2 no. 15 of the Financial Conglomerates Act (FKG; Finanzkonglomeratengesetz), published in Federal Law Gazette I no. 70/2004, provided that they are part of a group of credit institutions pursuant to Article 30 BWG,
 - bb) pursuant to Article 69a para. 8 BWG, which are representative offices pursuant to Article 2 no. 17 BWG,
 - cc) pursuant to Article 89 para. 1 ZaDiG 2018, which are



- payment institutions pursuant to Article 4 no. 4 lit. a ZaDiG 2018, or
- branches pursuant to Article 27 ZaDiG 2018,
- dd) pursuant to Article 22 para. 2 E-Geldgesetz 2010, which are
 - e-money institutions pursuant to Article 3 para. 2 E-Geldgesetz 2010, or
 - branches pursuant to Article 9 E-Geldgesetz 2010, or
- b) aa) pursuant to Article 160 para. 1 no. 1 BaSAG, which are institutions pursuant to Article 2 no. 23 in conjunction with Article 2 nos. 2 or 3 BaSAG, and which provide banking business pursuant to Article 4 BWG,
- bb) pursuant to Article 160 para. 1 no. 2 BaSAG, which are financial holding companies pursuant to Article 2 no. 9 BaSAG or mixed financial holding companies pursuant to Article 2 no. 10 BaSAG, provided that they are part of a group of credit institutions pursuant to Article 30 BWG;
- c) pursuant to Article 56 ESAEG, which are
 - a uniform deposit guarantee system established pursuant to Article 1 para. 2 ESAEG, or
 - a deposit guarantee scheme of an institutional protection scheme operated pursuant to Article 3 para. 1 no. 2 ESAEG;
- 2. Entities liable to pay costs pursuant to Article 271 para. 1 VAG 2016, which
 - a) hold a licence
 - aa) pursuant to Article 6 para. 1 VAG 2016 as an insurance undertaking or a reinsurance undertaking with its registered office in Austria pursuant to Article 1 para. 1 no. 1 VAG 2016,
 - bb) pursuant to Article 6 para. 1 in conjunction with Article 83 para. 1 VAG 2016 as a small insurance undertaking pursuant to Article 1 para. 1 no. 2 VAG 2016,
 - cc) pursuant to Article 6 para. 1 in conjunction with Article 69 Abs. 2 VAG 2016 as a small mutual insurance association pursuant to Article 1 para. 1 no. 3 VAG 2016,
 - dd) pursuant to Article 13 para. 1 VAG 2016 as the branch of a third country insurance undertaking or third country reinsurance undertaking pursuant to Article 1 para. 1 no. 4 VAG 2016;

additionally which



- b) pursuant to Article 20 VAG 2016 have established a branch establishment in Austria and which are EEA insurance undertakings or EEA reinsurance undertakings pursuant to Article 1 para. 1 no. 5 VAG 2016;
 - c) are insurance holding companies pursuant to Article 1 para. 1 no. 6 in conjunction with Article 195 para. 1 no. 6 VAG 2016 or mixed financial holding companies pursuant to Article 1 para. 1 no. 6 in conjunction with Article 195 para. 1 no. 8 VAG 2016;
 - d) are insurance associations whose object is limited to asset management pursuant to Article 1 para. 1 no. 7 VAG 2016;
 - e) are private foundations pursuant to Article 1 para. 1 no. 8 VAG 2016;
 - f) are special purpose vehicles pursuant to Article 1 para. 1 no. 9 VAG 2016;
3. Entities liable to pay costs pursuant to the provisions listed in Article 1 no. 3,
- a) which as legal entities pursuant to Article 26 para. 1 WAG 2018 with their registered office in Austria or through a branch pursuant to Article 9 BWG or Article 19 WAG 2018 have conducted transactions in instruments subject to notification obligations towards the FMA pursuant to Article 26 (1) and (2) MiFIR (institutions subject to reporting obligations);
 - b) whose instruments subject to notification obligations pursuant to Article 26 (2) MiFIR admitted to trading on a regulated market or another securities exchange pursuant to Article 3 para. 2 BörseG 2018 or which with the consent of the issuer were included for trading on a multilateral trading facility (MTF) or an organised trading facility (OTF), however with the exception of the Federal Government (issuers);
 - c) which hold a licence as an investment firm pursuant to Article 3 para. 1 WAG 2018 or as an investment services provider pursuant to Article 4 para. 1 WAG 2018, or investment firms active in Austria via a branch pursuant to Article 19 WAG 2018 or third country firms active in Austria via a branch pursuant to Article 21 WAG 2018, in addition contractual insurance undertakings, that have conducted mediation business as defined in Article 6 para. 3 VAG 2016 and occasionally in conjunction with Article 69 para. 2 or Article 83 para. 1 VAG 2016, management companies pursuant to Article 5 para. 1 InvFG 2011, which have provided services pursuant to Article 5 para. 2 nos. 3 or 4 InvFG 2011, AIFMs pursuant to Article 4 AIFMG, which have provided services pursuant to Article 4 para. 4 no. 1 or no. 2 lit. a or c AIFMG, and central securities depositories which have conducted services in a permitted pursuant to Article 17 (5) in conjunction with Article 18 CSDR (providers of investment services);
 - d) which as operators of market infrastructures
 - aa) operate a securities exchange pursuant to Article 1 no. 1 BörseG 2018 supervised by the FMA, especially exchange operating companies, which hold a licence to operate a



- securities exchange pursuant to Article 3 para. 1 BörseG 2018 of the provisions that previously applied (securities exchanges);
- bb) are established in Austria as a central counterparty pursuant to Article 2 (1) EMIR (central counterparties);
 - cc) are established in Austria as a central securities depository pursuant to Article 2 (1) (1) CSDR (central securities depositories);
- e) which as a clearing member pursuant to Article 2 (14) EMIR participate in a central counterparty listed in lit. d (clearing members);
 - f) which hold a licence as a corporate provision fund pursuant to Article 18 para. 1 BMSVG, as a management company pursuant to Article 5 para. 1 InvFG 2011, as a real estate investment fund management company pursuant to Article 2 para. 1 of the Real Estate Investment Fund Act (ImmoInvFG) or as an AIFM pursuant to Article 4 para. 1 AIFMG or are registered as an AIFM pursuant to Article 1 para. 5 no. 1 AIFMG, in addition to branches established pursuant to Article 36 para. 2 of the Investment Fund Act 2011 (InvFG 2011; Investmentfondsgesetz 2011) or pursuant to Article 33 AIFMG and non-EU-AIFMs pursuant to Article 39 para. 3 AIFMG (managers of collective portfolios);
 - g) have an authorisation in Austria as an administrator pursuant to Article 34 BMR or are registered as an administrator pursuant to Article 34 BMR (administrators);
 - h) that hold an authorisation as a crowdfunding service provider pursuant to Article 12 ECSPR (crowdfunding service provider).
4. entities liable to pay costs pursuant to Article 35 PKG, that hold a licence to operate a Pensionskasse pursuant to Article 8 PKG;
 5. entities liable to pay costs pursuant to Article 28 para. 6 FM-GwG that are registered as virtual asset service providers pursuant to Article 32a para. 1 FM-GwG.

(2) The obligation to pay also exist even where the requirements in accordance with para. 1 did not exist for the entire FMA financial year.

(3) Shortfall amounts and exposures from the allocation of actual costs for preceding FMA financial years, which must be written off in the FMA's annual financial statement due to it being partially or completely uncollectible, must be added to to the costs of the respective Accounting Group (Article 19 para. 1 nos. 1 to 4 FMABG) or the respective Sub-Accounting Group (Article 10 nos. 1 to 3, Article 13 para. 1 nos. 1 to 7) for the following year.

Prescription of Costs

Article 4. (1) The FMA shall prescribe the respective actual costs for an FMA business year for the entities liable to pay costs pursuant to Article 3 para. 1 nos. 1 to 5 by means of an administrative



decision. The prescription of costs must take place by 31 December of the year of publication of the FMA's annual financial statement.

(2) The prescription of costs may, provided the legal personality of the entity liable to pay costs has ceased to exist and the conditions for prescribing costs exist for the legal successor, also take place until 31 March of the following year. Retroactive effects within the scope of restructuring pursuant to Article 202 para. 2 of the Austrian Commercial Code (UGB; Unternehmensgesetzbuch) published in the Reich Law Gazette p. 219/1897, in the version amended by Federal Act in Federal Law Gazette I No. 63/2019 shall remain unaffected.

Rounding of Amounts

Article 5. The cost amounts prescribed are to be rounded down or up to a round amount in Euro. Amounts of up to 49 cents shall be rounded down, while amounts from 50 cents and above shall be rounded up.

Information Reports

Article 6. (1) The basis for the calculation of fees are the data reports that are to be submitted to the FMA in accordance with the applicable supervisory laws, namely:

1. for Accounting Group 1:
 - a) Article 69a para. 2 BWG in conjunction with Article 99 CRR as well as Article 44 BWG,
 - b) Article 89 para. 2 ZaDiG 2018 in conjunction with Article 26 para. 2 ZaDiG 2018,
 - c) Article 22 para. 2 E-Geldgesetz 2010 in conjunction with Article 89 para. 1 ZaDiG 2018;
 - d) Article 160 para. 1 BaSAG in conjunction with Article 69a para. 2 BWG and Article 99 CRR,
 - e) Article 56 ESAEG in conjunction with Article 69a para. 2 BWG and Article 99 CRR,
2. for Accounting Group 2: Article 271 para. 2 VAG 2016 in conjunction with
 - a) Article 248 paras. 2, 4 and 8 VAG 2016 in conjunction with Article 1 no. 1 of the Insurance Undertakings Reporting Regulation (VU-MV; Versicherungsunternehmen Meldeverordnung) published in Federal Law Gazette II no. 217/2015,
 - b) Article 79 para. 3 VAG 2016 in conjunction with Article 1 of the Regulation on the Rendering of Accounts by Small Mutual Associations (kV-RLV; kleine Versicherungsvereine Rechnungslegungsverordnung), published in Federal Law Gazette II no. 168/2015,
3. for Accounting Group 3:
 - a) Articles 26 and 27 MiFIR, Article 2 paras. 2 and 3, Articles 71, 72 and 89 WAG 2018 in conjunction with Article 15 para. 3 Article 16 para. 2 and Article 17 paras. 1 and 2,



- b) Article 5 para. 2 ZGVG in conjunction with Article 19 para. 2,
 - c) Article 56 para. 6 AIFMG, Article 45a para. 2 BMSVG, Article 144 para. 2 InvFG 2011 and Article 2 para. 13 ImmoInvFG respectively in conjunction with Article 20 paras. 1 and 2,
 - d) Article 12 para. 2 RW-VG in conjunction with Article 21 para. 2,
 - e) Article 15 para. 3 Schwarmfinanzierung-VG in conjunction with Article 14a para. 1.
4. For accounting group 4: Article 35 para. 1 in conjunction with Article 30a para. 1 PKG, as well as
5. for the relevant cost assessment in relation to Accounting Groups 1 to 4 in the case of the entities liable to pay costs pursuant to Article 3 para. 1 no. 5: Article 28 para. 6 FM-GwG in conjunction with Article 21a paras. 1 and 2.

(2) The information reports to be made by the entities liable to pay costs pursuant to Article 3 para. 1 nos. 1 to 5 pursuant to para. 1 or the corresponding previous provisions for the preceding financial year for the calculation of costs pursuant to Article 4 and the advance payment amounts pursuant to Article 9 must be submitted to the FMA at latest by 30 June of the following year. Otherwise, the deadlines shall apply for the reports listed in para. 1.

(3) Where the financial year of the entity liable to pay costs deviates from the calendar year, then the financial year of the entity liable to pay costs shall be the preceding financial year that ends by 31 December of the FMA financial year, for which the calculation of actual costs has been conducted; where several financial years of the entity liable to pay costs end by 31 December of the FMA financial year, for which the calculation of actual costs is performed, then that shall be considered as the previous financial year as defined in para. 2.

(4) The FMA shall take corrective revisions from institutions subject to reporting obligations in relation to information about the preceding financial year, provided they are submitted at latest by 10 June of the following year to the FMA.

Official Determination of the Basis of the Data

Article 7. (1) The FMA shall determine the basis for the calculation of costs, in the case that the necessary information reports for calculating costs pursuant to Article 6

- 1. could not be submitted due to a lack of basic information or due to a lack of reporting obligation pursuant to the provisions listed in Article 6 para. 1 or are not required to be submitted in accordance with the corresponding preceding provisions, or
- 2. in contravention of this obligation are not submitted, or are not submitted promptly or are not submitted in full.



(2) Where the conditions set forth in para. 1 exist, the FMA shall

1. perform a calculation of the share of the costs on the basis of the most recently available information report pursuant to Article 6 or the corresponding preceding provisions and a supplement, or
2. alternatively to determine the share of the costs in the amounts pursuant to para. 4 of Article 14 para. 3 no. 3.

(3) The supplement pursuant to para. 2 no. 1 shall be calculated as follows:

$$\text{Supplement} = \left[\left[\left(1 + \frac{5}{100} \right)^n \right] - 1 \right] \times b$$

where the following shall apply:

1. n is the number of directly consecutive years, for which the FMA is required to determine the basis for the calculation of costs on the basis of the most recently existing information report;
2. b is the calculation basis that can be calculated for the latest preceding period for the respective entity liable to pay costs.

(4) Where there are no information reports available pursuant to Article 6 or the corresponding previously applicable provisions from previous periods for an entity liable to pay costs then the FMA shall determine the allocation of costs

1. of a credit institution or other entity liable to pay costs pursuant to Article 3 para. 1 no. 1 using the minimum amount pursuant to Art. 69a para. 4 BWG,
2. of a payment institution using the minimum amount pursuant to Article 89 para. 4 ZaDiG 2018,
3. of an electronic money institution using the minimum amount pursuant to Article 22 para. 2 E-Geldgesetz 2010 in conjunction with Art. 89 para. 4 ZaDiG 2018,
4. of an entity liable to pay costs pursuant to Article 3 para. 1 no. 2 with the minimum amount of costs pursuant to Article 12 para. 1,
5. of a Pensionskasse using the amount resulting from Article 35 para. 1 no. 1 PKG,
6. of an institutions subject to reporting obligations using the minimum lump sum fee pursuant to Article 14 para. 3 no. 1,
7. of an issuer using the minimum lump sum fee pursuant to Article 14 para. 3 no. 2,
8. of a clearing member using the minimum lump sum fee pursuant to Article 14 para. 3 no. 4,
9. of an entity liable to pay costs listed in Article 3 para. 1 no. 3 lit. f using the minimum lump sum fee pursuant to Article 14 para. 3 no. 5, provided it is a registered AIFM pursuant to Article 3 para. 1 no. 3 lit. f using the minimum lump sum fee pursuant to Article 14 para. 3 no. 6,



10. of an administrator with the minimum lump sum fee pursuant to Article 14 para. 3 no. 7; and
11. of a registered virtual asset service provider with the minimum lump sum fee pursuant to Article 21a para. 4.

(5) In the case of para. 4 the FMA shall be authorised to determine the proportion of costs of an entity liable to pay costs that has been granted a licence to provide investment services pursuant to Article 3 para. 2 WAG 2018 based on the budget calculation submitted during the licensing process pursuant to Article 3 para. 8 WAG 2018 in conjunction with Article 4 para. 3 no. 3 BWG. In so doing, Article 17 remains unaffected.

(6) Where no data reporting exists for a member institution of a deposit guarantee facility (Article 3 para. 1 no. 1 lit. c) then this member institution will be considered based on the total stipulated pursuant to Article 56 para. 2 ESAEG of the cost figures determined in accordance with Article 69a para. 2 BWG for the member institutions belonging to this deposit guarantee scheme, applying the provisions about the official determination of costs pursuant to paras. 1 to 3.

Deadlines and Type of Payment

Article 8. (1) The amounts prescribed pursuant to Article 4 are to be paid within one month following the legal delivery of the payment notice.

(2) The FMA shall repay credit balances pursuant to Article 19 para. 5 FMABG within one month following the payment notice becoming legally effective and once the entity liable to pay costs has provided its bank account details.

Section 3

Invoicing of advance payments

Obligation to pay costs in advance

Article 9. (1) Those entities liable to pay costs that fulfil the conditions pursuant to Article 3 para. 1 nos. 1 to 5 on 30 September of the preceding FMA business year shall be obliged to make advance payments for an FMA financial year. Entities liable to pay costs pursuant to Article 3 para. 1 no. 3 lits. D and h are not obliged to make advance payments.

(2) The FMA shall prescribe the respective advance payment amounts to the entities obliged to make advance payments pursuant to para. 1 by means of an administrative decision. The dates determined in Article 4 paras. 1 and 2 as well as the rounding rule about the prescribed contribution towards costs set forth in Article 5 shall apply in this case.

(3) Article 7 shall apply for the prescription of advance payment amounts, provided that no actual costs for the preceding FMA financial year are charged in the calculation of the advance payment amount for the respective entity liable to pay costs.



Chapter 2

Special Section

Section 1

Accounting Group 1

Sub-Accounting Groups

Article 10. Accounting Group 1 (Banking Supervision) consists of the following entities liable to pay costs, which respectively form a separate Sub-Accounting Group:

1. Sub-Accounting Group 1, to which the legal entities pursuant to Article 3 para. 1 no. 1 lit. a are allocated;
2. Sub-Accounting Group 2, to which the legal entities pursuant to Article 3 para. 1 no. 1 lit. b are allocated;
3. Sub-Accounting Group 3, to which the deposit guarantee facilities pursuant to Article 3 para. 1 no. 1 lit. c are allocated.

Liable to pay costs of central securities depositories

Article 11. If a licence has been granted to a central securities depository for the provision of banking-type ancillary services pursuant to Article 12, then the central securities depository shall be considered as a licence holder as defined in Article 4 BWG and shall participate in the distribution of costs in Accounting Group 1 pursuant to Article 69a BWG.

Section 2

Accounting Group 2

Minimum Amount of Costs and Lump Sum Amounts

Article 12. (1) The minimum costs to be borne by every entity liable to pay costs pursuant to Article 3 para. 1 no. 2 lit. a pursuant to Article 271 para. 3 VAG 2016 are set at EUR 250.

(2) The lump sum amount pursuant to Article 271 para. 2 VAG 2016 for entities liable to pay costs pursuant to Article 3 para. 1 no. 2 lits. C to f is EUR 1 000. The flat rate sum shall only be prescribed once every financial year, both in the case of advance payment as well as in the case of the allocation of actual costs, even if the entity liable to pay costs is subsumed under several of the cases pursuant to Article 3 para. 1 no. 2 lits. c to f.

(3) The lump sum amount pursuant to Article 271 para. 4 in conjunction with para. 2 VAG 2016 for entities liable to pay costs pursuant to Article 3 para. 1 no. 2 lit. b is EUR 250.



Section 3
Accounting Group 3
Sub-Accounting Groups

Article 13. (1) Accounting Group 3 (Securities Supervision) consists of the following entities liable to pay costs, apart from the entities liable to pay costs listed in para. 2, which respectively form separate sub-Accounting Groups:

1. Sub-Accounting Group 1, to which institutions liable to pay costs pursuant to Article 3 para. 1 no. 3 lit. a are allocated;
2. Sub-Accounting Group 2, to which issuers with the exception of the Federal Government pursuant to Article 3 para. 1 no. 3 lit. b are allocated;
3. Sub-Accounting Group 3, to which providers of investment services pursuant to Article 3 para. 1 no. 3 lit. c are allocated;
4. Sub-Accounting Group 4, to which the operators of market infrastructures pursuant to Article 3 para. 1 no. 3 lit. d are allocated;
5. Sub-Accounting Group 5, to which the clearing members pursuant to Article 3 para. 1 no. 3 lit. e are allocated;
6. Sub-Accounting Group 6, to which the managers of collective portfolios pursuant to Article 3 para. 1 no. 3 lit. f are allocated;
7. Sub-Accounting Group 7, to which the administrators pursuant to Article 3 para. 1 no. 3 lit. g are allocated.

Minimum lump sum

Article 14. (1) Where based on the cost assessment drawn up in accordance with the provisions of this Regulation a share of costs to be prescribed arises, which is lower than the minimum lump sum amount determined for entities liable to pay costs pursuant to paras. 3 and 4, then the entity liable to pay costs shall be prescribed to pay the minimum lump sum amount.

(2) The FMA is authorised, when breaking down the annual costs, to apply the minimum lump sum amounts per entity liable to pay costs pursuant to para. 3. Surpluses resulting from prescribing minimum lump sum amounts are to be settled in such a way, that the settlement occurs in a staggered manner within the group of entities liable to pay costs, with on the one hand institutions subject to reporting obligations pursuant to Article 13 no. 1, that are associated to a central institution, and on the other hand other institutions subject to reporting obligations pursuant to Article 13 no. 1 respectively each being considered as a group of entities liable to pay costs.

(3) The minimum lump sum fee for entities liable to pay costs are as follows

1. institutions subject to reporting obligations pursuant to Article 13 para. 1 no. 1 500 Euro;



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|----|--|-------------|
| 2. | issuers pursuant to Article 13 para. 1 no. 2 | 500 Euro; |
| 3. | providers of investment services pursuant to Article 13 para. 1 no. 3 | 500 Euro; |
| 4. | clearing members pursuant to Article 13 para. 1 no. 5 | 500 Euro; |
| 5. | managers of collective portfolios pursuant to Article 13 para. 1 no. 6, provided that they are not exclusively registered AIFMs pursuant to Article 3 para. 1 no. 3 lit. f | 1 000 Euro; |
| 6. | registered AIFMs pursuant to Article 3 para. 1 no. 3 lit. f | 500 Euro; |
| 7. | administrators pursuant to Article 13 para. 1 no. 7 | 500 Euro. |

(4) The minimum lump sum fee for crowdfunding services liable to pay costs pursuant to Article 13 para. 2 corresponds to parameter F pursuant to Article 14a para. 2.

Liability to pay costs of crowdfunding service providers

Article 14a (1) The entities liable to pay costs pursuant to Article 13 no. 2 shall submit the reference data for the preceding financial year audited by the statutory auditors that they have realised within a calendar year from crowdfunding services to the FMA by 30 June of the following year. Any amounts in foreign currencies, shall be converted into Euro using the exchange rate that was valid at the time of the gross payments being received.

(2) The lump sum P of an entity liable to pay costs pursuant to Article 13 para. 2 in Euro for the FMA financial year in question is calculated as follows:

$$P = \frac{U_{\text{einzel}}}{U_{\text{gesamt}}} \times E \times N + F$$

The following shall apply:

- the individual turnover-based reference value U_{einzel} is the annual average of the turnover of the respective entity liable to pay costs pursuant to Article 13 para. 2 from crowdfunding services in relation to the second and third preceding calendar years prior to the FMA financial year in question; in this context audited financial years of the respective entity liable to pay costs, in which the conditions pursuant to Article 3 para. 1 no. 3 lit. h did not exist for a full 12 calendar months, shall be taken in account on a pro rata basis based on full calendar months;
- the aggregated ratio of the turnover-related reference values U_{gesamt} shall be the sum of U_{einzel} for all entities liable to pay costs pursuant to Article 13 para. 2;
- the expense-related individual amount E shall be 2 000 Euro;
- the expense-related factor N is the sum of the months of supervision of all entities liable to pay costs pursuant to Article 13 paras. 2 in the period between the beginning of the 15th and the end of the 4th month prior to the FMA financial year in question; in this context, the value of the



months of supervision of each entity liable to pay costs pursuant to Article 13 para. 2 shall be the number of calendar months in which the respective entity liable to pay costs fulfilled the requirements pursuant to Article 3 para. 1 no. 3 lit. h for at least part of the time;

5. the fixed cost-related individual amount F shall be 500 Euro;

(3) Where, in the calculation carried out pursuant to para. 2, the cost-related product of the parameters E and N results in an amount of more than 2% of the turnover-related aggregated ratio U_{gesamt} , then, by way of derogation from para. 2, the product of the parameters E and S shall be based on an amount of 1% of $Umsatz_{gesamt}$.

(4) Article 7 shall apply to entities liable to pay costs pursuant to Article 13 para. 2 subject to the following provisos:

1. the assessment base b pursuant to Article 7 para. 3 shall be based on the most recent lump sum P calculated on the basis of benchmarks pursuant to para. 2 from previous periods;
2. the cost allocation pursuant to Article 7 para. 4 shall correspond to the parameter F pursuant to para. 2 no. 5.

Sub-Accounting Group 1 (institutions subject to reporting obligations)

Article 15. (1) Transaction reporting pursuant to Article 26 MiFIR shall be weighted for the purposes of the cost assessment. A weighting of 100 % shall be applied to the newly reported transactions and well as the cancellation reports that are respectively to be handled separately as transactions subject to costs, provided special weighting factors pursuant to para. 2 or 3 do not apply for individual types of transaction.

(2) In the case of credit institutions, which are associated to a central institution, and which are not authorised pursuant to Article 27a BWG to dissolve their association to the central institution, instead of the weighting stated in para. 1 a weighting of 6.9 %, provided the party directly placing the order is a client pursuant to Article 2 (1) 7 MiFIR in conjunction with Article 4 (1) 9 MiFID II and the buyer or seller reported as the counterparty pursuant to Annex I Table 2 Fields 7 to 11 and 16 to 20 of the Reporting RTS is the competent central institution or another credit institution associated to the same competent central institution. For transactions within the same sector between associated credit institutions, in which the party directly placing the order is not a client pursuant to Article 2 (1) (7) MiFIR in conjunction with Article 4 (1) (9) MiFID II, the weighting pursuant to paras. 1 and 3 shall however apply. For cost assessment purposes, the inter-sectoral transactions shall be considered as a transaction liable to pay costs with the exception of transactions between the associated credit institutions, the costs of which shall be prescribed to that sectoral institution that does not transmit the transaction subject to reporting onwards within the sector. The competent central institution and the associated credit institutions shall make the required reference data available to the FMA by 30 June of the following year.



(3) Exchange operating companies pursuant to Article 3 BörseG 2018 shall submit their trading data to the FMA for cost assessment purposes. For reported transactions, that were concluded in accordance with the submitted trading data as part of an activity as a market maker pursuant to Article 52 BörseG 2018, the weighting pursuant to para. 1 is reduced to 2.9 %.

(4) A cumulative application of paras. 2 and 3 shall not occur, even in the case where the reported transaction fulfils the conditions of both the aforementioned paragraphs.

(5) The FMA shall identify the individual amounts attributable to the entities liable to pay costs pursuant to Article 13 para. 1 no. 1, calculated in accordance with their share of reported transactions as a proportion of the total number of reported transactions, with the transactions to be weighted in accordance with the positions pursuant to paras. 1 to 3.

Sub-Accounting Group 2 (Issuers)

Article 16. (1) The FMA shall identify the individual amounts attributable to the entities liable to pay costs pursuant to Article 13 para. 1 no. 2, calculated in accordance with their share of trading volume in monetary terms at Austrian trading venues for the instruments subject to notification obligations, which during the relevant calendar year were admitted to trading on a regulated market or other securities exchange pursuant to Article 3 BörseG 2018 or were included with the consent of the issuer for trading on an MTF or OTF. The FMA is authorised for the identification of the contributions to gather information about the instruments admitted to trading of the exchange operating company licensed pursuant to Article 3 BörseG 2018 to operate a regulated market or another securities exchange that underlie the calculation of costs, with transactions in financial instruments subject to reporting obligations that are shares or securities similar to shares are to be weighted with a 100 % weighting, and transactions in all other financial instruments subject to reporting obligations given a 1.2 % weighting.

(2) With regard to both the licensed operation of a regulated market or another securities exchange pursuant to Article 3 para. 2 BörseG 2018 as well as the authorised operation of an MTF or OTF pursuant to Article 3 para. 3 BörseG 2018, the exchange operating company shall make the corresponding reference data available to the FMA by 30 June of the following year, taking into consideration new initial public offerings (IPOs) as well as any changes that have occurred in the intervening period, especially changes in ISI numbers, delistings and capital measures (especially subscription rights).

Sub-Accounting Group 3 (Providers of Investment Services)

Article 17. (1) The entities liable to pay costs pursuant to Article 13 para. 1 no. 3 shall submit the reference data for the preceding financial year audited by the statutory auditors to the FMA by 30 June of the following year. Entities liable to pay costs that are active in Austria by means of the freedom of establishment pursuant to Article 19 WAG 2018 or via a branch pursuant to Article 21 WAG 2018, may also prove that the requirement to have had the submitted reference data audited has been fulfilled by



submitting the annual financial statement of the investment firm or the third-country firm, where the following conditions that occur concurrently are met:

1. the submitted annual financial statement states the reference data pursuant to para. 2;
2. the submitted annual financial statement has been audited by a statutory auditor in accordance with the law that applies to it, provided that this is provided for under the law that applies to this annual financial statement, or, alternatively, the reporting of the reference data shall at least be accompanied by a confirmation from the management body of the entity liable to pay costs liable to pay the costs that it has provided truthful information about the reference data;
3. the submitted annual financial statement is accompanied by a certified translation of the annual financial statement including the audit opinion in German with regard to the reference data.

The requirement for auditing of the reference data is dispensed with in the case of investment services providers pursuant to Article 4 WAG 2018.

(2) Revenue from investment services for the FMA financial year in question shall be considered as reference data pursuant to para. 1. This revenue does not cover proceeds that were passed on from one entity liable to pay costs pursuant to Article 13 para. 1 no. 3 to another entity liable to pay costs pursuant to Article 13 para. 1 no. 3 and shall be reported by the latter as reference data pursuant to para. 1. Any amounts in foreign currencies shall be converted into Euro using the exchange rate that had been valid at the point in time of the proceeds being collected.

(3) The share of the costs of an investment firm, an investment services provider or another entity liable to pay costs pursuant to Article 13 para. 1 no. 3 for an FMA financial year shall be determined by the ratio of revenue from investment services transactions of the respective entity liable to pay costs to the total revenue of all entities liable to pay costs pursuant to Article 13 para. 1 no. 3. In the case of contractual insurance undertakings, only 67 % of proceeds from mediation business pursuant to Article 6 para. 3 VAG 2016 are to be considered. In the case of management companies only 67 % of the proceeds from services pursuant to Article 5 para. 2 nos. 3 and 4 InvFG 2011 and in the case of AIFMs only 67 % of proceeds from services pursuant to Article 4 para. 4 nos. 1 and 2 lits. a and c AIFMG are to be considered. In the case of central securities depositories the proceeds from services are to be considered that have been provided in an authorised manner pursuant to Article 17 para. 5 in conjunction with Article 18 CSDR.

(4) In the case of an entity abroad that is liable to pay costs, which is active in Austria via a branch, its revenues shall be substituted for the revenues that would be allocated to its branch, if it were a fully owned subsidiary of the entity liable to pay costs. Independent of an existing branch they also include revenues that are earned by way of the freedom of establishment pursuant to Article 19 WAG 2018 in Austria by making use of tied agents in Austria.



Sub-Accounting Group 4 (Market infrastructure)

Article 18. A shortfall amount, which pursuant to Article 94 para. 2 BörseG 2018, Article 5 para. 3 ZGVG and Article 11 para. 2 resides in Sub-Accounting Group 4, is to be split among the individual accounting groups pursuant to Article 19 para. 1 FMABG considering the sub-accounting groups in proportion to the costs directly attributable to them, with sub-accounting group 4 remaining unconsidered.

Sub-Accounting Group 5 (Clearing members)

Article 19. (1) The FMA shall identify the individual amounts attributable to the entities liable to pay costs pursuant to Article 13 para. 1 no. 5, calculated in accordance with their share of clearing services made used of as a clearing member of one or more central counterparties established in Austria as a proportion of the total volume of clearing services provided by these central counterparties. The share is measured on the basis of the ratio of the total volume of all transactions in financial instruments pursuant to Article 1 no. 7 WAG 2018, which the individual entity liable to pay costs pursuant to Article 13 para. 1 no. 5 in the FMA calendar year in question allowed central counterparty established in Austria to settle, as a proportion of all transactions in financial instruments which all entities liable to pay costs pursuant to Article 13 para. 1 no. 5 in the FMA calendar year in question allowed central counterparty established in Austria to settle.

(2) The central counterparties established in Austria shall in turn submit the reference data for every FMA financial year to the FMA:

1. about the total volume of all transactions that they have settled in financial instruments pursuant to Article 1 no. 7 WAG 2018, and
2. about the absolute respective share of each of their clearing members out of the total volume reported pursuant to no. 1 of all transactions in financial instruments pursuant to Article 1 no. 7 WAG 2018

until 30 June of the following year. Any amounts in foreign currencies shall be converted into Euro using the exchange rate that had been valid at the point in time of the conclusion of the transaction.

Sub-Accounting Group 6 (Managers of collective portfolios)

Article 20. (1) The entities liable to pay costs pursuant to Article 13 para. 1 no. 6 shall submit the reference data for the preceding financial year audited by the statutory auditors to the FMA by 30 June of the following year. Entities liable to pay costs, that are active in Austria via a branch pursuant to Article 36 InvFG 2011 or Article 33 AIFMG or which are non-EU AIFMs pursuant to Article 39 para. 3 AIFMG, may prove that the requirement to audit the submitted reference data has been met by applying the annual financial statement of the management company, the EU AIFM or the non-EU AIFM, where the following conditions that occur concurrently are met:

1. the annual financial statement states the reference data of the Austrian branch;



2. the annual financial statement has been audited by a statutory auditor in accordance with the law that is applicable to it;
3. the submitted annual financial statement is accompanied by a certified translation of the annual financial statement including the audit opinion in German with regard to the reference data.

(2) For entities liable to pay costs pursuant to Article 13 no. 6, the collected management costs of corporate provision funds, the collected net commission income of management companies and investment fund management companies for real estate, and the revenues from the management of AIFs for the FMA financial year shall be considered as reference data pursuant to para. 1. These proceeds do not cover the proceeds that are passed on from one entity liable to pay costs pursuant to Article 13 no. 6 to other entities liable to pay costs pursuant to Article 13 no. 6 and which the latter must report as reference data pursuant to para. 1. Any amounts in foreign currencies shall be converted into Euro using the exchange rate that had been valid at the point in time of the collection of management fees, net commission income or revenues.

(3) The FMA shall identify the individual amounts attributable to the entities liable to pay costs pursuant to Article 13 no. 6, calculated in accordance with their share of the total volume of collected management fees for corporate provision funds, the collected net commission income of management companies and real estate investment fund management companies and the revenues of AIFMs from managing AIFs. The share is measured in accordance with the total volume of all management costs, net commission income that the individual party liable to pay total costs pursuant to Article 13 para. 6 has collected during FMA financial year in question, less those proceeds to be reported in accordance with Article 17 para. 1, as a proportion of the total volume of all collected management costs, net commission income and revenues that all entities liable to pay costs pursuant to Article 13 no. 6 have collected during the FMA financial year in question. In the case of registered AIFMs only 50 % of the collected revenues shall be considered.

Sub-Accounting Group 7 (Administrators)

Article 21. (1) The FMA shall determine the individual allocable amounts towards the entities liable to pay costs pursuant to Article 13 para. 1 no. 7 based on their share of the total number of benchmarks provided by all entities liable to pay costs pursuant to Article 13 para. 1 no. 7. Benchmarks that are also only provided only on an intra-year basis are also to be taken into account, both with regard to the respective shares of the entities liable to pay costs as well as with regard to the total number of benchmarks, and shall be weighted by the type of benchmarks provided: a non-significant benchmark shall be weighted using the factor 1.0, a significant benchmark with the factor 1.1, and a critical benchmark with the factor 2.0.

(2) The benchmarks in accordance with the type as the FMA uses them in its supervision on 30 September of the respective FMA financial year based on being listed in an implementing act pursuant to Article 20 (1) BMR, alternatively based on a notification pursuant Article 24 (3) or Article 26 (2) BMR,



or in turn alternatively based on their being incorporated into an authorisation or registration procedure pursuant to Article 34 BMR, are decisive for the weighting pursuant to para. 1. In the case of benchmarks that were already discontinued during the course of the respective FMA financial year prior to 30 September their type at the time of being discontinued is definitive for weighting purposes.

Section 4

Accounting groups 1 to 4

Obligation of virtual asset service providers to pay costs

Article 21a. (1) The entities liable to pay costs pursuant to Article 3 para. 1 no. 5 shall submit the reference data for the preceding financial year audited by the statutory auditors to the FMA by 10 August of the FMA financial year. In the case of entities liable to pay costs pursuant to Article 3 para. 1 no. 5 that are not legal persons, the requirement to audit the reference data is dispensed, provided that they have instead confirmed that they have provided truthful information about the reference data.

(2) The gross payments from virtual asset services pursuant to Article 2 no. 22 lits. a to e FM-GwG shall be considered as reference data for the half year that precedes the FMA financial year in question, as well as the first half year of the FMA financial year in question. Any amounts in foreign currencies, shall be converted into Euro using the exchange rate that was valid at the time of the gross payments being received.

(3) As a lump sum contribution to costs, entities liable to pay costs pursuant to Article 3 para. 1 no. 5 shall pay an amount of 0.4 % of the reported gross payments from virtual asset services pursuant to Article 2 no. 22 lits. a to e FM-GwG.

(4) The minimum lump sum contribution to costs to be paid by every entity liable to pay costs pursuant to Article 3 para. 1 no. 5 shall be EUR 500.

(5) By way of derogation from Article 4 para. 1 the FMA shall prescribe the actual costs in addition to the advance payment amounts to the entities liable to pay costs pursuant to Article 3 para. 1 no. 5 in such a timely manner that it is able to collect and invoice the lump sum actual costs by 31 December of the FMA financial year in question. Actual costs of entities liable to pay costs pursuant to Article 3 para. 1 no. 5 including the advance payment amounts shall be deducted from the costs pursuant to Article 19 para. 2 second sentence FMABG, before such costs are split between accounting groups 1 to 4. Article 3 para. 2 shall apply to entities liable to pay costs pursuant to Article 3 para. 1 no. 5 subject to the proviso that the condition pursuant to Article 3 para. 1 no. 5 within an FMA financial year must exist at least for a timeframe that does not only commence after the cut-off point stated in Article 9 para. 1.

Chapter 3

Final provisions

References

Article 22. (1) The following shall apply to references to laws (Federal Acts) in this Regulation:



1. where reference is made to provisions in the Financial Market Authority Act (FMABG; Finanzmarktaufsichtsbehördengesetz), published in Federal Law Gazette I no. 97/2001, the version amended by Federal Act in Federal Law Gazette I No. 74/2022 shall apply;
2. where reference is made to provisions in the Austrian Banking Act (BWG; Bankwesengesetz), published in Federal Law Gazette no. 532/1993, the version amended by Federal Act in Federal Law Gazette I No. 36/2022 shall apply;
3. where reference is made to provisions in the Payment Services Act of 2018 (ZaDiG 2018; Zahlungsdienstegesetz 2018), published in Federal Law Gazette I No. 17/2018, the version amended by Federal Act in Federal Law Gazette I No. 36/2022 shall apply;
4. where reference is made to provisions in the Electronic Money Act 2010 (E-Geldgesetz 2010), published in Federal Law Gazette I no. 107/2010, the version amended by Federal Act in Federal Law Gazette I No. 37/2018 shall apply;
5. where reference is made to provisions in the Bank Recovery and Resolution Act (BaSAG; Sanierungs- und Abwicklungsgesetz), published in Federal Law Gazette I no. 98/2014, the version amended by Federal Act in Federal Law Gazette I no. 57/2022 shall apply;
6. where reference is made to provisions in the Deposit Guarantee Schemes and Investor Compensation Act (ESAEG; Einlagensicherungs- und Anlegerentschädigungsgesetz), published in Federal Law Gazette I no. 117/2015, the version amended by Federal Act in Federal Law Gazette I No. 199/2021 shall apply;
7. where reference is made to provisions in the Insurance Supervision Act 2016 (VAG 2016 - Versicherungsaufsichtsgesetz 2016), published in Federal Law Gazette I no. 34/2015, the version amended by Federal Act in Federal Law Gazette I No. 74/2022 shall apply;
8. where reference is made to provisions in the Securities Supervision Act 2018 (WAG 2018; Wertpapieraufsichtsgesetz 2018), published in Federal Law Gazette I no. 107/2017, the version amended by Federal Act in Federal Law Gazette I No. 139/2022 shall apply;
9. where reference is made to provisions in the Stock Exchange Act of 2018 (BörseG 2018; Börsegesetz 2018), published in Federal Law Gazette I No. 107/2017, the version amended by Federal Act in Federal Law Gazette I No. 69/2022 shall apply;
10. where reference is made to provisions in the Counterparties and Trade Repositories Act (ZGVG; Zentralen Gegenparteien-Vollzugsgesetz), published in Federal Law Gazette no. 97/2012, the version amended by Federal Act in Federal Law Gazette I No. 57/2022 shall apply;
11. where reference is made to provisions in the Central Securities Depositories Enforcement Act (ZvVG; Zentralverwahrer-Vollzugsgesetz), published in Federal Law Gazette I no. 69/2015, the version amended by Federal Act in Federal Law Gazette I No. 107/2017 shall apply;



12. where reference is made to provisions in the Investment Funds Act 2011 (InvFG 2011; Investmentfondsgesetz 2011), published in Federal Law Gazette I no. 77/2011, the version amended by Federal Act in Federal Law Gazette I No. 112/2022 shall apply;
13. where reference is made to provisions in the Alternative Investment Fund Managers Act (AIFMG; Alternative Investmentfonds Manager-Gesetz), published in Federal Law Gazette I no. 135/2013, the version amended by Federal Act in Federal Law Gazette I No. 36/2022 shall apply;
14. where reference is made to provisions in the Real Estate Investment Fund Act (ImmoInvFG; Immobilien-Investmentfondsgesetz), published in Federal Law Gazette I no. 80/2003, the version amended by Federal Act in Federal Law Gazette I No. 112/2022 shall apply;
15. where reference is made to provisions in the Company Employee and Self-Employment Provisions Act (BMSVG; Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz), published in Federal Law Gazette I no. 100/2002, the version amended by Federal Act in Federal Law Gazette I No. 199/2021 shall apply;
16. where reference is made to provisions in the Pensionskassen Act (PKG; Pensionskassengesetz), published in Federal Law Gazette no. 281/1990, the version amended by Federal Act in Federal Law Gazette I No. 36/2022 shall apply;
17. where reference is made to provisions in the Financial Conglomerates Act (FKG; Finanzkonglomeratengesetz), published in Federal Law Gazette I no. 70/2004, the version amended by Federal Act in Federal Law Gazette I No. 37/2018 shall apply;
18. where reference is made to provisions in the Financial Markets Anti-Money Laundering Act (FM-GwG; Finanzmarkt-Geldwäschegesetz), published in Federal Law Gazette I no. 118/2016, the version amended by Federal Act in Federal Law Gazette I No. 98/2021 shall apply;
19. where reference is made to provisions in the Benchmarking Enforcement Act (RW VG; Referenzwerte Vollzugsgesetz), published in Federal Law Gazette I no. 93/2017, the version amended by Federal Act in Federal Law Gazette I No. 198/2021 shall apply;
20. where reference is made to provisions in the Crowdfunding Enforcement Act (Schwarmfinanzierung-Vollzugsgesetz) as published in Federal Law Gazette I No. 225/2021, referred to as the Schwarmfinanzierung-VG in this Regulation, then it shall apply in the original version.

(2) The following shall apply to references to European Union law in this Regulation:

1. Where reference is made to provisions in Regulation (EU) No 575/2013, referred to as the CRR in this Regulation, then Regulation (EU) No 575/2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012, OJ L 176, 27.06.2013 p. 1, most



- recently amended by Commission Delegated Regulation (EU) No 2021/558, OJ L 116, 06.04.2021 p. 25, in the version of the corrigendum in OJ L 398, 11.11.2021, p. 32 shall apply;
2. where reference is made to provisions in Regulation (EU) No 909/2014, referred to as the CSDR in this Regulation, then Regulation (EU) No 909/2014 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, OJ L 257, 28.08.2014, p. 1, in the version of Regulation (EU) No. 2022/858, OJ L 151, 02.06.2022, p. 1 shall apply;
 3. where reference is made to provisions in Regulation (EU) No 648/2012, referred to as the EMIR in this Regulation, then Regulation (EU) No. 648/2012 on OTC derivatives, central counterparties and trade repositories, OJ L 201, 27.07.2012 p. 1, most recently amended by Regulation (EU) 2021/168, OJ L 49, 12.02.2021, p. 6, shall apply;
 4. where reference is made to provisions in Regulation (EU) No 600/2014, referred to as the MiFIR in this Regulation, then Regulation (EU) No 600/2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, OJ L 173, 12.06.2014 p. 84, in the version amended by Regulation (EU) 2022/858, OJ L 151, 02.06.2022, p. 1, shall apply;
 5. where reference is made to provisions in Directive 2014/65/EU, referred to as the MiFID II in this Regulation, then Directive 2014/65/EU on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, O L 173, 12.06.2014, p. 349, in the version amended by Regulation (EU) 2022/858, OJ L 151, 02.06.2022, p. 1, shall apply;
 6. where reference is made to provisions in the Delegated Regulation (EU) 2017/590, referred to as the Reporting RTS in this Regulation, then Delegated Regulation (EU) 2017/590 supplementing Regulation (EU) No 600/2014 with regard to regulatory technical standards for the reporting of transactions to competent authorities, OJ L 87, 31.03.2017, p. 449, in the version of the corrigendum in OJ L 250, 28.09.2017, p. 76, shall apply;
 7. where reference is made to provisions in Regulation (EU) 2016/1011, referred to as the BMR in this Regulation, then Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014, OJ L 171, 29.06.2016, p. 1, in the version amended by Regulation (EU) No 2021/168 in OJ L 49, 12.02.2021, p. 6, shall apply;
 8. where reference is made to provisions in Regulation (EU) No 2020/1503, referred to as the ECSPR in this Regulation, then Regulation (EU) No 2020/1503 on European crowdfunding service providers for business, and amending Regulation (EU) No 2017/1129 and Directive (EU) 2019/1937, OJ L 347, 20.10.2020, p. 1, in its original version shall apply;



Entry into force, repeals and transitional provisions

Article 23. (1) This Regulation shall enter into force on 1 January 2016.

(2) The Regulation of the Financial Market Authority (FMA) on the fees of the Financial Market Authority (FMA-KVO; FMA-Kostenverordnung), published in Federal Law Gazette II no. 340/2003, in the version of the Regulation amended in Federal Law Gazette II no. 265/2015 shall be repealed at the end of 31 December 2015.

(3) The following shall apply for the allocation of actual costs for an FMA financial year that ends prior to 01 January 2016: Instead of Article 3 para. 1 no. 2 and Article 6 para. 1 no. 2 of this Regulation, Article 3 para. 1 no. 2 and Article 6 para. 1 no. 2 of the Regulation stated in para. 2 shall apply; Article 12 para. 1 of this Regulation shall only apply to entities liable to pay costs as defined in Article 3 para. 1 no. 2 of the Regulation stated in para. 2; Article 12 para. 2 of this Regulation shall not apply.

(4) Article 3 para. 1 no. 1 lit. c, Article 6 para. 1 no. 1 lit. a and para. 2 final sentence, Article 7 para. 6, Article 10 no. 3 and Article 12 paras. 1 and 3 in the version of the Regulation amended in Federal Law Gazette II no. 223/2017 shall enter into force on 01 September 2017 and shall apply to the prescription of actual costs for FMA financial years, which start after 31 December 2015, as well as for advance payments for FMA financial years that start after 31 December 2017. Article 1 no. 3, Article 3 para. 1 no. 3 lits. a to d and g, Article 6 para. 1 no. 3 lits. a, b and e, Article 7 para. 4 no. 12 and para. 5, Article 9 para. 1 final sentence, Article 13 nos. 4 and 7, Article 15 paras. 1 to 3, Article 16 paras. 1 and 2, Article 17 para. 3 first sentence, Article 18 including heading, Article 19 and Article 21 including heading in the version of the Regulation amended in Federal Law Gazette II no. 223/2017 shall enter into force on 03 January 2018 and shall apply to FMA financial years that start after 31 December 2017.

(5) Article 6 para. 1 no. 3 lit. d, Article 7 para. 4 nos. 8 and 11 and Article 14 para. 3 nos. 4 and 8 in the version of the Regulation amended in Federal Law Gazette II No. 419/2015 shall be repealed at the end of 31 December 2019 and shall no longer apply to financial years that begin after 31 December 2017.

(6) (Regarding Article 3 para. 1 no. 1 lit. c): until the establishments of a uniform deposit guarantee scheme, Article 3 para. 1 no. 1 lit. c shall apply subject to the proviso that the deposit guarantee schemes established at the trade associations pursuant to Article 59 no. 3 ESAEG are liable to pay costs. The prescription of actual costs for the 2017 financial year as well as the advance payments for the 2019 financial year must take place by 31 March 2019.

(7) Article 3 para. 1 no. 1 lit. a sublit. cc and para. 1 no. 3 lit. c, Article 6 para. 1 no. 1 lit. b, Article 7 para. 4 nos. 2 and 3, Article 17 para. 4 and Article 22 in the version of the Regulation amended in Federal Law Gazette II no. 218/2018 shall enter into force on 01 September 2018.

(8) Article 3 para. 1 no. 3 lit. a, Article 6 para. 1 no. 1 lit. c, Article 17 para. 1 and Article 22 in the version of the Regulation amended in Federal Law Gazette II no. 241/2019 shall enter into force on 01 September 2019.



This provision relates to an amendment in relation to COVID-19:

(9) The following shall apply accompanying the FMA Deadline Extensions Regulation 2020 (FMA-FriVerV 2020; FMA-Fristenverlängerungsverordnung 2020), published in Federal Law Gazette II no. 181/2020:

1. where one of the reports listed in Article 6 para. 1 no. 1 shall be allowed, by making use of a deadline extension pursuant to Article 2 para. 1 FMA-FriVerV 2020, to be reported up to four months later, then the deadline for corrective reports in relation to the basis for costs pursuant to Article 6 para. 4 shall be extended accordingly;
2. where the report listed in Article 6 para. 1 no. 2 lit. a shall be allowed, by making use of a deadline extension pursuant to Article 3 para. 2 no. 1 FMA-FriVerV 2020, to be reported more than one month and up to two months later, then the deadline for information reports in relation to the basis for costs pursuant to Article 6 para. 2 shall be extended accordingly by the period of time that one month is exceeded;
3. where the report listed in Article 6 para. 1 no. 2 lit. b shall be allowed, by making use of a deadline extension pursuant to Article 3 para. 4 no. 2 FMA-FriVerV 2020, to be reported at latest by 31 July 2020, then the deadline for information reports in relation to the basis for costs pursuant to Article 6 para. 2 shall be extended accordingly;
4. where the report listed in Article 6 para. 1 no. 4 shall be allowed, by making use of a deadline extension pursuant to Article 2 para. 1 FMA-FriVerV 2020, to be reported up to one month later, then the deadline for information reports in relation to the basis for costs pursuant to Article 6 para. 2 shall be extended accordingly;

(10) Article 1 no. 2, Article 3 para. 1 no. 3 lit. a as well as nos. 4 and 5, Article 4 paras. 1 and 2, Article 6 para. 1 nos. 3 to 5 and para. 2, Article 7 para. 4 nos. 11 and 12, Article 9 para. 1, Article 17 paras. 1 and 4, Article 20 para. 1, Article 21a including headings and Article 22 in the version of the Regulation amended in Federal Law Gazette II No. 368/2020 shall enter into force on 30 September 2020. Notwithstanding reporting obligations imposed by means of an administrative decision pursuant to Article 28 para. 6 last sentence FM-GwG, reference data pursuant to Article 21a para. 2 shall be reported for the first time for the time frame of the second half of 2020 until the first half of 2021 pursuant to Article 21a para. 1 reported by 10 August 2021.

(11) (Regarding Article 21a): For the FMA's 2020 financial year entities liable to pay costs pursuant to Article 3 para. 1 no. 5 shall pay a standard lump sum contribution to costs of EUR 500 and a lump sum advance payment amount for the FMA's 2021 financial year of EUR 500.

(12) Article 21a paras. 3 and 5 and Article 22 in the version of the Regulation amended in Federal Law Gazette II No. 408/2021 shall enter into force on 30 September 2021.



(13) Article 1 no. 3, Article 3 para. 1 no. 3 lit. h, Article 3 para. 3, Article 6 para. 1 no. 3 lit. e, Article 7 para. 4, Article 9 para. 1, Article 13, Article 14 paras. 1, 3 and 4, Article 14a including heading, Article 15 para. 5, Article 16 para. 1, Article 17 paras. 1, 2 and 3, Article 19 para. 1, Article 20 paras. 1, 2 and 3, Article 21 para. 1 and para. 2 second sentence and Article 22 in the version of the Regulation amended in Federal Law Gazette II No. 339/2022 shall enter into force on 15 September 2022.