

Document number: 02 / 2003
Publication date: 12.09.2003

FMA CIRCULAR

CONCERNING
REQUIREMENTS FOR
THE RESPONSIBLE
ACTUARY WITH
REGARD TO THE
STATE-SPONSORED
RETIREMENT
PROVISION PURSUANT
TO ARTICLES 108G TO
108I VAG (VAG 1978)

Disclaimer: This circular does not constitute a legal regulation. It is intended to serve as guidance and reflects the FMA's legal interpretation. No rights and obligations extending over and above the provisions of the law can be derived from circulars.

The general legal framework for the supervision of state-sponsored retirement provision was defined as part of the 2003 amendment to the *Versicherungsaufsichtsgesetz* (VAG; Insurance Supervision Act), Federal Law Gazette I no. 33/2003. The corresponding changes have been in force since 1 July 2003.

Under the following conditions, the Financial Market Authority (FMA) will deem that compliance has been established with the requirements for the responsible actuary pursuant to Article 18 para. 1a VAG:

In the report pursuant to Article 24a para. 3 VAG, the actuary is required under consideration of the obligations arising from the insurance contracts to confirm each year the appropriateness of the internal model and the appropriateness of the parameters used by including the statement: "I confirm that, on the basis of the cash flows presented in the internal model, compliance with the obligations arising from the insurance contracts of the state-sponsored retirement provision is guaranteed. The parameters used for the internal model are appropriate with regard to the current capital market situation, and there are no facts that might contradict the use of the internal model." The prerequisite for such confirmation is that the model is appropriate in the judgement of the responsible actuary. The confirmation must be accompanied by detailed reasons justifying it. The first such confirmation must be submitted together with the actuarial bases and the opinion of the independent expert as specified in Article 18 para. 1a VAG. If the model is not appropriate in the opinion of the responsible actuary, the FMA must be notified immediately with detailed justification provided.

If the responsible actuary comes to the conclusion at a later point in time that the internal model is no longer appropriate in terms of the explanation given above, this must be stated in the report specified in Article 24a para. 3 VAG with detailed justification provided. In this context the actuary must provide details specifically as to how long the actuary has been aware of this circumstance, as well as of any measures already taken or planned to be taken. The actuary's report must additionally refer to the correspondence with the management board of the insurance undertaking and/or with the FMA; requirements for this correspondence are specified below.

The responsible actuary is required to continuously monitor whether the model is proving appropriate in practice and whether the statements made in the independent expert's opinion pursuant to Article 18 para. 1a VAG continue to be correct. If that is not the case, the responsible actuary must notify the management board of the insurance undertaking immediately, and the board will be responsible for adapting the model accordingly.

In this connection, the responsible actuary is also required to verify whether the internal model is being implemented as planned or whether any deviations have occurred. To this end, the undertaking must make available to the actuary all necessary information concerning the internal model.

If the responsible actuary identifies any deviations from the planned implementation of the model, such deviations must be recorded in writing in the report pursuant to Article 24a para. 3 VAG. In the event of any serious deviations or of any risk to the interests of the insured as a result of applying the model, Article 24a para. 4 VAG must be applied correspondingly.

The report pursuant to Article 24a para. 3 VAG must also include the parameters used, and specifically such as are used to perform the calculations prescribed in the *Zusatzrückstellungs-Verordnung* (Regulation on Additional Provisions). Details must additionally be included concerning the method used for identifying the particular exchange from which the volatility figure was taken to calculate the maximum loss as specified in Article 3 of the Regulation on Additional Provisions. The data source drawn on for the volatility figure used must also be indicated, as well as the equations and data sets used to calculate the volatility figure.

In the case of a third-party capital guarantee or any measures to secure the capital, the term of the contract must be stated explicitly along with any options for renewing it.