FEDERAL ACT ON THE SUPPLEMENTARY SUPERVISION OF CREDIT INSTITUTIONS, INSURANCE UNDERTAKINGS AND INVESTMENT FIRMS IN A FINANCIAL CONGLOMERATE (FKG; FINANZKONGLOMERATEGESETZ)

FINANCIAL CONGLOMERATES ACT (FKG)

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CHAPTER 1: OBJECTIVE AND DEFINITION OF TERMS

Objective

Article 1. This Federal Act regulates the supplementary supervision of credit institutions, insurance undertakings and investment firms belonging to a financial conglomerate. The supervision in accordance with the regulations applicable for each sector remain unaffected by the provisions of this Federal Act.

Definitions

Article 2. For the purposes of this Federal Act the following definitions shall apply:

1. "credit institution" means
   a. a credit institution pursuant to point 1 of Article 4 (1) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176 of 27.06.2013 p. 1, and
   b. an asset management company as defined in point b) or Article 2 (1) of Directive 2009/65/EC (OJ L 302 of 17 November 2009, p.32) in the version of the Directive 2011/61/EU (OJ L 174 of 1 July 2001, p. 1) or an entity, which has its headquarters in a third country and would require an authorisation pursuant to Directive 2009/65/EC, if its headquarters were located in a signatory state.
2. "insurance undertaking" means an insurance undertaking as defined in Article 13 points 1, 2 or 3 of Directive 2009/138/EC (OJ L 335 of 17 December 2009, p. 1) in the version of Directive 2012/23/EU (OJ L 249 of 14 September 2012, p. 1).
3. "investment firm" means an investment firm as defined in point 1 of Article 4 (1) of Directive 2004/39/EC (OJ L 145 of 30 April 2004, p. 1) in the version of Directive 2010/78/EU (OJ L 331 of 15 December 2010, p. 120), including the entities named in point 25 of Article 4 of Regulation (EU) No 575/2013, or an entity, that has its place of incorporation in a third country, and which pursuant to Directive 2004/39/EC would require an authorisation, if its headquarters were to be located in a signatory state.

3a. "Alternative Investment Fund Manager" means a manager of an investment fund pursuant to Article 4 (1) point b) item 1 and from Directive 2011/61/EU or an entity, which has its headquarters in a third country and which pursuant to Directive 2011/61/EU would require an authorisation, if its headquarters were located in the European Union.

4. "reinsurance undertaking" means a reinsurance undertaking as defined in Article 13 points 4, 5 or 6 of Directive 2009/138/EC or a special purpose vehicle pursuant to Article 13 point 26 of Directive 2009/138/EC.
5. "supervised entities" are credit institutions, insurance undertakings, reinsurance undertakings, investment firms, or Alternative Investment Fund managers.

6. “regulations applicable for each sector” means legal acts of the European Union in the area of financial supervision, in particular:
   a. Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.06.2013, p. 1, in the version of Implementing Regulation (EU) No 2021/1043, OJ L 225, 25.06.2021, p. 52, and the corrigendum in OJ L 398, 11.11.2021, p. 32;
   b. Regulation (EU) No 2019/2033 on prudential requirements for investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No. 806/2014, OJ L 314, 05.12.2019, p. 1, in the version of the corrigendum in OJ L 261, 22.07.2021, p. 60.
   c. Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.06.2013, p. 338, in the version of Directive (EU) 2021/338, OJ L 068, 26.02.2021, p. 14 in the version of the corrigendum in OJ L 214, 17.06.2021, p. 74;
   d. 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 Directive (EU) 2021/338, OJ L 68, 26.02.2021, p. 14;
   e. Directive (EU) 2019/2034 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 , OJ L 314, 05.12.2019, p. 64, as amended by the corrigendum, OJ L 214, 17.06.2021, p. 74;
7. “financial sector” is a sector, which consists of one or more of the following entities:
   a. credit institutions, financial institutions, or ancillary services entities, pursuant to point 18 of Article 4(1) of Regulation (EU) No 575/2013, investment firms pursuant to point 2 of Article 4(1) of Regulation (EU) No 575/2013 as well as asset management companies pursuant to point b) of Article 2 (1) of Directive 2009/65/EC (banking and securities services sector),
   b. Insurance undertakings, reinsurance undertakings or insurance holding companies as defined in Article 13 points 1, 2, 4 or 5 or point f) of Article 212 (1) of the Directive 2009/138/EC (insurance sector).

   The stake of a financial sector shall be understood as being the average of the proportion of the total assets of this sector to the total assets of all financial entities within the group and the proportion of the solvency requirement of this branch to the solvency requirements of all financial entities in the group. Alternative Investment Fund Managers are allocated within the group of the sector they belong to. In the event that they do not belong exclusively to one sector within the group, they are allocated to the financial sector with the lower share.
8. “financial undertakings” mean undertakings of a financial sector.

9. “parent undertaking” means a parent undertaking as defined in Article 189 no. 6 UGB as well as any other undertaking, which actively exercises a dominant influence over another undertaking.
10. “subsidiary” means a subsidiary as defined in Article 189 no. 7 UGB as well as any other undertaking, upon which a parent undertaking actively exercises a dominant influence; all subsidiaries of subsidiaries are also considered as subsidiaries of this parent undertaking.
11. “participation” means a participation as defined in Article 189a no. 2 UGB in another undertaking with a direct or indirect holding of at least 20 percent of voting rights or capital of another undertaking.
12. “group” means a group of undertakings, consisting of a parent undertaking, its subsidiaries and the undertakings, in which the parent undertaking or its subsidiaries hold a participation, as well as undertakings that are associated with one another by means of a relationship within the meaning of Article 22 (7) of Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182 of 29.06.2013 p. 19, in the version of Directive 2014/95/EU, OJ L 330 of 15.11.2014 p. 1, including any sub-groups.

12a. “control” means a relationship between a parent undertaking and subsidiary pursuant to Article 189a no. 6 UGB or a comparable relationship between a natural or legal person and an undertaking.

13. “close links” means a situation in which two or more natural or legal persons are linked by a control relationship or participation or a situation in which two or more natural or legal persons are permanently linked with the same person by means of a control relationship.
14. “financial conglomerate” means a group or sub-group, where a supervised entity is the head of the group or sub-group, or in which at least one of the subsidiaries in this group or sub-group is a supervised entity, and which fulfils the following conditions:
    a. in the event that a supervised entity is the leading entity or the group or sub-group:
        aa) this entity is a parent undertaking of a financial sector entity, an entity holding a participation in a financial sector entity, or an entity that is associated with a financial sector entity by means of a relationship within the meaning of Article 22 (7) of Directive 2013/34/EU,
        bb) at least one of the undertakings in the group or sub-group is an undertaking in the insurance sector and at least one is an undertaking in the banking or investment services sector and
        cc) the consolidated or aggregated activities of the undertakings active in the insurance sector and the undertakings in the group or sub-group that are active in the banking and investment services sector are respectively to be considered as being significant pursuant to Article 3 paras. 2 and 3; or
    b. in the event that the leading entity or the group or sub-group it not a supervised entity:

aa) the focus of the business activities of the group or sub-group pursuant to Article 3 para. 1 is in the financial sector,

bb) at least one of the undertakings in the group or sub-group is an undertaking in the insurance sector and at least one is an undertaking in the banking or investment services sector and

cc) the consolidated or aggregated activities of the undertakings active in the insurance sector and the undertakings in the group or sub-group that are active in the banking and investment services sector are respectively to be considered as being significant pursuant to Article 3 paras. 2 and 3.

15. "mixed financial holding company" means a parent undertaking that is not the subject of supervision, which together with its subsidiaries, of which at least one is a supervised entity headquartered in the signatory states, and another entity forms a financial conglomerate.

16. "competent authorities" mean the authorities of the signatory states, upon whom the supervision of credit institutions, insurance undertakings, reinsurance undertakings, investment firms or Alternative Investment Fund Managers on an individual basis or on a group basis has been conferred.

17. "relevant competent authorities" mean:

a. the competent authorities of the signatory states, upon whom the sector-specific consolidated supervision of the respective supervised entity of the financial conglomerate, in particular for the parent undertaking that is the leading institution in a sector, has been conferred,

b. the coordinator defined pursuant to Article 10 of Directive 2002/87/EC (OJ L 035 of 11 February 2003, p. 1) in the version of Directive 2011/89/EU (OJ L 326 of 8 December 2011, p. 113), in the event that this is another authority than the one listed under point a),

c. other competent authorities, who in accordance with the FMA's estimation are also affected; in this case, until the Regulatory Technical Standards named in point b) of Article 21a (1) of Directive 2002/87/EC are issued, the market share of the supervised entity in other signatory states - in particular where this is greater than 5% – as well as the weight of the supervised entities established in other signatory states within the financial conglomerate are to be taken into account.

18. "intra-group transactions" means all transactions, in which the supervised entities of a financial conglomerate rely upon other entities within the same group or either directly or indirectly, or upon which entities in the group rely upon, regardless of whether on a contractual or non-contractual basis or on the basis of payment or without payment.

19. "risk concentration" means all exposures with a loss potential, where the loss potential is large enough to threaten the solvency or the financial position in general of the supervised entities in the financial conglomerate, regardless of whether the risk of loss is caused by counterparty risk/credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of these risks.

20. “signatory state” means any state which belongs to the European Economic Area.
21. “entities subject to supplementary supervision” mean supervised entities, which are subject to supplementary supervision in accordance with this Federal Act pursuant to Article 5.

Thresholds for the definition of a financial conglomerate

Article 3. (1) A group is defined as being predominantly active in the financial sector, if the proportion of the balance sheet total of the financial undertaking and the mixed financial holding company of this group contributes is more than 40% of the total assets of the group.
(2) The cross-sector activities shall be considered to be significant, if the share of every financial sector is more than 10%.
(3) Significant cross-sector activities shall also be assumed to exist, if the total assets of the financial sector represented by the lower share in the group exceed EUR 6 billion. If the group does not reach the threshold mentioned in para. 2, but still reaches the threshold defined in the first sentence or in para. 2, but the net assets of the financial sector represented in the group with the lower share do not exceed EUR 6 billion, the FMA may decide with the consent of the other relevant competent authorities that the group shall not be considered as a financial conglomerate or that Articles 9, 10 or 11 shall not be applied, if it is of the view that the inclusion of this group into the scope of application of this Federal Act or of Regulation (EU) No 575/2013 or the application of such provisions is not necessary, or would be either inappropriate or misleading for the aims of supplementary supervision. The FMA shall notify the other competent authorities of decisions in accordance with this paragraph and shall disclose them, unless exceptional circumstances prevail.
(4) With regard to the application of paras. 1, 2 and 3, the FMA may decide with the consent of the other relevant competent authorities,

1. to not consider an undertaking in the cases defined in Article 6 para. 6 for the calculation of shares, unless the undertaking has moved from a signatory state to a third country, and this move has clearly been conducted in order to evade supervision;
2. to take into account compliance with the threshold values in accordance with paras. 1 and 2 in three consecutive years, in order to avoid a sudden change to the applicable rule.
3. to exclude one or several participations in the financial sector in the group represented with the lower share, if these participations would be decisive for the classification as a financial conglomerate, but however as a whole with regard to the aims of supplementary supervision are only of secondary importance.

(5) For the application of paras. 1 and 2, the FMA may, by way of derogation from Article 2 no. 7, in exceptional cases and with the approval of the other relevant competent authorities, replace or supplement the total assets criterion with the earnings structure, the balance sheet-neutral activities or the total value of assets managed, if these parameters, are particularly meaningful in the FMA’s opinion for the purposes of supplementary supervision in accordance with this Federal Act.

(6) In the case that the shares pursuant to paras. 1 and 2 fall below 40% or 10% respectively for a financial conglomerate that is already subject to supplementary supervision, then the thresholds shall be reduced in the three following years to 35% or 8% respectively for the application of these paragraphs. Moreover, if the total assets of the financial represented by the lower share in the group falls below EUR 6 billion, in the case of a financial conglomerate that is already subject to supplementary supervision, that the amount shall be reduced to EUR 5 billion for the application of para. 3 in the three following years. For the timeframe listed in this paragraph, the FMA may decide with the consent of the other relevant competent authorities that the lower thresholds or lower amounts defined in this paragraph shall no longer be applied, if the group is not expected to reach the higher thresholds or higher amounts again.
(7) For the purpose of the calculations pursuant to paras. 1 to 6 in conjunction with Article 2 no. 7, which refer to the total assets, the aggregated total assets of the group entities on the basis of the annual financial statements shall be used. For calculation purposes, the entities, in which a participation is held, will be taken in account for the amount of their total assets that corresponds to the proportionally aggregated stake held by the group. If a consolidated financial statement exists, this shall be used instead of using the aggregated balance sheet totals; the entities within the financial conglomerate that are not covered by consolidation shall be taken in account on the basis of their individual financial statements. The solvency requirements pursuant to paras. 2 and 3 in conjunction with Article 2 no. 7 shall be calculated in accordance with the relevant sectoral rules.
(8) The FMA shall grant its approval if requested by another relevant competent authority in accordance with paras. 3 and 4 and para. 6 last sentence, if it considers that the requirements set out in paras. 3 and 4 and para. 6 last sentence have been fulfilled.
(9) The FMA shall check the exemptions from supplementary supervision again every year, and shall check the quantitative indicators and risk-based assessments that are applied to financial groups.

Determination of the existence of a financial conglomerate

Article 4. (1) Financial undertakings shall observe whether they should be considered as an entity subject to supplement supervision as defined in Article 5. If they consider that this is the case, or that this is no longer the case, they shall notify this to the FMA without delay.
(2) The FMA shall determine on the basis of Articles 2, 3 and 5, whether a group is a financial conglomerate, which falls within the scope of this Federal Act. For this purpose, it shall cooperate with the competent authorities, which have authorised the entities belonging to the group. If the FMA arrives at the opinion, that a supervised entity that it supervises belongs to a group, which could be a financial conglomerate, but which has not yet been classified as one, then it shall inform the other competent authorities and the Joint Committee of the European Supervisory Authorities pursuant to Regulation (EU) No. 1093/2010, Regulation (EU) No. 1094/2010 and Regulation (EU) No. 1095/2010 that this is the case.

(3) The FMA, as the competent authority for supplementary supervision, shall inform the parent undertaking that is the head of a group, or in the absence of such a head the supervised entity with the highest total assets in the financial sector represented in the group with the higher proportion, that the group has been classified as a financial conglomerate. The FMA, as the competent authority for supplementary supervision, shall inform the competent authorities that have authorised the supervised entities in the group, and the competent authorities of the signatory state in which the mixed financial holding company is incorporated and the Joint Committee of the European Supervisory Authorities.

CHAPTER 2: SUPPLEMENTARY SUPERVISION

SECTION 1: SCOPE

Article 5. (1) The following entities shall be subject to supplementary supervision by the FMA in accordance with the provisions of this Federal Act:

1. supervised entities incorporated in Austria that are the lead institution of a financial conglomerate,
2. supervised entities incorporated in Austria, the parent undertaking of which is a mixed financial holding company incorporated in a signatory state, where one of the following requirements has been met:
    a. at least two supervised entities incorporated in signatory states have one and the same mixed financial holding company incorporated in Austria at their parent undertaking, and one of these entities is supervised by the FMA in accordance with the relevant sectoral rules.
    b. there are at least two mixed financial holding companies as the lead institutions in the financial conglomerate, which are incorporated in different signatory states, and there is a supervised entity in each of these signatory states, provided that these entities are active in one and the same financial sector, and the supervised entity incorporated in Austria has the highest amount of total assets.
    c. there are at least two mixed financial holding companies as the lead institutions in the financial conglomerate, which have a place of incorporation in different signatory states, and there is a supervised entity in each of these signatory states, but these entities are active in different financial sectors, and the supervised entity incorporated in Austria belongs to the financial sector that has the larger share within the group.
    d. at least two supervised entities incorporated in signatory states that have one and the same mixed financial holding company as their parent undertaking, and none of these entities have been authorised in the signatory state that is the place of incorporation of the mixed financial holding company, and the supervised entity incorporated in Austria

has the highest amount of total assets for the financial sector that has the larger share within the group.

3. supervised entities incorporated in Austria that are associated with another entity in the financial sector by means of a relationship defined in Article 22 (7) of Directive 2013/34/EU, if they have the highest amount of total assets for the financial sector that has the larger share within the group.
4. supervised entities incorporated in Austria, the parent undertaking of which is either a supervised entity or a mixed financial holding company incorporated in a country that is not a signatory state, subject to the provisions of para. 5 and where one of the following requirements has been met:
   a. All supervised entities within the signatory states are incorporated in Austria.
   b. The supervised entities have their places of incorporation in different signatory states and are active in one and the same financial sector, with the supervised entity incorporated in Austria has the highest amount of total assets.
   c. The supervised entities have their places of incorporation in different signatory states and are active in different financial sectors, although the supervised entity incorporated in Austria belongs to the group in the financial sector represented by the higher proportion.
5. supervised entities incorporated in Austria, other than in the case listed in nos. 1 to 4, provided that they have the highest total assets in the financial represented by the higher proportion in the group,

(2) If by applying para. 1 it emerges that several entities would be subject to supplementary supervision, that the FMA shall decide, following consultation with these entities and the competent authorities in other signatory states on the basis of the aims of this Federal Act, which entity shall be subject to supplementary supervision.

(3) If a financial conglomerate in accordance with para. 1 is a sub-group of another financial conglomerate, at the head of which is a supervised entity incorporated in another signatory state, then the provisions of this Federal Act shall not apply. If a financial conglomerate in accordance with para. 1 is a sub-group of another financial conglomerate in accordance with para. 1, then the provisions of this Federal Act shall only apply to the latter.

(4) If participations exist to one or several supervised entities or capital ties to such entities or if even without any participation or capital tie a significant influence, without one of the cases listed in paras. 1 and 3 existing, then if the supervised entity incorporated in Austria has the highest total assets in the financial branch represented with the higher proportion within the group, the FMA shall decide following agreement of the other competent authorities, whether and to what extent supplementary supervision in accordance with this Federal Act shall be prescribed, as well as whether the supervised entity would form a financial conglomerate. The underlying aims of supplementary supervision shall apply accordingly for this decision. So that the supplementary supervision may be applied, at least one of the entities must be a supervised entity and the

requirements set out in Article 2 no. 14 a) bb), or b) bb) and a) cc) or b) cc) must be fulfilled. Para. 2 shall apply accordingly.

(5) If this appears to be the case in taking the structure of the financial conglomerate into accounts as well as the relative weighting of its operations in different countries, then the Federal Minister of Finance may, provided that he is empowered to do so pursuant to Article 66 para. 2 B-VG, may rule by means of an agreement with other signatory states by way of derogation from the rules set out in Directive 2002/87/C which authority shall perform supplementary supervision. Prior to concluding such an agreement, a common understanding shall be reached between to relevant authorities of the other signatory states and the FMA, and where necessary opportunity to comment afforded to the undertaking, which without the conclusion of such an agreement for supplementary supervision would be subject to supplementary supervision by the FMA. The FMA shall inform the supervised entity in Austria within the financial conglomerate about the occurrence and discontinuation of such an agreement in writing. In the event that a foreign authority is competent for supplementary supervision, then the undertaking, which without the conclusion of the agreement for supplementary supervision would be subject to additional supervision by the FMA, shall for the duration of the existence of the agreement shall fulfil the obligations pursuant to this Federal Act towards that authority.

(6) Para. 1 no. 4 shall not apply, if the supervised entity, the parent undertaking of which has its place of incorporation outside of the Community, is the subject of supplementary supervision by the competent third-country authority to such an extent that it is comparable to supplementary supervision in accordance with this Federal Act. The FMA shall undertake a review in this regard at the request of the parent undertaking or of any of the supervised entities authorised in a signatory state, or on its own initiative. It shall consult the other competent authorities. If the FMA does not agree with the decision taken by another relevant competent authority on the basis of Article 18 (1) of Directive 2002/87/EC, then Article 19 of Regulation (EU) No. 1093/2010 (OJ L 331, 15.12.2010, p. 12), of Regulation (EU) No. 1094/2010 (OJ L 331, 15.12.2010, p. 48) or of Regulation (EU) No. 1095/2010 (OJ L 331, 15.12.2010, p. 84) shall apply.

(7) The FMA shall grant its approval if requested by another competent authority in accordance with para. 4, if it considers that the requirements set out in para. 4 have been fulfilled.

(8) The necessary cooperation in accordance with this Federal Act and in according with Section 3 of Chapter 2 of Directive 2002/87/EC, the performance of the tasks named in Article 11 (1) to (3) and Article 12 of Directive 2002/87/EC as well as where applicable the coordination and cooperation with the relevant competent supervisory authorities in third countries shall occur in a suitable form and in compliance with confidentiality requirements and Union law by the colleges, that shall be convened pursuant to Article 116 of Directive 2013/36/EU or Article 248 (2) of Directive 2009/138/EC. The coordination agreements in accordance with Article 11 para. 1, 2nd sub-paragraph of Directive 2002/87/EC shall be included separately in the written coordination agreements pursuant to Article 115 of Directive 2013/36/EU or Article 248 of Directive 2009/138/EC. As the chairperson of a college convened pursuant to Article 116 of Directive 2013/36/EU or Article 248 (2) of Directive

2009/138/EC, the FMA shall decide which other competent authorities shall participate at a meeting of activity of the college in question.

SECTION 2: FINANCIAL SITUATION

Adequate capital base

Article 6. (1) Regardless of the sectoral regulations, the adequate capital basis of the supervised entity of a financial conglomerate shall be subject to supplementary supervision within the meaning of paras. 2 to 6 and Articles 7 and 8.

(2) The additional own funds requirements for the supervised entities within a financial conglomerate may be calculated in accordance with the following methods:

1. Calculation on the basis of the consolidated financial statements,
2. Deduction and aggregation method.
3. *(Note: repealed by Federal Law Gazette I No. 184/2013)*

The FMA may authorise a combination of these methods.

(3) The FMA shall decide following consultation with the other relevant competent authorities as well as following consultation with the entity subject to supplementary supervision, which method the financial conglomerate shall have to apply. In so doing it should take into consideration the aims of Articles 9 and 10 of this Federal Act as well as the protective nature of the sectoral rules. In the case that there is not a supervised entity as the lead institution in the financial conglomerate, then the application of any of the methods named in para. 2 may be permitted.

(4) The entity subject to supplementary supervision shall ensure that the on the level of the financial conglomerate that own funds of at least the amounts calculated in accordance with Articles 7 and 8 shall be available at any time. The FMA shall monitor compliance with this provision. Irrespective of this, the entity subject to supplementary supervision shall conduct a calculation of the necessary amount of own funds on the level of the financial conglomerate on an annual basis as at the balance sheet date, and shall submit the results of the calculations to the FMA together with the financial statement as well as the details that are relevant for the calculation. Upon request, the FMA may permit the later submission in justified cases.

(5) In the calculation of the necessary capital base on the level of the financial conglomerate, all financial undertakings and mixed financial holding companies shall be included. In the event that the undertaking is a subsidiary that has an own funds shortfall or an unsupervised entity in the financial sector that has an imputed own funds shortfall, then regardless of the method chosen the subsidiary's solvency gap shall be taken into account to the full extent in the calculation. If the liability of a parent undertaking holding a share of the capital, in the FMA's opinion, is limited strictly and unambiguously to that share of the capital, then it may permit the insufficient solvency of the subsidiary to be taken into account on a pro rata basis. In the event that new capital ties exist between the undertakings in a financial conglomerate, the FMA shall determine that, following

consultation with the other relevant competent authorities, the share to be taken into account on the basis of the liability, that results from the existing ties.

(6) The FMA may decide that a specific entity shall not be included in the calculation of the additional own funds requirements, if:

1. the undertaking is located in a third country, in which legal impediment stand in the way of the submission of the requirement information; Article 8 para. 2 no. 9 of the Insurance Supervision Act 2016 (*VAG 2016; Versicherungsaufsichtsgesetz 2016*) published in Federal Law Gazette I no. 34/2015 and Article 5 para. 1 no. 4 BWG shall remain unaffected; in this case however, the book value of the participations shall be deducted.
2. the undertaking is insignificant in terms of the aims of supplementary supervision; several entities may for this reason not be excluded if when considered together they are not insignificant;
3. the inclusion of the undertaking would be unsuitable or misleading as far as the objectives of supplementary supervision are concerned;

in this case the FMA shall, unless it is a matter of urgency, consult the other relevant competent authorities prior to making its decision.

If the FMA does not include and undertaking for one of the reasons listed in nos. 2 and 3, then the entity subject to supplementary supervision shall if requested submit all information to the competent authorities, which facilitate the supervision of this undertaking.

Article 7. (1) The multiple use of elements, that may be considered eligible for the calculation of own funds at the level of the financial conglomerate (multiple gearing) as well as any inappropriate intra-group creation of own funds shall be excluded. In order to ensure the exclusion of multiple gearing and the intra-group creation of own funds, the relevant principles laid down in the relevant sectoral rules shall be applied accordingly.

(2) To fulfil the solvency requirements for the financial sectors represented in a financial conglomerate, the own funds elements shall be covered in accordance with the corresponding sectoral rules. If the level of own funds at the financial conglomerate level is insufficient, then only those own funds elements that are eligible in accordance with all the sectoral rules that are permitted as own funds (cross-sector own funds) shall be taken into account in relation to compliance with the additional solvency requirements.

(3) If certain own funds instruments that could be considered as cross-sector own funds are only eligible to a limited extent as own funds in accordance with the sectoral rules, then these limits shall apply accordingly for the calculation of own funds at the level of the financial conglomerate.

(4) When calculating own funds at the level of the financial conglomerate it shall also be taken into account whether the own funds in accordance with aims of the rules on own funds may be transferred from one legal person within the group to another, and whether they available across all parts of the group.

Article 8. (1) The following shall apply for the calculation of the additional own funds requirements pursuant to Article 6 para. 2 no. 1:

1. the own funds and the own funds requirements to the entities incorporated into the financial conglomerate shall be calculated on the basis of the corresponding sectoral rules.
2. the additional own funds requirement for the supervised entities within a financial conglomerate are calculated in accordance with the methodology of the consolidated financial statements.
3. the additional own funds requirement is the difference between
   a. the own funds of the financial conglomerate calculated on the basis of the methodology of the consolidated financial statements, with the permissible components being able to be applied pursuant to the relevant sectoral rules, and
   b. the total of the solvency requirements for the respective financial sectors represented in the group; these solvency requirements shall be calculated in accordance with the respective sectoral rules.
4. for unsupervised financial sector entities that are excluded from the aforementioned calculations of sectoral solvency requirements, an imputed solvency requirement shall be calculated.
5. the difference shall not be allowed to be negative.
6. the unconsolidated entities in the financial conglomerate shall be taken into account on the basis of another method.

(2) The following shall apply for the calculation of the additional own funds requirements pursuant to Article 6 para. 2 no. 2:

1. the proportional share of the parent undertaking or the undertaking that holds a participation in another entity within the group that is also considered shall be taken into account for the calculation. The proportional share is to be understood as the share of the subscribed capital, which is held either directly or indirectly by this undertaking.
2. the additional own funds requirement for the supervised entities within a financial conglomerate are calculated in accordance with the individual financial statements of all group entities.
3. the additional own funds requirement is the difference between
   a. the total of the own funds of every supervised and unsupervised entity belonging to that financial sector of the financial conglomerate, with the permissible components being able to be applied pursuant to the relevant sectoral rules, and
   b. the total of the solvency requirements of every supervised and unsupervised group entity belonging to the financial sector, calculated pursuant to the relevant sector-specific rules, and using the book value of the participations in other group entities.
4. an imputed solvency requirement shall be calculated for unsupervised entities belonging to the financial sector. Own funds and solvency requirements shall be taken into consideration on a proportional basis pursuant to no. 1 and Article 6 para. 5.
5. the difference shall not be allowed to be negative.

(3) If an imputed solvency requirement is calculated for an unsupervised financial sector entity pursuant to para. 1 no. 4 or para. 2 no. 4, then this shall correspond to the own funds requirement that such an entity should have to fulfil in accordance with the relevant sectoral rules, if it were a supervised entity in this financial sector; the imputed solvency requirement for a mixed financial holding company shall be calculated pursuant to the sectoral-specific rules for the financial sector represented with the higher proportion in the financial conglomerate.

Risk concentration

Article 9. (1) Regardless of the sectoral regulations the risk concentration of the supervised entity of a financial conglomerate shall be subject to supplementary supervision within the meaning of paras. 2 to 6.
(2) The entity subject to supplementary supervision shall submit information to the FMA about every significant risk concentration on the level of the financial conglomerate on a regular basis, at least at the end of every quarter of the calendar year, and to supply the necessary details.
(3) The FMA shall instruct every financial conglomerate by means of an administrative decision following consultation with the other relevant competent authorities about what types of risk are to be reported pursuant to para. 2. In so doing, the FMA shall take the group structure and the risk management of the financial conglomerate in question into account. Following consultation with the other relevant competent authorities, the FMA shall determine by means of an administrative decision appropriate threshold values on the basis of the eligible own funds at the level of the financial conglomerate, upon the basis of which the risk concentrations must be identified as being significant and reported as such.
(4) When supervising the risk concentrations, the FMA shall, in particular, monitor the potential risk of contagion to other parts of the financial conglomerate, the risk of a conflict of interest, the risk of a circumvention of the sectoral rules, as well as the amount or scope of the risks.
(5) The FMA may quantitatively limit risk concentrations on the level of the conglomerate by means of a regulation; such a regulation shall take into consideration that the protective purpose of the sectoral rules shall not be allowed to be thwarted by the risk concentrations.
(6) If a mixed financial holding company is the head of a financial conglomerate, then in relation to risk concentrations the sector-specific rules for the financial sector represented with the higher proportion in the financial conglomerate shall be valid.

Intra-group transactions

Article 10. (1) Regardless of the sectoral regulations intra-group transactions by the supervised entity of a financial conglomerate shall be subject to supplementary supervision within the meaning of paras. 2 to 6.
(2) The entity subject to supplementary supervision shall submit information to the FMA about all significant intra-group transactions by the supervised entity within a financial conglomerate on a

regular basis, at least at the end of every quarter of the calendar year, and to supply the necessary details.

(3) The FMA shall instruct every financial conglomerate by means of an administrative decision following consultation with the other relevant competent authorities about what types of transactions are to be reported pursuant to para. 2. In so doing, the FMA shall take the group structure and the risk management of the financial conglomerate in question into account. Following consultation with the other relevant competent authorities, the FMA shall determine by means of an administrative decision appropriate threshold values on the basis of the eligible own funds at the level of the financial conglomerate, upon the basis of which the intra-group transactions must be identified as being significant and reported as such.

(4) When supervising the risk intra-group transactions, the FMA shall in particular monitor the potential risk of contagion to other parts of the financial conglomerate, the risk of a conflict of interest, the risk of a circumvention of the sectoral rules, as well as the amount or scope of the risks.

(5) The FMA may limit the type of intra-group transactions of the supervised entities within a financial conglomerate on the level of the financial conglomerate by means of regulation and prescribe obligations in relation to their type; this regulation shall take into consideration that the intra-group transactions shall not be allowed to thwart the protective purpose of the sectoral rules.

(6) If a mixed financial holding company is the head of a financial conglomerate, then in relation to intra-group transactions the sector-specific rules for the financial sector represented with the higher proportion in the financial conglomerate shall be valid.

Internal control mechanisms and risk management

Article 11. (1) An appropriate risk management and appropriate internal control mechanisms must exist in the supervised entity at financial conglomerate level, as well as orderly administrative and accounting procedures.

(2) Appropriate risk management shall consist of

1. expert leadership and management with approval and regular reviewing of the strategies and measures by the respective senior management at the level of the financial conglomerate with regard to all risks entered into;
2. an appropriate policy in relation to the capital base, which takes into account the effects of the business strategy upon the risk profile and the own funds requirements calculated pursuant to Article 6 to 8 taken into account in advance;
3. suitable procedures that ensure that the risk monitoring systems are appropriately integrated into the business organisation and that relevant measures guarantee that the systems applied in the supervised entity within the financial conglomerate are compatible with one another, so that all risks on the level of the financial conglomerate level can be quantified, monitored and controlled.

4. provisions, to allow if required contributions to be made to suitable recovery and resolution proceedings and plans and such procedures and plans to be developed. These arrangements shall be reviewed and adapted regularly.

(3) The internal control mechanisms shall consist of

1. suitable mechanisms in relation to the capital base for the identification and quantification of all significant risk positions and ensuring that such risks are appropriately backed by own funds;
2. orderly reporting and accounting for the identification, quantifying, monitoring and controlling of intra group transactions and risk concentration.

(4) In the entities subject to supplementary supervision appropriate internal control processes must exist for the submission of information and documentation, which are required for the performance of supplementary supervision.

(5) The supervised entities shall publish a description of its legal structure as well as its governance and organisational structure on the level of the financial conglomerate on an annual basis, either in full or by referring to comparable information.

Stress testing

Article 11a. The FMA, as the competent authority for supplementary supervision, shall conduct appropriate and regular stress tests of financial conglomerates. The FMA, as the competent authority for supplementary supervision, shall inform the Joint Committee of the European Supervisory Authorities about the results of Union-wide stress tests pursuant to Article 9b para. 2 of Directive 2002/87/EC.

SECTION 3: MEASURES FOR SIMPLIFYING SUPPLEMENTARY SUPERVISION

Cooperation and the exchange of information between the competent authorities

Article 12. (1) If the FMA has reason to assume, that a piece of information is significant for the competent authorities of another signatory state in order to be able to conduct supplementary supervision pursuant to Directive 2002/87/EC, then it shall communicate this information to the competent authority.

(2) Furthermore, the FMA is also obliged, to issue the information and pass on the information required by the competent authorities of other signatory states pursuant to Directive 2002/87/EC about the entities that it supervises for the purposes of supplementary supervision upon request, that appear to be appropriate for the performing their duties.

(3) The information pursuant to paras. 1 and 2 shall in particularly include:

1. disclosing the legal structure as well as the governance and organisational structure of the group, including of all supervised entities belonging to the financial conglomerate,

unsupervised subsidiaries and significant branches, the holders of qualifying holdings at the level of the parent undertaking at the head of the financial conglomerate as well as the competent authorities for the supervised entities in the group;

2. the strategies of the financial conglomerate;
3. the financial situation of the financial conglomerate, in particular capital adequacy, intra-group transactions, risk concentrations and profitability;
4. the major shareholders and the management of the entities within the financial conglomerate;
5. the organisation, risk management and internal control systems on the level of the financial conglomerate;
6. procedures for collecting of information from the entities of a financial conglomerate as well as verification of the information;
7. adverse developments in supervised entities or in other entities of the financial conglomerate, where such developments in the latter could also seriously affect the former;
8. the most important sanctions and other measures taken by the FMA pursuant to the sectoral rules or pursuant to this Federal Act;
9. changes to the management, the supervisory body or in the ownership relationships provided that they are indicated in accordance with the sectoral rules.

(4) Furthermore the FMA may also exchange information with central banks, the European System of Central Banks, the European Central Bank, the European Insurance and Occupational Pensions Authority, the European Banking Authority, the European Securities and Markets Authority, the Joint Committee of the European Supervisory Authorities, and the European Systemic Risk Board about supervised entities in a financial conglomerate, if these bodies require the information to be able to performing their own duties.

(5) Irrespective of its duties pursuant to the sectoral rules, the FMA shall obtain an opinion from the competent authorities in other signatory states prior to imposing severe sanctions or enforcing other measures, if such measures are significant for their supervisory activities. The FMA may refrain from obtaining opinions in cases of urgency, or where the obtaining of an opinion could impede the effectiveness of the sanction or measure. In this instance the FMA shall inform the competent authorities of the other signatory states without delay.

(6) The Federal Minister of Finance may, provided that he is empowered to do so pursuant to Article 66 para. 2 B VG, conclude cooperation agreements with other signatory states, if so doing facilitates supplementary supervision. In such an agreement additional duties may be conferred upon the coordinator and the procedures for decision-making by the respective competent authorities pursuant to Articles 3 and 4, Article 5 (4), Article 6, Article 12 (2) and Articles 16 and 18 of Directive 2002/87/EC and the cooperation with other competent authorities determined. It shall be agreed that information from another signatory state shall only be disclosed with the explicit approval of the competent authorities, that have supplied this information, and as applicable only for purposes that these authorities have approved.

(7) If the FMA requires information, which have already been submitted to another competent authority in accordance with sectoral rules, then it shall, where possible, contact that authority, in order to avoid multiple requests for information by the authorities involved in supervision.
(8) The FMA shall, for the purposes of supplementary supervision, cooperate with the Joint Committee of the European Supervisory Authorities, and shall make all information required for performing their duties pursuant to the procedure set out in Article 35 of Regulation (EU) No. 1093/2010, Regulation (EU) No. 1094/2010 and Regulation (EU) No. 1095/2010 available to the Joint Committee of the European Supervisory Authorities. The FMA shall as the competent authority for supplementary supervision communicate the information listed in Article 11 (4) and Article 12 (3) (1) to the Joint Committee of the European Supervisory Authorities.

Supervision by the European Central Bank – Single Supervisory Mechanism

Article 12a. The FMA shall perform the duties, powers and obligations conferred on it by this Federal Act only to the extent that exercising them is not reserved to the European Central Bank under the provisions of Regulation (EU) no. 1024/2013 on conferring specific tasks on the European Central Bank relating to the prudential supervision of credit institutions, OJ L 287, 29.10.2013, p. 63

Authorisation for processing of personal data

Article 12b. The FMA is authorised to process personal data as defined in Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 04.05.2016. p. 1, provided that doing so is necessary for the performance of its duties in accordance with this Federal Act.

Managing of mixed financial holding companies

Article 13. (1) Persons who actually manage the transactions of a mixed financial holding company, shall fulfil the following requirements:

1. personal reputation: this shall in any case be deemed not to exist, there a reason for exclusion as defined in Article 13 GewO 1994 exists, or where bankruptcy proceedings have been opened against the assets of this person or the assets of another legal entity other than a natural person on whose business this person has or has had a decisive influence, unless during the bankruptcy proceedings the drawing up of a reorganisation plan was agreed upon and fulfilled. This shall also apply if a comparable offence has been committed abroad.
2. professional qualification: this requires adequate theoretical and practical knowledge of the transactions of a financial sector as well as managerial experience; it shall as a rule be assumed to exist where at least three years' activity in a managerial position in a financial undertaking can be proven.

(2) The entity subject to supplementary supervision shall ensure compliance with para. 1 in accordance with the possibilities under company law. It shall also submit to the FMA, in addition to the name, legal form, place of incorporation and country of incorporation of the superordinate mixed financial holding company, all necessary documentation required for the assessment of the fulfilment of the conditions set out in para. 1, and notify it of any amendment without delay. If the entity subject to supplementary supervision is of the opinion that the conditions set out in para. 1 are not fulfilled and if all possibilities under company law to prevent the appointment of these directors or to remove them have been exhausted without success, then they shall report to the FMA about this without delay.
(3) If the FMA is of the opinion that the requirements of para. 1 are not fulfilled, it shall on the basis of a report in accordance with para. 2, or within its official duties, make an application at the competent court in the first instance in relation to the jurisdiction in commercial matters in the place of incorporation of the entity subject to supplementary supervision to suspend the voting rights for the shares that the mixed financial holding company holds in the entity subject to supplementary supervision. The court shall order the suspension of these voting rights. The suspension of voting rights shall be lifted again, if the court has determined, at the request of the FMA or by the mixed financial holding company that the conditions set out in para. 1 have been fulfilled. This must be communicated to the FMA. The court shall decide on the procedure in accordance with the existing provisions except in the case of disputes.
(4) If a court orders the suspension of voting rights in accordance with para. 3, then the court must simultaneously appoint and transfer the exercise of the voting rights to a trustee who fulfils the requirements of para. 1. The trustee has a right to reimbursement of his/her expenses and to remuneration for his/her activities in an amount to be determined by the court. The mixed financial holding company and the entity subject to supplementary supervision shall be jointly and severally liable. The obliged parties may appeal decisions determining the amount of remuneration for the trustee and the expenses to be reimbursed to them. Appeals beyond rulings of the provincial superior court will not be permitted.

Reporting and access to information

Article 14. (1) The entities subject to supplementary supervision shall ensure that they have access to the relevant information required for the conducting of supplementary supervision that refer to the entities to be covered by supplementary supervision. In particular, they shall establish appropriate internal procedures for the submission of information and documentation in this regard.
(2) The entities that are subject to supplementary supervision shall provide the FMA with information at any time about all issues, and provide access to all information, that are relevant for the purposes of supplementary supervision. In addition, on the level of the financial conglomerate it shall make individual details available to the FMA about its legal structure as well as its governance

and organisational structure, including all supervised entities, unsupervised subsidiaries and significant branches. If the information requested from the entity subject to supplementary supervision are not submitted, then the FMA may contact another entity within the financial conglomerate, even if that entity does not belong to any financial sector. If the requested information is not submitted by an entity requested to submit it that is incorporated in another signatory state, then the FMA shall, irrespective of the option in accordance with the previous sentence, shall request the competent authority in the state in which the entity is incorporated to take appropriate measures to improve its access to this information.

(3) The entities subject to supplementary supervision shall at the end of every quarter of the calendar submit quarterly reports to the FMA about the adequate capital base of the supervised entities in a financial conglomerate in within the meaning of Article 6 paras. 2 to 6 and Articles 7 and 8 as well as the compliance with the provisions of Articles 9 and 10 in accordance with the prescribed format set out in the regulation pursuant to para. 5.

(4) The entities subject to supplementary supervision shall also submit reports in accordance with para. 3 to the *Oesterreichische Nationalbank*. The *Oesterreichische Nationalbank* shall provide expert opinions to the reporting to the FMA.

(5) The FMA shall define the reporting deadline and the specific format of the quarterly reports by means of a regulation. It shall take financial market stability into consideration when issuing this regulation. It shall be empowered to waive submission in accordance with paras. 3 and 4 by means of a regulation. Regulations issued in accordance with this paragraph shall require the consent of the Federal Minister of Finance.

(6) The reports pursuant to paras. 3 and 4 must be submitted in a standardised format by electronic means. This transmission must meet certain minimum requirements to be defined by FMA after consultation with the *Oesterreichische Nationalbank*.

On-site inspections

Article 15. (1) The FMA may in the case of entities subject to supplementary supervision and other entities incorporated in Austria, that are included in the scope of supplementary supervision, collect information pursuant to Article 12 para. 2 on-site in accordance with the applicable sectoral rules for the supervised entity and may collect information from other persons for this purpose. Measures taken by the FMA in accordance with the sectoral rules towards the entity in question shall remain unaffected by inspections being conducted.

(2) If the FMA intends in the application of this Federal Act in specific cases to conduct an inspection of an entity incorporated in another signatory state this is party to supplementary supervision, then it shall request the competent authority in this signatory state to conduct the inspection. In the event that this authority does not conduct the inspection itself or allows it to be conducted by an auditing body empowered by it to do so (external auditors or experts), then the FMA may, if the authority in

the affected country of incorporation empowers it to, conduct the inspection itself, or allow appointed auditing bodies to conduct the inspection.
(3) If the competent authority for supplementary supervision of another signatory state intends to conduct an inspection about the information about an entity incorporated in Austria that is subject to supplementary supervision, then the FMA shall conduct this inspection, or shall allow this inspection to be conducted by the auditing body that it appoints, or to empower the supervisory authority of the affected signatory state or persons mandated to do so to conduct the inspection. The competent authority which made the request may, if it so wishes, participate in the inspection where it does not carry out the inspection itself. The FMA may participate in an inspection that it itself is not conducting.

Procedural and penal provisions

Article 16. (1) If an entity subject to supplementary supervision does not fulfil the requirements of the Article 4 and Articles 6 to 11, or if the solvency is at risk despite the fulfilling of all requirements or if intra-group transactions or risk concentrations endanger the financial situation of the supervised entity, then the FMA shall enforce measures on the basis of the applicable sectoral rules for the entity subject to supplementary supervision that appear appropriate to rectify the situation as quickly as possible.
(2) Anyone acting in contravention of the order of the FMA on the basis of para. 1, unless the act constitutes a criminal offence falling under the jurisdiction of the courts, commits an administrative offence and shall be punished by the FMA with a fine of up to EUR 60 000.
(3) *(Repealed by the amendment published in Federal Law Gazette I 107/2017).*
(4) In the event that a financial undertaking does not comply in a timely manner with the submission obligations set out in this Federal Act, the submission obligations on the basis of an instruction issued in accordance with this Federal Act, or an instruction pursuant to para. 1 that is linked to a deadline, then the FMA may prescribe, either at the same time as issuing the request to comply also in the case that this remains unsuccessful, or following an unsuccessful request to do so, the payments of an amount of up to EUR 7 000 to the federal government. In this case, the extent of the delay as well as the obstruction of the supervision of the business practices and the extra costs incurred shall be taken into account that have arisen as a result of the delayed submission. The fee may, for as long as the submission obligation is not fulfilled, be prescribed multiple times.
(5) *(Repealed by the amendment published in Federal Law Gazette I 107/2017).*

Additional powers of the FMA

Article 17. The FMA shall take any supervisory measures that it deems to be necessary to prevent the circumventing of sectoral rules by the entity that it supervises that belongs to a financial conglomerate as well as to act against such behaviour.

CHAPTER 3: TRANSITIONAL AND FINAL PROVISIONS

Article 18. (1) This Federal Act shall enter into force on 1 January 2005. It shall first apply to the checking of financial statements by the supervisory authority for the financial year beginning after 31 December 2004.
(2) Regulations based on this Federal Act may already be issued from the day following publication of the Federal Act. They shall apply at earliest to financial years beginning after 31 December 2004.
(3) Article 14 para. 3 to 6 in the version of the Federal Act published in Federal Law Gazette I No. 141/2006 shall enter into force on 1 January 2007.
(4) Article 9 para. 3, Article 10 para. 3 and Article 14 paras. 3 and 5 in the version of the Federal Act as published in Federal Law Gazette I No. 22/2009 shall enter into force on 1 April 2009.
(5) Article 13 para. 1 no. 1 in the version of the Federal Act published in Federal Law Gazette I No. 58/2010 shall enter into force on 1 August 2010.
(6) Article 4 para. 3, Article 5 para. 6, Article 11 para. 2 no. 4, Article 12 paras. 4 and 8 in the version of the Federal Act as published in Federal Law Gazette I No. 145/2011 shall enter into force on 31 December 2011.
(7) Article 16 para. 2 in the version of the 2nd Stability Levy Act of 2012 (*2. Stabilitätsgesetz 2012*) as published in Federal Law Gazette I No. 35/2012 shall enter into force on 1 May 2012.
(8) Article 2 nos. 1 to 5, 7, 9 to 14, 16, 17 and 19, Article 3 paras. 1 to 5 and 9, Article 4 para. 2 and 3, Article 5 paras. 1, 4 and 8, Article 6 para. 2 no. 2, Article 8 para. 4, Article 11 para. 5, Article 11a, Article 12 para. 3 no. 1 and para. 8 and Article 14 para. 2 in the version of the Federal Act published in Federal Law Gazette I No. 184/2013 shall enter into force on 1 January 2014. Article 6 para. 2 no. 3 and Article 8 para. 3 in the version of the Federal Act published in Federal Law Gazette I No. 184/2013 shall expire at the end of 31 December 2013.
(9) Art. 6 para. 6 no. 1 in the version of the Federal Act published in Federal Law Gazette I No. 34/2015, enters into force on 1 January 2016.
(10) Article 2 no. 9, 10, 11, 12, 12a and 14 point a subpoint aa and Article 5 para. 1 no. 3 in the version of the Federal Act as published in Federal Law Gazette I No. 68/2015 shall enter into force on 20 July 2015.
(11) Article 16 para. 2 in the version of the Federal Act amended in Federal Law Gazette I No. 107/2017 shall enter into force on 3 January 2018. Article 16 paras. 3 and 5 shall as expire at the end of 2 January 2018.
(12) Article 2 para. 6 and Article 20 para. 2 in the version of the Federal Act amended in Federal Law Gazette I No. 237/2022 shall enter into force on 1 February 2023.
Article 19. The Federal Minister for Justice shall be responsible for the enforcement of Article 13 para. 3 second to fifth sentence and para. 4, with the Federal Minister of Finance responsible for the enforcement of the remaining provisions.
Article 20. (1) Where references to other Federal Acts are made in this Federal Act, those acts are to be applied in their respective current versions unless determined otherwise.

(2) Where references are made in this Federal Act to Directive 2002/87/EC, then, unless specified otherwise, Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC, OJ L 35, 11.02.2003, p. 1, amended by Directive (EU) 2019/2034, OJ L 314, 05.12.2019, p. 64, shall apply.

TRANSPOSITION

Article 1

This Federal Act shall transpose Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.02.2003, p. 1) into Austrian law.

Article 1

(Note: from Federal Law Gazette I No. 141/2006, to Article 14, as published in Federal Law Gazette I No. 70/2004)

This Federal Act shall transpose Directive 2006/48/EC of the European Parliament and the Council relating to the taking up and pursuit of the business of credit institutions (OJ L 177 of 30.06.2006, p. 1) and Directive 2006/49/EC of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions (OJ L 177 of 30.06.2006, p. 201).

Article 1

(Note: from Federal Law Gazette I No. 22/2009, on Articles 9, 10, and 14, as published in Federal Law Gazette I no. 70/2004)

This Federal Act shall transpose Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (OJ L 247 of 21.09.2007, p. 1)

Article 1

(Note: from Federal Law Gazette I No. 145/2011, on Articles 4, 5, 11 and 12, as published in Federal Law Gazette I no. 70/2004)

This Federal Act shall transpose:

1. Directive 2010/76/EU amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (OJ L 329, 14.12.2010, p. 3), and
2. Directive 2010/78/EU amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EG und 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331 15.12.2010, p. 120).

Article 1

(Note: from Federal Law Gazette I No. 184/2013, on Articles 2 6, 8, 11, 11a, 12 and 14, as published in Federal Law Gazette I no. 70/2004)

This Federal Act shall transpose Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.06.2013. p. 338, and amending supervisory law to Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.06.2013 p. 1, as well as the transposition of Directive 2011/89/EU amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate, OJ L 326, 08.12.2011 p. 113.

Article 1: Transposition of European Union Directives

(Note.: from Federal Law Gazette I No. 34/2015, to Article 6, as published in Federal Law Gazette I No. 70/2004)

This Federal Act shall transpose Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), (OJ L 335 of 17.12.2009 p. 1), last amended by Directive 2014/51/EU OJ L 153 of 22.05.2014 p. 1.